The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 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 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

Credit Union Division[189]
Replace Chapter 1
Replace Chapter 17

Education Department[281]
Replace Analysis
Replace Chapter 12
Replace Reserved Chapters 26 to 30 with Reserved Chapter 26
Insert Chapter 27 and Reserved Chapters 28 to 30
Replace Chapter 43

Human Services Department[441]
Replace Analysis
Replace Chapters 24 and 25

Inspections and Appeals Department[481]
Replace Analysis
Replace Chapter 69

Professional Licensure Division[645]
Replace Analysis
Replace Chapter 21
Replace Chapter 23
Replace Chapter 200
Replace Chapter 203
Replace Chapter 207

Revenue Department[701]
Replace Analysis
Replace Chapter 12
Replace Chapter 38
Replace Chapters 40 to 43
Replace Chapter 46
Replace Chapter 49
Replace Chapter 52
Replace Chapter 58
Replace Chapter 70
Replace Chapter 231
CHAPTER 1
DESCRIPTION OF ORGANIZATION

189—1.1(533) Definitions. The definitions of terms included in Iowa Code section 17A.2 shall apply to such terms used in this chapter. In addition, as used in this chapter:

“Board” means the credit union review board.
“Division” means the credit union division.
“Superintendent” means the superintendent of the credit union division.

189—1.2(17A,533) Scope and application. This chapter describes the office of the superintendent and the methods whereby the public may obtain forms, instructions, and information regarding credit unions.

189—1.3(17A,533) Credit union division. The division is the office of the superintendent and other personnel who discharge the duties and responsibilities imposed upon the superintendent by the laws of this state. The superintendent has general supervisory and regulatory authority over all state chartered credit unions.

1.3(1) Central organization—superintendent. The superintendent is appointed by the governor and approved by the senate. The superintendent is the head of the credit union division with offices located at 200 East Grand Avenue, Suite 370, Des Moines, Iowa 50309. Rules may be promulgated by the superintendent subject to prior approval by the board. The superintendent may employ personnel as necessary to carry out the provisions of the credit union law.

1.3(2) Credit union review board. The credit union review board is composed of seven members who are appointed by the governor and approved by the senate. With the exception of four members first appointed as of January 1, 1979, board members serve for a three-year term. The board may adopt, amend, and repeal rules or take other action it deems necessary or suitable to effect the provisions of the credit union law. The board meets at least four times each year and special meetings may be called by the chairperson. A majority of the members of the board shall constitute a quorum to transact business.

This rule is intended to implement Iowa Code section 533.107.

189—1.4(17A,533) Forms and instructions. Information concerning the forms and instructions of the superintendent is available at the offices of the credit union division during usual business hours, 8 a.m. to 4 p.m. daily, excluding Saturdays, Sundays and holidays. Copies of the forms and instructions are also available at the credit union division’s Web site at https://creditunions.iowa.gov/.

This rule is intended to implement Iowa Code section 533.102.

[ARC 1678C, IAB 10/15/14, effective 11/19/14]
[Filed 8/10/79, Notice 5/30/79—published 9/5/79, effective 10/10/79]
[Filed emergency 12/8/82—published 1/5/83, effective 12/8/82]
[Filed emergency 10/28/87—published 11/18/87, effective 11/18/87]
[Filed 1/31/03, Notice 12/25/02—published 2/19/03, effective 3/26/03]
[Filed 12/10/08, Notice 11/5/08—published 12/31/08, effective 2/4/09]
[Filed ARC 1678C (Notice ARC 1580C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]
CHAPTER 17
INVESTMENT AND DEPOSIT ACTIVITIES FOR CREDIT UNIONS

189—17.1(533) Authority and purpose.

17.1(1) These rules implement the authority of credit unions organized in accordance with Iowa Code chapter 533 to engage in investment and deposit activities which would be permitted if the credit union were federally chartered in accordance with Iowa Code sections 533.301(5)’j’’ and 533.301(25), and are promulgated under the authority of Iowa Code section 533.104.

17.1(2) These rules identify certain investments and deposit activities permissible under the Federal Credit Union Act, 12 U.S.C. Section 1757, and National Credit Union Administration (NCUA) rules and regulations, 12 CFR Part 703, and prescribe the rules governing those investments and deposit activities on the basis of safety and soundness concerns. Additionally, these rules identify and prohibit certain investments and deposit activities, which may or may not be permitted for federal credit unions and which are considered inconsistent with state law or unsafe or unsound investment for state-chartered credit unions. Finally, these rules address investment authority granted to Iowa state-chartered credit unions in Iowa Code chapter 533, which may or may not be permitted for federal credit unions.

17.1(3) Exceptions. These rules do not apply to:

a. Investment in loans to members and other activities pursuant to Iowa Code sections 533.301(2), 533.301(3), 533.301(15) and 533.301(16);

b. Investment in real estate-secured loans to members pursuant to Iowa Code section 533.315(4);

c. Investment in credit union service organizations pursuant to Iowa Code section 533.301(5)”f’’;

d. Investment in fixed assets pursuant to Iowa Code section 533.301(10).

189—17.2(533) Definitions. The definition of terms included in Iowa Code section 17A.2 and 189—1.1(533) applies to such terms used in this chapter unless otherwise provided in this rule. In addition, the following definitions apply as used in these rules:

"Adjusted trading” means selling an investment to a counterparty at a price above its current fair value and simultaneously purchasing or committing to purchase from the counterparty another investment at a price above its current fair value.

"Associated personnel” means a person engaged in the investment banking or securities business who is directly or indirectly controlled by a National Association of Securities Dealers (NASDAQ) member, whether or not the person is registered or exempt from registration with NASD. "Associated personnel” includes every sole proprietor, partner, officer, director, or branch manager of any NASD member.

"Banker’s acceptance” means a time draft that is drawn on and accepted by a bank and that represents an irrevocable obligation of the bank.

"Bank note” means a direct, unconditional, and unsecured general obligation of a bank that ranks equally with all other senior unsecured indebtedness of the bank, except deposit liabilities and other obligations that are subject to any priorities or preferences.

"Borrowing repurchase transaction” means a transaction in which the credit union agrees to sell a security to a counterparty and to repurchase the same or an identical security from that counterparty at a specified future date and at a specified price.

"Call” means an option that gives the holder the right to buy a specified quantity of a security at a specified price during a fixed time period.

"Collateralized mortgage obligation” means a multiclass mortgage-related security.


"Commercial mortgage-related security” means a mortgage-related security, as defined in this rule, except that it is collateralized entirely by commercial real estate, such as a warehouse or office building, or a multifamily dwelling consisting of more than four units.

"Commercial paper” means a debt obligation of a United States-chartered corporation with a maturity date of 270 days or less, which may be interest-bearing or discount-purchased.
“Corporate bonds” means a debt obligation of a United States-chartered corporation with a maturity date greater than 270 days, which may be interest-bearing or discount-purchased.

“Counterparty” means the party on the other side of the transaction.

“Custodial agreement” means a contract in which one party agrees to hold securities in safekeeping for others.

“Delivery versus payment” means payment for an investment must occur simultaneously with its delivery.

“Deposit note” means an obligation of a bank that is similar to a certificate of deposit but is rated.

“Derivatives” means any derivative instrument, as defined under generally accepted accounting principles (GAAP).

“Embedded option” means a characteristic of an investment that gives the issuer or holder the right to alter the level and timing of the cash flows of the investment. Embedded options include call and put provisions and interest rate caps and floors. Since a prepayment option in a mortgage is a type of call provision, a mortgage-backed security composed of mortgages that may be prepaid is an example of an investment with an embedded option.

“Eurodollar deposit” means a U.S. dollar-denominated deposit in a foreign branch of a United States depository institution.

“European financial options contract” means an option that can be exercised only on its expiration date.

“Exchangeable collateralized mortgage obligation” means a class of a collateralized mortgage obligation (CMO) that, at the time of purchase, represents beneficial ownership interests in a combination of two or more underlying classes of the same CMO structure. The holder of an exchangeable CMO may pay a fee and take delivery of the underlying classes of the CMO.

“Fair value” means the amount at which an instrument could be exchanged in a current, arm’s-length transaction between willing parties, as opposed to a forced or liquidation sale.

“Financial options contract” means an agreement to make or take delivery of a standardized financial instrument upon demand by the holder of the contract as specified in the agreement.

“Immediate family member” means a spouse or other family member living in the same household.

“Industry-recognized information provider” means an organization that obtains compensation by providing information to investors and receives no compensation for the purchase or sale of investments.

“Investment” means any security, obligation, account, deposit, or other item authorized for purchase by a federal credit union under the Federal Credit Union Act, 12 U.S.C. Section 1757(7), 1757(8), or 1757(15), or NCUA rules and regulations, 12 CFR Part 703, other than loans to members and the exceptions specified in 189—subrule 17.1(3).

“Investment grade” means the issuer of a security has an adequate capacity to meet the financial commitments under the security for the projected life of the asset or exposure, even under adverse economic conditions. An issuer has an adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest on the security is expected. A credit union may consider any or all of the following factors, to the extent appropriate, with respect to the credit risk of a security: credit spreads; securities-related research; internal or external credit risk assessments; default statistics; inclusion on an index; priorities and enhancements; price, yield, and/or volume; and asset class-specific factors. This list of factors is not meant to be exhaustive or mutually exclusive.

“Investment portfolio” means the amount invested by a credit union pursuant to Iowa Code sections 533.301(5), 533.301(25), 533.304 and 533.305, excluding any investment in nonearning assets such as real estate, premises and equipment, the capitalization deposit in the National Credit Union Share Insurance Fund (NCUSIF), and any other investment which does not generate a regular dividend or interest or receive or accrue added value.

“Investment repurchase transaction” means a transaction in which an investor agrees to purchase a security from a counterparty and to resell the same or an identical security to that counterparty at a specified future date and at a specified price.
“Maturity” means the date the last principal amount of a security is scheduled to come due and does not mean the call date or the weighted average life of a security.

“Mortgage-related security” means a security as defined in Section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)).

“Mortgage servicing rights” means a contractual obligation to perform mortgage servicing and the right to receive compensation for performing those services. Mortgage servicing is the administration of a mortgage loan, including collecting monthly payments and fees, providing record-keeping and escrow functions, and, if necessary, curing defaults and foreclosing.

“Negotiable instrument” means an instrument that may be freely transferred from the purchaser to another person or entity by delivery, or endorsement and delivery, with full legal title becoming vested in the transferee.

“Net worth” means the retained earnings balance of the credit union at quarter end as determined under generally accepted accounting principles and as further defined in NCUA rules and regulations, 12 CFR Part 702.2(f).

“Official” means any member of a credit union’s board of directors, credit committee, auditing/ supervisory committee, or investment-related committee.

“Ordinary care” means the degree of care that an ordinarily prudent and competent person engaged in the same line of business or endeavor should exercise under similar circumstances.

“Pair-off transaction” means an investment purchase transaction that is closed or sold on or before the settlement date. In a pair-off transaction, an investor commits to purchase an investment, but then pairs off the purchase with a sale of the same investment on or before the settlement date.

“Put” means an option that gives the holder the right to sell a specified quantity of a security at a specified price during a fixed time period.

“Registered investment company” means an investment company that is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a). Examples of registered investment companies are mutual funds and unit investment trusts.

“Regular way settlement” means delivery of a security from a seller to a buyer within the time frame that the securities industry has established for immediate delivery of that type of security. For example, regular way settlement of a Treasury security includes settlement on the trade date (cash), the business day following the trade date (regular way), and the second business day following the trade date (skip day).

“Residual interest” means the remainder cash flows from collateralized mortgage obligations/real estate mortgage investment conduits (CMOs/REMICs), or other mortgage-backed security transaction, after payments due bondholders and trust administrative expenses have been satisfied.

“Securities lending” means lending a security to a counterparty, either directly or through an agent, and accepting collateral in return.

“Security” means a share, participation, or other interest in property or in an enterprise of the issuer or an obligation of the issuer that:

1. Either is represented by an instrument issued in bearer or registered form or, if not represented by an instrument, is registered in books maintained to record transfers by or on behalf of the issuer;
2. Is of a type commonly dealt in on securities exchanges or markets or, when represented by an instrument, is commonly recognized in any area in which it is issued or dealt in as a medium for investment; and
3. Either is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations.

“Senior management employee” means a credit union’s chief executive officer (typically this individual holds the title of president or manager), an assistant chief executive officer, and the chief financial officer.

“Superintendent” means the superintendent of credit unions appointed by the governor to direct and regulate credit unions pursuant to Iowa Code chapter 533.

“Weighted average life” means the weighted average time to the return of a dollar of principal, calculated by multiplying each portion of principal received by the time at which it is expected to be received (based on a reasonable and supportable estimate of that time) and then summing and dividing by the total amount of principal.

“When-issued trading of securities” means the buying and selling of securities in the period between the announcement of an offering and the issuance and payment date of the securities.

“Yankee dollar deposit” means a deposit in a United States branch of a foreign bank licensed to do business in the state in which it is located, or a deposit in a state-chartered, foreign-controlled bank.

“Zero coupon investment” means an investment that makes no periodic interest payments but instead is sold at a discount from its face value. The holder of a zero coupon investment realizes the rate of return through the gradual appreciation of the investment, which is redeemed at face value on a specified maturity date.

[ARC 1678C; IAB 10/15/14, effective 11/19/14]

189—17.3(533) Investment policies. A state-chartered credit union’s board of directors must establish written investment policies consistent with Iowa Code chapter 533, the Federal Credit Union Act, these rules, and other applicable laws and regulations and must review the policies at least annually. These policies may be part of a broader, asset-liability management policy. Written investment policies must address, at a minimum, the following:

17.3(1) The purposes and objectives of the credit union’s investment activities;

17.3(2) The characteristics of the investments the credit union may make, including the issuer, maturity, index, cap, floor, coupon rate, coupon formula, call provision, average life, and interest rate risk;

17.3(3) How the credit union will manage interest rate risk;

17.3(4) How the credit union will manage liquidity risk;

17.3(5) How the credit union will manage credit risk including specifically listing institutions, issuers, and counterparties that may be used, or criteria for the credit union’s selection, and limits on the amounts that may be invested with each;

17.3(6) How the credit union will manage concentration risk, which can result from dealing with a single issuer or related issuers, lack of geographic distribution, holding obligations with similar characteristics like maturities and indexes, holding bonds having the same trustee, and holding securitized loans having the same originator, packager, or guarantor;

17.3(7) Who has investment authority and the extent of that authority. Those with authority must be qualified by education or experience to assess the risk characteristics of investments and investment transactions. Only officials or employees of the credit union may be voting members of an investment-related committee;

17.3(8) The name of the broker-dealer(s) the credit union may use;

17.3(9) The name of the safekeeper(s) the credit union may use;

17.3(10) How the credit union will handle an investment that, after purchase, is outside of board policy or fails a requirement of these rules; and

17.3(11) How the credit union will conduct investment trading activities, if applicable, including addressing:

a. Who has purchase and sale authority;

b. Limits on trading account size;

c. Allocation of cash flow to trading accounts;

d. Stop loss or sale provisions;

e. Dollar size limitations of specific types, quantity and maturity to be purchased;

f. Limits on the length of time an investment may be inventoried in a trading account; and

g. Internal controls, including segregation of duties.
189—17.4(533) Record keeping and documentation requirements.

17.4(1) All state-chartered credit unions must comply with generally accepted accounting principles (GAAP) applicable to reports or statements required to be filed with the superintendent. This contrasts with only federal credit unions with assets of $10 million or greater that must comply with GAAP in reports and statements filed with the NCUA.

17.4(2) A credit union must maintain documentation for each investment transaction for as long as it holds the investment and until the documentation has been audited in accordance with Iowa Code section 533.208 or NCUA rules and regulations, 12 CFR Part 701.12, or both, and examined by the superintendent or the NCUA, or both. The documentation should include, where applicable, bids and prices at purchase and sale and for periodic updates, relevant disclosure documents or a description of the security from an industry-recognized information provider, financial data, and tests and reports required by the credit union’s investment policy and these rules.

17.4(3) A credit union must maintain documentation that its board of directors used to approve a broker-dealer or a safekeeper for as long as the broker-dealer or safekeeper is approved and until the documentation has been audited in accordance with Iowa Code section 533.208 or NCUA rules and regulations, 12 CFR Part 701.12, or both, and examined by the superintendent or the NCUA, or both.

17.4(4) A credit union must obtain an individual confirmation statement from each broker-dealer for each investment purchased or sold.

189—17.5(533) Discretionary control over investments and investment advisers.

17.5(1) Except as provided in 17.5(2), 17.5(3) and 17.5(4), a credit union must retain discretionary control over its purchase and sale of investments. A credit union has not delegated discretionary control to an investment adviser when the credit union reviews all recommendations from investment advisers and is required to authorize a recommended purchase or sale transaction before its execution.

17.5(2) A credit union may delegate discretionary control over the purchase and sale of investments to a person other than a credit union official or employee:

a. Provided the person is an investment adviser registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940 (15 U.S.C. 80b); and

b. Provided the amount of investment authority does not exceed 100 percent of the credit union’s net worth, in the aggregate, at the time of delegation.

17.5(3) At least annually, the credit union must adjust the amount of funds held under discretionary control to comply with the 100 percent of net worth cap. The credit union’s board of directors must receive notice as soon as possible, but no later than the next regularly scheduled monthly board meeting, of the amount exceeding the net worth cap and notify in writing the superintendent within five days after the board meeting. The credit union must develop a plan to comply with the cap within a reasonable period of time.

17.5(4) Before transacting business with an investment adviser, a credit union must analyze the investment adviser’s background and information available from state or federal securities regulators, including any enforcement actions against the adviser, associated personnel, or the firm for which the adviser works.

17.5(5) A credit union may not compensate an investment adviser with discretionary control over the purchase and sale of investments on a per-transaction basis or based on capital gains, capital appreciation, net income, performance relative to an index, or any other incentive basis.

17.5(6) A credit union must obtain a report from its investment adviser at least monthly that details the investments under the adviser’s control and the investments’ performance.

[ARC 1678C, IAB 10/15/14, effective 11/19/14]

189—17.6(533) Credit analysis. A credit union must conduct and document a credit analysis on an investment and the issuing entity before purchasing it, except for investments issued or fully guaranteed as to principal and interest by the U.S. government or its agencies, enterprises, or corporations or fully insured (including accumulated interest) by the National Credit Union Administration or the Federal
Deposit Insurance Corporation. A credit union must update this analysis at least annually for as long as it holds the investment.

189—17.7(533) Notice of noncompliant investments. A credit union’s board of directors must receive notice, no later than the next regularly scheduled monthly board meeting, of any investment that either is outside of board policy after purchase or has failed a requirement of these rules. The board of directors must document its action regarding the investment in the minutes of the board meeting, including a detailed explanation of any decision not to sell the investment. The credit union must notify the superintendent in writing of an investment that has failed a requirement of these rules within five days after the board meeting.

189—17.8(533) Broker-dealers.

17.8(1) A credit union may purchase and sell investments through a broker-dealer as long as the broker-dealer is registered as a broker-dealer with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a, et seq.) or is a depository institution whose broker-dealer activities are regulated by a federal or state regulatory agency.

17.8(2) Before purchasing an investment through a broker-dealer, a credit union must analyze and annually update the following:

a. The background of any sales representative with whom the credit union is doing business;

b. Information available from state or federal securities regulators and securities industry self-regulatory organizations, such as the National Association of Securities Dealers and the North American Securities Administrators Association, about any enforcement actions against the broker-dealer, its affiliates, or associated personnel; and

c. If the broker-dealer is acting as the credit union’s counterparty, the ability of the broker-dealer and its subsidiaries or affiliates to fulfill commitments, as evidenced by capital strength, liquidity, and operating results. The credit union should consider current financial data, annual reports, external assessments of creditworthiness, relevant disclosure documents, and other sources of financial information.

17.8(3) The requirements of 17.8(1) do not apply when the credit union purchases a certificate of deposit or share certificate directly from a bank, credit union, or other depository institution.

[ARC 1678C, IAB 10/15/14, effective 11/19/14]

189—17.9(533) Safekeeping of investments.

17.9(1) A credit union’s purchased investments and repurchase collateral must be in the credit union’s possession, recorded as owned by the credit union through the Federal Reserve Book Entry System, or held by a board of directors-approved safekeeper under a written custodial agreement that requires the safekeeper to exercise, at least, ordinary care.

17.9(2) Any safekeeper used by a credit union must be regulated and supervised by either the Securities and Exchange Commission, a federal or state depository institution regulatory agency, or a state trust company regulatory agency.

17.9(3) A credit union must obtain and reconcile monthly a statement of purchased investments and repurchase collateral held in safekeeping.

17.9(4) Annually, the credit union must analyze the ability of the safekeeper to fulfill the safekeeper’s custodial responsibilities, as evidenced by capital strength, liquidity, and operating results. The credit union should consider current financial data, annual reports, external assessments of creditworthiness, relevant disclosure documents, and other sources of financial information.

[ARC 1678C, IAB 10/15/14, effective 11/19/14]

189—17.10(533) Monitoring nonsecurity investments.

17.10(1) At least quarterly, a credit union must prepare a written report listing all of its shares and deposits in banks, credit unions, and other depository institutions, that have one or more of the following features:

a. Embedded options;
b. Remaining maturities greater than three years; or
c. Coupon formulas that are related to more than one index or are inversely related to, or are multiples of, an index.

17.10(2) The requirement of 17.10(1) does not apply to shares and deposits that are securities.

17.10(3) If a credit union does not have an investment-related committee, then each member of its board of directors must receive a copy of the report described in 17.10(1). If a credit union has an investment-related committee, then each member of the committee must receive a copy of the report, and each board member must receive a summary of the information in the report.

189—17.11(533) Valuing securities.

17.11(1) Before purchasing or selling a security, a credit union must obtain either price quotations on the security from at least two broker-dealers or a price quotation on the security from an industry-recognized information provider. This requirement to obtain price quotations does not apply to new issues purchased at par or at original issue discount.

17.11(2) At least monthly, a credit union must determine the fair value of each security it holds. It may determine fair value by obtaining a price quotation on the security from an industry-recognized information provider, a broker-dealer, or a safekeeper.

17.11(3) At least annually, the credit union’s auditing/supervisory committee or its external auditor must independently assess the reliability of monthly price quotations received from a broker-dealer or safekeeper. The credit union’s auditing/supervisory committee or external auditor must follow generally accepted auditing standards, which require either recomputation or reference to market quotations.

17.11(4) If a credit union is unable to obtain a price quotation required by this rule for a particular security, then it may obtain a quotation for a security with substantially similar characteristics.

189—17.12(533) Monitoring securities.

17.12(1) At least monthly, a credit union must prepare a written report setting forth, for each security held, the fair value and dollar change since the prior month end, with summary information for the entire portfolio.

17.12(2) At least quarterly, a credit union must prepare a written report setting forth the sum of the fair values of all fixed and variable rate securities held that have one or more of the following features:

a. Embedded options;

b. Remaining maturities greater than three years; or

c. Coupon formulas that are related to more than one index or are inversely related to, or are multiples of, an index.

17.12(3) When the amount calculated in 17.12(2) is greater than a credit union’s net worth, the report described in that subrule must provide a reasonable and supportable estimate of the potential impact, in percentage and dollar terms, of an immediate and sustained parallel shift in market interest rates of plus and minus 300 basis points on:

a. The fair value of each security in the credit union’s portfolio;

b. The fair value of the credit union’s portfolio as a whole; and

c. The credit union’s net worth.

17.12(4) If the credit union does not have an investment-related committee, then each member of its board of directors must receive a copy of the reports described in 17.12(1) through 17.12(3). If the credit union has an investment-related committee, then each member of the committee must receive copies of the reports, and each member of the board of directors must receive a summary of the information in the reports.

189—17.13(533) Permissible investment activities.

17.13(1) Regular way settlement and delivery versus payment basis. A credit union may only contract for the purchase or sale of a security as long as the delivery of the security is by regular way settlement and the transaction is accomplished on a delivery versus payment basis.
17.13(2) Federal funds. A credit union may sell federal funds to a national bank; or to a state bank, trust company or mutual savings bank operating in accordance with Iowa law or the laws of any state where it operates a credit union office; or in banks and institutions, the accounts of which are insured by the Federal Deposit Insurance Corporation; or to credit unions, the accounts of which are insured by the National Credit Union Administration; and as long as the interest or other consideration received from the financial institution is at the market rate for federal funds transactions.

17.13(3) Investment repurchase transaction. A credit union may enter into an investment repurchase transaction so long as:
   a. Any securities the credit union receives are permissible investments for federal and Iowa credit unions; the credit union, or its agent, either takes physical possession or control of the repurchase securities or is recorded as owner of them through the Federal Reserve Book Entry Securities Transfer System; the credit union, or its agent, receives a daily assessment of the securities’ market value, including accrued interest; and the credit union maintains adequate margins that reflect a risk assessment of the securities and the term of the transaction; and
   b. The credit union has entered into signed contracts with all approved counterparties.

17.13(4) Borrowing repurchase transaction. A credit union may enter into a borrowing repurchase transaction so long as:
   a. The transaction meets the requirements of 17.13(3);
   b. Any cash the credit union receives, when aggregated with all other credit union borrowings, is subject to the borrowing limit in accordance with Iowa Code section 533.306 or to any lesser amount specified by policy of the board of directors, and any investments the credit union purchases with that cash are permissible for federal credit unions; and
   c. The investments referenced in 17.13(4) “b” mature no later than the maturity of the borrowing repurchase transaction.

17.13(5) Securities lending transaction. A credit union may enter into a securities lending transaction so long as:
   a. The credit union receives written confirmation of the loan;
   b. Any collateral the credit union receives is a legal investment for federal credit unions; the credit union, or its agent, obtains a first priority security interest in the collateral by taking physical possession or control of the collateral, or is recorded as owner of the collateral through the Federal Reserve Book Entry Securities Transfer System; and the credit union, or its agent, receives a daily assessment of the market value of the collateral, including accrued interest; and maintains adequate margin that reflects a risk assessment of the collateral and the term of the loan;
   c. Any cash the credit union receives, when aggregated with all other credit union borrowings, is subject to the borrowing limit in accordance with Iowa Code section 533.306 or to any lesser amount specified by policy of the board of directors, and any investments the credit union purchases with that cash are permissible for federal credit unions and mature no later than the maturity of the transaction; and
   d. The credit union has executed a written loan and security agreement with the borrower.

17.13(6) Trading securities.
   a. A credit union may trade securities, including engaging in when-issued trading and pair-off transactions, so long as the credit union can show that it has sufficient resources, knowledge, systems, and procedures to handle the risks.
   b. A credit union must record any security it purchases or sells for trading purposes at fair value on the trade date. The trade date is the date the credit union commits, orally or in writing, to purchase or sell a security.
   c. At least monthly, the credit union must give its board of directors or investment-related committee a written report listing all purchase and sale transactions of trading securities and the resulting gain or loss on an individual basis.
189—17.14(533) Permissible investments.

17.14(1) Variable rate investment. A credit union may invest in a variable rate investment, as long as the index is tied to domestic interest rates. Except in the case of U.S. Treasury inflation-protected securities, the variable rate investment cannot, for example, be tied to foreign currencies, foreign interest rates, domestic or foreign commodity prices, equity prices, or inflation rates. For purposes of this subrule, the U.S. dollar-denominated London Interbank Offered Rate (LIBOR) is a domestic interest rate.

17.14(2) Corporate credit union shares or deposits. A credit union may purchase shares or deposits in a corporate credit union, except when the superintendent or the NCUA has notified it that the corporate credit union is not operating in compliance with NCUA rules and regulations, 12 CFR Part 704. A credit union’s aggregate amount of paid-in capital and membership capital, as defined in NCUA rules and regulations, 12 CFR Part 704, in one corporate credit union is limited to 2 percent of its assets measured at the time of investment or adjustment. A credit union’s aggregate amount of paid-in capital and membership capital in all corporate credit unions is limited to 4 percent of its assets measured at the time of investment or adjustment.

17.14(3) Registered investment company. A credit union may invest in a registered investment company or collective investment fund, as long as the prospectus of the company or fund restricts the investment portfolio to investments and investment transactions that are permissible for federal credit unions.

17.14(4) Collateralized mortgage obligation/real estate mortgage investment conduit. A credit union may invest in a fixed or variable rate collateralized mortgage obligation/real estate mortgage investment conduit.

17.14(5) Municipal security. A credit union may purchase and hold a municipal security, as defined in the Federal Credit Union Act, 12 U.S.C. Section 1757(7)(K), only if the credit union conducts and documents an analysis that reasonably concludes the security is at least investment grade. The credit union must also limit its aggregate municipal securities holdings to no more than 75 percent of the credit union’s net worth and limit its holdings of municipal securities issued by any single issuer to no more than 25 percent of the credit union’s net worth.

17.14(6) Instruments issued by institutions described in the Federal Credit Union Act, 12 U.S.C. Section 1757(8). A credit union may invest in the following instruments issued by an institution described in Section 1757(8) of the Federal Credit Union Act:

a. Yankee dollar deposits;
b. Eurodollar deposits;
c. Banker’s acceptances;
d. Deposit notes; and
e. Bank notes with original weighted average maturities of less than 5 years.

17.14(7) European financial options contract. A credit union may purchase a European financial options contract or a series of European financial options contracts only to fund the payment of dividends on member share certificates or interest on member certificates of deposit when such dividend or interest rate is tied to an equity index provided:

a. The option and dividend/interest rate are based on a domestic equity index;
b. Proceeds from the options are used only to fund dividends/interest on the equity-linked certificates;
c. Dividends or interest, or both, on the certificates are derived solely from the change in the domestic equity index over a specified period;
d. The options’ expiration dates are no later than the maturity date of the certificate;
e. The certificate may be redeemed prior to the maturity date only upon the member’s death or termination of the corresponding option;
f. The total costs associated with the purchase of the option is known by the credit union prior to effecting the transaction;
g. The options are purchased at the same time the certificate is issued to the member;
h. The counterparty to the transaction is a domestic counterparty and has been approved by the credit union’s board of directors;
The counterparty to the transaction meets the minimum credit quality standards as approved by the credit union’s board of directors;

Any collateral posted by the counterparty is a permissible investment for federal credit unions and is valued daily by an independent third party along with the value of the option;
The aggregate amount of equity-linked member share certificates does not exceed 50 percent of the credit union’s net worth;
The terms of the certificate include a guarantee that there can be no loss of principal to the member regardless of changes in the value of the option unless the certificate is redeemed prior to maturity; and

The credit union provides its board of directors with a monthly report detailing, at a minimum:
The dollar amount of outstanding equity-linked certificates;
The certificates’ maturities; and
The fair value of the options as determined by an independent third party.

Debt obligations of U.S.-chartered corporations. An Iowa state-chartered credit union may invest in unsecured notes and acceptances, commonly referred to as “commercial paper” and “corporate bonds,” of U.S.-chartered corporations pursuant to Iowa Code section 533.301(5) “h” and “i” and this rule, only if:

The investment in a corporate bond debt obligation is investment grade and has a maturity of less than five years;
The investment in a commercial paper debt obligation is investment grade and has a maturity of less than one year;

An investment in a nonrated equivalent value issue of a commercial paper debt obligation shall be investment grade. A credit union shall retain documentation supporting its determination and the current and previous two years of year-end financial statements which indicate acceptable operating performance of the issuing U.S. corporation;

If, subsequent to the date of purchase but prior to the date of maturity, the investment no longer meets the investment grade standard and the investment exceeds the credit union’s net worth by 5 percent or more, the credit union shall have no more than 30 days to divest of the security unless the credit union seeks and receives a waiver from the superintendent as provided by rule;

The total investment by a credit union in debt obligations in a lone U.S. corporation and its subsidiaries shall not exceed 25 percent of the credit union’s net worth;
The total aggregate investment by a credit union in debt obligations of U.S. corporations and their subsidiaries shall not exceed the lesser of 100 percent of the credit union’s net worth or 20 percent of the credit union’s investment portfolio;

An investment will be considered speculative and unauthorized if it contains any of the following characteristics, and the credit union shall be required to divest of the security in accordance with 17.14(8) “d” without an opportunity of waiver:
The investment is issued by a business entity not recognized in the market place or by other than a U.S.-chartered corporation, or by both;
The investment has a maturity that exceeds that established in this subrule; or
The investment is issued to cover or underwrite foreign market operations, or for new-line products or services, or both, which exceed 25 percent of the investment offering;

If the net worth level of a credit union falls or remains below an amount which causes the limitations of this subrule to be exceeded for two consecutive quarters and the amount of difference is 5 percent or more of the net worth, the credit union shall divest of a sufficient amount of debt obligations so the credit union no longer exceeds the limitations or seek a waiver from the superintendent as provided by rule;

A corporate credit union chartered in accordance with Iowa Code chapter 533 is exempt from the provisions and limitations of this subrule and, instead, shall have the powers, restrictions and obligations contained in NCUA rules and regulations, 12 CFR Part 704, for federally insured corporate credit unions.
17.14(9) Mortgage note repurchase transactions. A credit union may invest in securities that are offered and sold pursuant to Section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), only as a part of an investment repurchase agreement under subrule 17.13(3), subject to all of the following conditions:

a. The aggregate of the investments with any one counterparty is limited to 25 percent of the credit union’s net worth and 50 percent of its net worth with all counterparties.

b. At the time the credit union purchases the securities, the counterparty, or a party fully guaranteeing the counterparty, must meet the minimum credit quality standards as approved by the credit union’s board of directors.

c. The credit union must obtain a daily assessment of the market value of the securities under paragraph 17.13(3)“a” using an independent qualified agent.

d. The mortgage note repurchase transaction is limited to a maximum of 90 days.

e. All mortgage note repurchase transactions will be conducted under triparty custodial agreements.

f. A credit union must obtain an undivided interest in the securities.

17.14(10) Zero-coupon investments. A credit union may only purchase a zero-coupon investment with a maturity date that is no greater than ten years from the related settlement date, unless authorized by the superintendent.

17.14(11) Commercial mortgage-related security (CMRS). A credit union may purchase a CMRS that would be a permissible investment for a federal credit union under 12 U.S.C. Section 1756(7)(E) or Section 1756(15)(B) subject to all of the following conditions:

a. The credit union conducts and documents a credit analysis that reasonably concludes the CMRS is at least investment grade.

b. The CMRS meets the definition of commercial mortgage security in 189—17.2(533).

c. The CMRS’s underlying pool of loans contains more than 50 loans with no one loan representing more than 10 percent of the pool.

d. The aggregate amount of private label CMRS purchased by the credit union does not exceed 25 percent of its net worth, unless otherwise authorized by the superintendent.

[ARC 1678C, IAB 10/15/14, effective 11/19/14]

189—17.15(533) Prohibited investment activities. A credit union may not engage in adjusted trading or short sales.

189—17.16(533) Prohibited investments.

17.16(1) Derivatives. A credit union may not purchase or sell financial derivatives, such as futures, options, interest rate swaps, or forward rate swaps. This prohibition does not apply to:

a. Any derivatives permitted under NCUA rules and regulations, 12 CFR 701.21(i) and 189—subrule 17.14(7);

b. Embedded options not required under GAAP to be accounted for separately from the host contract; and

c. Interest rate lock commitments or forward sales commitments made in connection with a loan originated by the credit union.

17.16(2) Zero coupon investments. Rescinded IAB 10/15/14, effective 11/19/14.

17.16(3) Mortgage servicing rights. A credit union may not purchase mortgage servicing rights as an investment but may perform mortgage servicing functions as a financial service for a member as long as the mortgage loan is owned by a member.

17.16(4) Commercial mortgage-related security. Rescinded IAB 10/15/14, effective 11/19/14.

17.16(5) Stripped mortgage-backed securities. A credit union may not invest in stripped mortgage-backed securities (SMBS) or securities that represent interests in SMBS except as described in 17.16(5)“a” and “c.”

a. A credit union may invest in and hold exchangeable collateralized mortgage obligations (exchangeable CMOs) representing beneficial ownership interests in one or more interest-only classes of a CMO (IO CMOs) or principal-only classes of a CMO (PO CMOs), but only if:
(1) At the time of purchase, the ratio of the market price to the remaining principal balance is between .8 and 1.2, meaning that the discount or premium of the market price to par must be less than 20 points;

(2) The offering circular or other official information available at the time of purchase indicates that the notional principal on each underlying IO CMO declines at the same rate as the principal on one or more of the underlying non-IO CMOs, and the principal on each underlying PO CMO declines at the same rate as the principal, or notional principal, on one or more of the underlying non-PO CMOs; and

(3) The credit union staff has the expertise dealing with exchangeable CMOs to apply the conditions in 17.16(5)”a”(1) and 17.16(5)”a”(2).

b. A credit union that invests in an exchangeable CMO may exercise the exchange option only if all of the underlying CMOs are permissible investments for that credit union.

c. A credit union may accept an exchangeable CMO representing beneficial ownership interests in one or more IO CMOs or PO CMOs as an asset associated with an investment repurchase transaction or as collateral in a securities lending transaction. When the exchangeable CMO is associated with one of these two transactions, it need not conform to the conditions in 17.16(5)”a”(1) and 17.16(5)”a”(2).

17.16(6) Insurance company annuity product A credit union may not purchase an insurance company annuity product as an investment of the credit union. However, a credit union, in its capacity as an employer, may establish retirement or defined employee benefit programs, which may include the purchase of an annuity for the specific purpose of funding an employee benefit plan, provided that:

a. The plan is usually entirely funded by the credit union and the underlying investments are owned by the credit union;

b. There is a direct connection between the purchase of the investment and the employee benefit obligation;

c. If an employee leaves the credit union before the specified time, fails to exercise an option or to vest in the plan, dies, or in some manner forfeits the right to the planned benefit, the credit union must take the steps necessary to dispose of any investment(s) not needed to meet an actual or potential obligation under the employee benefit plan; and

d. A credit union may, under certain circumstances, hold an otherwise impermissible investment purchased to fund an employee benefit plan after an employee retires or separates from the credit union. For example, when a qualified employee is allowed to exercise an investment option following separation, the investment may be held in order to satisfy this benefit plan provision. In most cases this is an acceptable practice provided the option period is reasonable. Upon the employee’s exercise of the option or the expiration of the exercise period, the credit union must divest itself of any remaining impermissible investment(s).

17.16(7) Other prohibited investments. A credit union may not purchase residual interests in collateralized mortgage obligations, real estate mortgage investment conduits, or small business-related securities.

[ARC 1678C, IAB 10/15/14, effective 11/19/14]

189—17.17(533) Conflicts of interest.

17.17(1) A credit union’s officials and senior management employees, and their immediate family members, may not receive anything of value in connection with their investment transactions. This prohibition also applies to any other employee, such as an investment officer, if the employee is directly involved in investments, unless the credit union’s board of directors determines that the employee’s involvement does not present a conflict of interest. This prohibition does not include compensation for employees.

17.17(2) A credit union’s officials and employees must conduct all transactions with business associates or family members that are not specifically prohibited by 17.17(1) at arm’s length and in the credit union’s best interest.

189—17.18 Reserved.
189—17.19(533) Investment pilot program.

17.19(1) Under an investment pilot program, the credit union division will permit a limited number of credit unions to engage in investment activities prohibited by this rule but otherwise permitted by the Federal Credit Union Act, 12 U.S.C. Section 1757.

17.19(2) Except as provided in 17.19(4), before a credit union may engage in an additional activity it must obtain written approval from the superintendent. To obtain approval, a credit union must submit its written request to the superintendent that addresses the following items:
   a. Certification that the credit union is “well-capitalized” under NCUA rules and regulations, 12 CFR Part 702;
   b. Board policies approving the activities and establishing limits on them;
   c. A complete description of the activities, with specific examples of how they will benefit the credit union and how they will be conducted;
   d. A demonstration of how the activities will affect the credit union’s financial performance, risk profile, and asset-liability management strategies;
   e. Examples of reports the credit union will generate to monitor the activities;
   f. Projections of the associated costs of the activities, including personnel, computer, and audit;
   g. Descriptions of the internal systems that will measure, monitor, and report the activities;
   h. Qualifications of the staff and officials responsible for implementing and overseeing the activities; and
   i. Internal control procedures that will be implemented, including audit requirements.

17.19(3) If the superintendent supports the credit union’s request to engage in the additional activity as provided in 17.19(2), the superintendent will forward the request to the NCUA regional director for review and nonobjection. If the regional director determines that the additional activity would be approved for the credit union if it were federally chartered and does not object otherwise, the superintendent may approve the credit union’s request.

17.19(4) Subsequent to the publication date of these rules, a credit union will not need to seek written approval of the superintendent to engage in an investment activity prohibited by the rules but permitted by the Federal Credit Union Act if the activity is part of a third-party investment program the NCUA approves for federal credit unions after the third party submits a request to the NCUA Director of the Office of Strategic Program Support and Planning that addresses the following items:
   a. A complete description of the activities with specific examples of how a federal credit union will conduct and account for them, and how the activities will benefit a federal credit union;
   b. A description of any risks to a federal credit union from participating in the program; and
   c. Contracts that must be executed by the federal credit union.

189—17.20(533) Responsibility placed upon the credit union to show cause.

17.20(1) A state-chartered credit union that engages in an investment activity that it believes to be permissible for federal credit unions, whether or not addressed by these rules, must provide the superintendent, when requested, satisfactory documentation that the activity is not prohibited by the Iowa Code or by the NCUA, or both.

17.20(2) If a credit union engages in an investment activity, whether expressly permitted by these rules or an investment activity that the credit union believes, in good faith, is permitted, and which at the time of engagement is not or thought not to be prohibited by the Iowa Code or the NCUA, or both, but subsequently becomes or is found to have been prohibited, the credit union must develop a plan to become compliant within a reasonable period of time.

17.20(3) Although automatic authority is granted to Iowa credit unions by Iowa Code sections 533.301(5)”f” and 533.301(25) and these rules, such authority may be withheld or withdrawn by the superintendent for safety and soundness concerns or for blatant disregard for these rules, in whole or in part, by a credit union.

These rules are intended to implement Iowa Code section 533.301(5).

[Filed 2/5/88, Notice 11/18/87—published 2/24/88, effective 3/30/88]
[Filed 1/31/03, Notice 12/25/02—published 2/19/03, effective 3/26/03]
[Filed 11/4/04, Notice 9/15/04—published 11/24/04, effective 12/29/04]
[Filed 12/10/08, Notice 11/5/08—published 12/31/08, effective 2/4/09]
[Filed ARC 1678C (Notice ARC 1580C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]
EDUCATION DEPARTMENT[281]
Created by 1986 Iowa Acts, chapter 1245, section 1401.
Prior to 9/7/88, see Public Instruction Department[670]
(Replacement pages for 9/7/88 published in 9/21/88 IAC)

TITLE I
GENERAL INFORMATION—
DEPARTMENT OPERATIONS

CHAPTER 1
ORGANIZATION AND OPERATION
1.1(17A,256) State board of education
1.2(17A,256) Student member of state board of education
1.3(17A,256) Director of education
1.4(17A,256) Department of education

CHAPTER 2
AGENCY PROCEDURE FOR RULE MAKING
AND PETITIONS FOR RULE MAKING
(Uniform Rules)

2.1(17A) Applicability
2.2(17A) Advice on possible rules before notice of proposed rule adoption
2.3(17A) Public rule-making docket
2.4(17A) Notice of proposed rule making
2.5(17A) Public participation
2.6(17A) Regulatory analysis
2.7(17A,25B) Fiscal impact statement
2.8(17A) Time and manner of rule adoption
2.9(17A) Variance between adopted rule and published notice of proposed rule adoption
2.10(17A) Exemptions from public rule-making procedures
2.11(17A) Concise statement of reasons
2.12(17A) Contents, style, and form of rule
2.13(17A) Agency rule-making record
2.14(17A) Filing of rules
2.15(17A) Effectiveness of rules prior to publication
2.16(17A) General statements of policy
2.17(17A) Review by agency of rules
2.18(17A) Petition for rule making
2.19(17A) Inquiries

CHAPTER 3
DECLARATORY ORDERS
(Uniform Rules)

3.1(17A) Petition for declaratory order
3.2(17A) Notice of petition
3.3(17A) Intervention
3.4(17A) Briefs
3.5(17A) Inquiries
3.6(17A) Service and filing of petitions and other papers
3.7(17A) Consideration
3.8(17A) Action on petition
3.9(17A) Refusal to issue order
3.10(17A) Contents of declaratory order—effective date
3.11(17A) Copies of orders
3.12(17A) Effect of a declaratory order
CHAPTER 4
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES
4.1(17A,ExecOrd11) Definitions
4.2(17A,ExecOrd11) Scope of chapter
4.3(17A,ExecOrd11) Applicability of chapter
4.4(17A,ExecOrd11) Criteria for waiver
4.5(17A,ExecOrd11) Filing of petition
4.6(17A,ExecOrd11) Content of petition
4.7(17A,ExecOrd11) Additional information
4.8(17A,ExecOrd11) Notice
4.9(17A,ExecOrd11) Hearing procedures
4.10(17A,ExecOrd11) Ruling
4.11(17A,ExecOrd11) Public availability
4.12(17A,ExecOrd11) Summary reports
4.13(17A,ExecOrd11) Cancellation
4.14(17A,ExecOrd11) Violations
4.15(17A,ExecOrd11) Defense
4.16(17A,ExecOrd11) Judicial review
4.17(17A,ExecOrd11) Exception

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)
5.1(256) Definitions
5.3(256) Requests for access to records
5.6(256) Procedure by which additions, dissents, or objections may be entered into certain records
5.9(256) Disclosures without the consent of the subject
5.10(256) Routine use
5.11(256) Consensual disclosure of confidential records
5.12(256) Release to a subject
5.13(256) Availability of records
5.14(256) Personally identifiable information
5.15(256) Other groups of records
5.16(256) Applicability

CHAPTER 6
APPEAL PROCEDURES
6.1(290) Scope of appeal
6.2(256,290,17A) Definitions
6.3(290,17A) Manner of appeal
6.4(17A) Continuances
6.5(17A) Intervention
6.6(17A) Motions
6.7(17A) Disqualification
6.8(290) Subpoena of witnesses and costs
6.9(17A) Discovery
6.10(17A) Consolidation—severance
6.11(17A) Waiver of procedures
6.12(17A) Appeal hearing
6.13 Reserved
6.14(17A) Ex parte communication
6.15(17A) Record
6.16(17A) Recording costs
6.17(290,17A) Decision and review
6.18(290) Finality of decision
6.19(17A) Default
6.20(17A) Application for rehearing of final decision
6.21(17A) Rehearing
6.22(17A) Emergency adjudicative proceedings
6.23(256,17A) Additional requirements for specific programs

CHAPTER 7
CRITERIA FOR GRANTS

7.1(256,17A) Purpose
7.2(256,17A) Definitions
7.3(256,17A) Requirements
7.4(256,17A) Review process
7.5(290,17A) Appeal of grant denial or termination

CHAPTERS 8 to 10
Reserved

TITLE II
ACCREDITED SCHOOLS AND SCHOOL DISTRICTS

CHAPTER 11
UNSAFE SCHOOL CHOICE OPTION

11.1(PL107-110) Purpose
11.2(PL107-110) Definitions
11.3(PL107-110) Whole school option
11.4(PL107-110) Individual student option
11.5(PL107-110) District reporting
CHAPTER 12
GENERAL ACCREDITATION STANDARDS

DIVISION I
GENERAL STANDARDS
12.1(256) General standards

DIVISION II
DEFINITIONS
12.2(256) Definitions

DIVISION III
ADMINISTRATION
12.3(256) Administration

DIVISION IV
SCHOOL PERSONNEL
12.4(256) School personnel

DIVISION V
EDUCATION PROGRAM
12.5(256) Education program

DIVISION VI
ACTIVITY PROGRAM
12.6(256) Activity program

DIVISION VII
STAFF DEVELOPMENT
12.7(256,284,284A) Professional development

DIVISION VIII
ACCOUNTABILITY
12.8(256) Accountability for student achievement

DIVISION IX
EXEMPTION REQUEST PROCESS
12.9(256) General accreditation standards exemption request

DIVISION X
INDEPENDENT ACCREDITING AGENCIES
12.10(256) Independent accrediting agencies

CHAPTERS 13 and 14
Reserved

CHAPTER 15
USE OF ONLINE LEARNING AND TELECOMMUNICATIONS
FOR INSTRUCTION BY SCHOOLS

15.1(256) Purpose
15.2(256) Definitions

DIVISION I
USE OF TELECOMMUNICATIONS FOR INSTRUCTION BY SCHOOLS
15.3(256) Interactivity
15.4(256) Course eligibility
15.5(256) Teacher preparation and accessibility
15.6(256) School responsibilities

DIVISION II
ONLINE LEARNING OFFERED BY A SCHOOL DISTRICT
15.7(256) School district responsibilities
15.8(256) Prohibition regarding open enrollment
15.9(256) Special education services

DIVISION III
IOWA LEARNING ONLINE (ILO)
15.10(256) Appropriate applications of ILO coursework
15.11(256) Inappropriate applications of ILO coursework; criteria for waiver
15.12(256) School and school district responsibilities
15.13(256) Department responsibilities
15.14(256) Enrollment in an ILO course

CHAPTER 16
STATEWIDE VOLUNTARY PRESCHOOL PROGRAM
16.1(256C) Purpose
16.2(256C) Definitions
16.3(256C) Preschool program standards
16.4(256C) Collaboration requirements
16.5(256C) Applications for funding
16.6(256C) Application process
16.7(256C) Award contracts
16.8(256C) Contract termination
16.9(256C) Criteria for applications for funding
16.10(256C) Appeal of application denial or termination
16.11(256C) Finance
16.12(256C) Transportation
16.13(256C) Accountability requirements
16.14(256C) Monitoring
16.15(256C) Open enrollment not applicable

CHAPTER 17
OPEN ENROLLMENT
17.1(282) Intent and purpose
17.2(282) Definitions
17.3(282) Application process
17.4(282) Filing after the March 1 deadline—good cause
17.5(282) Filing after the March 1 deadline—harassment or serious health condition
17.6(282) Restrictions to open enrollment requests
17.7(282) Open enrollment for kindergarten
17.8(282) Requirements applicable to parents/guardians and students
17.9(282) Transportation
17.10(282) Method of finance
17.11(282) Special education students
17.12(282) Laboratory school provisions
17.13(282) Applicability
17.14(282) Voluntary diversity plans or court-ordered desegregation plans

CHAPTER 18
SCHOOL FEES
18.1(256) Policy
18.2(256) Fee policy
18.3(256) Eligibility for waiver, partial waiver or temporary waiver of student fees
18.4(256) Fees covered
18.5(256) Effective date
CHAPTERS 19 and 20
Reserved

TITLE III
COMMUNITY COLLEGES

CHAPTER 21
COMMUNITY COLLEGES

DIVISION I
APPROVAL STANDARDS

21.1(260C) Definitions
21.2(260C) Administration
21.3 Reserved
21.4(260C) Curriculum and evaluation
21.5(260C) Library or learning resource center
21.6(260C) Student services
21.7(260C) Laboratories, equipment and supplies
21.8(260C) Physical plant
21.9(260C) Nonreimbursable facilities
21.10 to 21.19 Reserved

DIVISION II
COMMUNITY COLLEGE ENERGY APPROPRIATIONS

21.20 to 21.29 Reserved

DIVISION III
INSTRUCTIONAL COURSE FOR DRINKING DRIVERS

21.30(321J) Purpose
21.31(321J) Course
21.32(321J) Tuition fee established
21.33(321J) Administrative fee established
21.34(321J) Advisory committee

DIVISION IV
JOBS NOW CAPITALS ACCOUNT

21.35 to 21.44 Reserved

DIVISION V
STATE COMMUNITY COLLEGE FUNDING PLAN

21.45(260C) Purpose

DIVISION VI
INTERCOLLEGIATE ATHLETIC COMPETITION

21.46 to 21.56 Reserved

DIVISION VII
QUALITY INSTRUCTIONAL CENTER INITIATIVE

21.57 to 21.63 Reserved

DIVISION VIII
PROGRAM AND ADMINISTRATIVE SHARING INITIATIVE

21.64 to 21.71 Reserved

DIVISION IX
APPRENTICESHIP PROGRAM

21.72(260C) Purpose
21.73(260C) Definitions
21.74(260C) Apprenticeship programs
DIVISION X
MISCELLANEOUS PROVISIONS

21.75(260C,82GA,SF358) Used motor vehicle dealer education program

CHAPTER 22
SENIOR YEAR PLUS PROGRAM

DIVISION I
GENERAL PROVISIONS

22.1(261E) Scope
22.2(261E) Student eligibility
22.3(261E) Teacher eligibility, responsibilities
22.4(261E) Institutional eligibility, responsibilities
22.5 Reserved

DIVISION II
DEFINITIONS

22.6(261E) Definitions

DIVISION III
ADVANCED PLACEMENT PROGRAM

22.7(261E) School district obligations
22.8(261E) Obligations regarding registration for advanced placement examinations
22.9 and 22.10 Reserved

DIVISION IV
CONCURRENT ENROLLMENT PROGRAM

22.11(261E) Applicability
22.12 and 22.13 Reserved

DIVISION V
POSTSECONDARY ENROLLMENT OPTIONS PROGRAM

22.14(261E) Availability
22.15(261E) Notification
22.16(261E) Student eligibility
22.17(261E) Eligible postsecondary courses
22.18(261E) Application process
22.19(261E) Credits
22.20(261E) Transportation
22.21(261E) Tuition payments
22.22(261E) Tuition reimbursements and adjustments
22.23 Reserved

DIVISION VI
CAREER ACADEMIES

22.24(261E) Career academies
22.25 Reserved

DIVISION VII
REGIONAL ACADEMIES

22.26(261E) Regional academies
22.27(261E) Waivers for certain regional academies

DIVISION VIII
INTERNET-BASED AND ICN COURSEWORK

22.28(261E) Internet-based coursework
22.29(261E) ICN-based coursework
22.30 and 22.31 Reserved
DIVISION IX
PROJECT LEAD THE WAY

22.32(261E)  Project lead the way

CHAPTER 23
ADULT EDUCATION

23.1(260C)  Planning process
23.2(260C)  Final plan

CHAPTER 24
COMMUNITY COLLEGE ACCREDITATION

24.1(260C)  Purpose
24.2(260C)  Scope
24.3(260C)  Definitions
24.4(260C)  Accreditation components and criteria—Higher Learning Commission
24.5(260C)  Accreditation components and criteria—additional state standards
24.6(260C)  Accreditation process

CHAPTER 25
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT PROGRAM;
GAP TUITION ASSISTANCE PROGRAM

DIVISION I
GENERAL PROVISIONS

25.1(260H,260I)  Scope
25.2(260H,260I)  Definitions
25.3 to 25.10  Reserved

DIVISION II
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT (PACE) PROGRAM

25.11(260H)  Purpose
25.12(260H)  Target populations
25.13(260H)  Eligibility criteria for projects
25.14(260H)  Program component requirements
25.15(260H)  Pipeline program
25.16(260H)  Career pathways and bridge curriculum development program
25.17 to 25.19  Reserved

DIVISION III
GAP TUITION ASSISTANCE PROGRAM

25.20(260I)  Purpose
25.21(260I)  Applicants for tuition assistance—eligibility criteria
25.22(260I)  Applicants for tuition assistance—additional provisions
25.23(260I)  Eligible costs
25.24(260I)  Eligible certificate programs
25.25(260I)  Initial assessment
25.26(260I)  Program interview
25.27(260I)  Participation requirements
25.28(260I)  Oversight

TITLE IV
DRIVER AND SAFETY EDUCATION

CHAPTER 26
Reserved
CHAPTER 27

WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

27.1(260C) Purpose
27.2(260C) Definitions
27.3(260C) Funds allocation
27.4(260C) Community college workforce and economic development fund plans and progress reports
27.5(260C) Use of funds
27.6(260C) Prior approval
27.7(260C) Annual plan and progress report approval
27.8(260C) Options upon default or noncompliance

CHAPTERS 28 to 30

Reserved

TITLE V

NONTRADITIONAL STUDENTS

CHAPTER 31

PRIVATE INSTRUCTION AND DUAL ENROLLMENT

31.1(299,299A) Purpose and definitions
31.2(299) Reports as to competent private instruction
31.3(299,299A) Duties of privately retained licensed practitioners
31.4(299,299A) Duties of licensed practitioners, home school assistance program
31.5(299A) School district duties related to competent private instruction
31.6(299A) Dual enrollment
31.7(299) Open enrollment
31.8(299A) Baseline evaluation and annual assessment
31.9(299A) Reporting assessment results
31.10(299A) Special education students
31.11(299,299A) Independent private instruction
31.12(299,299A) Miscellaneous provisions

CHAPTER 32

HIGH SCHOOL EQUIVALENCY DIPLOMA

32.1(259A) Test
32.2(259A) By whom administered
32.3(259A) Minimum score
32.4(259A) Effectiveness of test scores
32.5(259A) Retest
32.6(259A) Application fee
32.7(259A) Diploma, transcript, verification fees
32.8(259A) Admission to testing

CHAPTER 33

EDUCATING THE HOMELESS

33.1(256) Purpose
33.2(256) Definitions
33.3(256) Responsibilities of the board of directors
33.4(256) School records; student transfers
33.5(256) Immunization requirements
33.6(256) Waiver of fees and charges encouraged
33.7(256) Waiver of enrollment requirements encouraged; placement
33.8(256) Residency of homeless child or youth
CHAPTER 34
FUNDING FOR CHILDREN RESIDING IN STATE INSTITUTIONS OR MENTAL HEALTH INSTITUTES

34.1(218) Scope
34.2(218) Definitions
34.3(218) General principles
34.4(218) Notification
34.5(218) Program submission and approval
34.6(218) Budget submission and approval
34.7(218) Payments
34.8(218) Payments to the AEA
34.9(218) Contracting for services
34.10(218) Accounting for average daily attendance
34.11(218) Accounting for actual program costs
34.12(218) Audit
34.13(218) Hold-harmless provision
34.14(218,256B,34CFR300) AEA services
34.15(218,233A,261C) Postsecondary credit courses

CHAPTER 35
Reserved

TITLE VI
INTERSCHOLASTIC COMPETITION

CHAPTER 36
EXTRACURRICULAR INTERSCHOLASTIC COMPETITION

36.1(280) Definitions
36.2(280) Registered organizations
36.3(280) Filings by organizations
36.4(280) Executive board
36.5(280) Federation membership
36.6(280) Salaries
36.7(280) Expenses
36.8(280) Financial report
36.9(280) Bond
36.10(280) Audit
36.11(280) Examinations by auditors
36.12(280) Access to records
36.13(280) Appearance before state board
36.14(280) Interscholastic athletics
36.15(280) Eligibility requirements
36.16(280) Executive board review
36.17(280) Appeals to director
36.18(280) Organization policies
36.19(280) Eligibility in situations of district organization change
36.20(280) Cooperative student participation
CHAPTER 37
EXTRACURRICULAR ATHLETIC ACTIVITY
CONFERENCE FOR MEMBER SCHOOLS

37.1(280) Policy and purpose
37.2(280) Initial responsibility
37.3(280) Complaint to the director, department of education
37.4(280) Mediation
37.5(280) Resolution or recommendation of the mediation team
37.6(280) Decision
37.7(280) Effective date of the decision

CHAPTERS 38 to 40
Reserved

TITLE VII
SPECIAL EDUCATION

CHAPTER 41
SPECIAL EDUCATION

DIVISION I
PURPOSE AND APPLICABILITY
41.1(256B,34CFR300) Purposes
41.2(256B,34CFR300) Applicability of this chapter

DIVISION II
DEFINITIONS
41.3(256B,34CFR300) Act
41.4(256B,273) Area education agency
41.5(256B,34CFR300) Assistive technology device
41.6(256B,34CFR300) Assistive technology service
41.7(256B,34CFR300) Charter school
41.8(256B,34CFR300) Child with a disability
41.9(256B,34CFR300) Consent
41.10(256B,34CFR300) Core academic subjects
41.11(256B,34CFR300) Day; business day; school day
41.12(256B,34CFR300) Educational service agency
41.13(256B,34CFR300) Elementary school
41.14(256B,34CFR300) Equipment
41.15(256B,34CFR300) Evaluation
41.16(256B,34CFR300) Excess costs
41.17(256B,34CFR300) Free appropriate public education
41.18(256B,34CFR300) Highly qualified special education teachers
41.19(256B,34CFR300) Homeless children
41.20(256B,34CFR300) Include
41.21(256B,34CFR300) Indian and Indian tribe
41.22(256B,34CFR300) Individualized education program
41.23(256B,34CFR300) Individualized education program team
41.24(256B,34CFR300) Individualized family service plan
41.25(256B,34CFR300) Infant or toddler with a disability
41.26(256B,34CFR300) Institution of higher education
41.27(256B,34CFR300) Limited English proficient
41.28(256B,34CFR300) Local educational agency
41.29(256B,34CFR300) Native language
41.30(256B,34CFR300) Parent
41.31(256B,34CFR300) Parent training and information center
41.32(256B,34CFR300) Personally identifiable
41.33(256B,34CFR300) Public agency; nonpublic agency; agency
41.34(256B,34CFR300) Related services
41.35(34CFR300) Scientifically based research
41.36(256B,34CFR300) Secondary school
41.37(34CFR300) Services plan
41.38(34CFR300) Secretary
41.39(256B,34CFR300) Special education
41.40(34CFR300) State
41.41(256B,34CFR300) State educational agency
41.42(256B,34CFR300) Supplementary aids and services
41.43(256B,34CFR300) Transition services
41.44(34CFR300) Universal design
41.45(256B,34CFR300) Ward of the state
41.46 to 41.49 Reserved
41.50(256B,34CFR300) Other definitions associated with identification of eligible individuals
41.51(256B,34CFR300) Other definitions applicable to this chapter
41.52 to 41.99 Reserved

DIVISION III
RULES APPLICABLE TO THE STATE AND TO ALL AGENCIES

41.100(256B,34CFR300) Eligibility for assistance
41.101(256B,34CFR300) Free appropriate public education (FAPE)
41.102(256B,34CFR300) Limitation—exceptions to FAPE for certain ages
41.103(256B,34CFR300) FAPE—methods and payments
41.104(256B,34CFR300) Residential placement
41.105(256B,34CFR300) Assistive technology
41.106(256B,34CFR300) Extended school year services
41.107(256B,34CFR300) Nonacademic services
41.108(256B,34CFR300) Physical education
41.109(256B,34CFR300) Full educational opportunity goal (FEOG)
41.110(256B,34CFR300) Program options
41.111(256B,34CFR300) Child find
41.112(256B,34CFR300) Individualized education programs (IEPs)
41.113(256B,34CFR300) Routine checking of hearing aids and external components of surgically implanted medical devices
41.114(256B,34CFR300) Least restrictive environment (LRE)
41.115(256B,34CFR300) Continuum of alternative services and placements
41.116(256B,34CFR300) Placements
41.117(256B,34CFR300) Nonacademic settings
41.118(256B,34CFR300) Children in public or private institutions
41.119(256B,34CFR300) Technical assistance and training activities
41.120(256B,34CFR300) Monitoring activities
41.121(256B,34CFR300) Procedural safeguards
41.122(256B,34CFR300) Evaluation
41.123(256B,34CFR300) Confidentiality of personally identifiable information
41.124(256B,34CFR300) Transition of children from the Part C program to preschool programs
41.125 to 41.128 Reserved
41.129(256B,34CFR300) Responsibility regarding children in private schools
41.130(256,256B,34CFR300) Definition of parentally placed private school children with disabilities
41.131(256,256B,34CFR300) Child find for parentally placed private school children with disabilities
41.132(256,256B,34CFR300) Provision of services for parentally placed private school children with disabilities: basic requirement
41.133(256,256B,34CFR300) Expenditures
41.134(256,256B,34CFR300) Consultation
41.135(256,256B,34CFR300) Written affirmation
41.136(256,256B,34CFR300) Compliance
41.137(256,256B,34CFR300) Equitable services determined
41.138(256,256B,34CFR300) Equitable services provided
41.139(256,256B,34CFR300) Location of services and transportation
41.140(256,256B,34CFR300) Due process complaints and state complaints
41.141(256,256B,34CFR300) Requirement that funds not benefit a private school
41.142(256,256B,34CFR300) Use of personnel
41.143(256,256B,34CFR300) Separate classes prohibited
41.144(256,256B,34CFR300) Property, equipment, and supplies
41.146(256B,34CFR300) Responsibility of department
41.147(256B,34CFR300) Implementation by department
41.148(256B,34CFR300) Placement of children by parents when FAPE is at issue
41.149(256B,34CFR300) SEA responsibility for general supervision
41.150 Reserved
41.151(256B,34CFR300) Adoption of state complaint procedures
41.152(256B,34CFR300) Minimum state complaint procedures
41.153(256B,34CFR300) Filing a complaint
41.154(256B,34CFR300) Methods of ensuring services
41.155(256B,34CFR300) Hearings relating to AEA or LEA eligibility
41.156(256B,34CFR300) Personnel qualifications
41.157 to 41.161 Reserved
41.162(256B,34CFR300) Supplementation of state, local, and other federal funds
41.163(256B,34CFR300) Maintenance of state financial support
41.164 Reserved
41.165(256B,34CFR300) Public participation
41.166(256B,34CFR300) Rule of construction
41.167(256B,34CFR300) State advisory panel
41.168(256B,34CFR300) Advisory panel membership
41.169(256B,34CFR300) Advisory panel duties
41.170(256B,34CFR300) Suspension and expulsion rates
41.171 Reserved
41.172(256B,34CFR300) Access to instructional materials
41.173(256B,34CFR300) Overidentification and disproportionality
41.174(256B,34CFR300) Prohibition on mandatory medication
41.175 Reserved
41.176(256B) Special school provisions
41.177(256B) Facilities
41.178(256B) Materials, equipment and assistive technology
41.179 to 41.185 Reserved
41.186(256B,34CFR300) Assistance under other federal programs
41.187(256B) Research, innovation, and improvement
41.188 to 41.199 Reserved
DIVISION IV
LEA AND AEA ELIGIBILITY, IN GENERAL
41.200(256B,34CFR300) Condition of assistance
41.201(256B,34CFR300) Consistency with state policies
41.202(256B,34CFR300) Use of amounts
41.203(256B,34CFR300) Maintenance of effort
41.204(256B,34CFR300) Exception to maintenance of effort
41.205(256B,34CFR300) Adjustment to local fiscal efforts in certain fiscal years
41.206(256B,34CFR300) Schoolwide programs under Title I of the ESEA
41.207(256B,34CFR300) Personnel development
41.208(256B,34CFR300) Permissive use of funds
41.209(256B,34CFR300) Treatment of charter schools and their students
41.210(256B,34CFR300) Purchase of instructional materials
41.211(256B,34CFR300) Information for department
41.212(256B,34CFR300) Public information
41.213(256B,34CFR300) Records regarding migratory children with disabilities
41.214 to 41.219 Reserved
41.220(256B,34CFR300) Exception for prior local plans
41.221(256B,34CFR300) Notification of AEA or LEA or state agency in case of ineligibility
41.222(256B,34CFR300) AEA or LEA and state agency compliance
41.223(256B,34CFR300) Joint establishment of eligibility
41.224(256B,34CFR300) Requirements for jointly establishing eligibility
41.225 Reserved
41.226(256B,34CFR300) Early intervening services
41.227 Reserved
41.228(256B,34CFR300) State agency eligibility
41.229(256B,34CFR300) Disciplinary information
41.230(256B,34CFR300) SEA flexibility
41.231 to 41.299 Reserved

DIVISION V
EVALUATION, ELIGIBILITY, IEPs, AND PLACEMENT DECISIONS
41.300(256B,34CFR300) Parental consent and participation
41.301(256B,34CFR300) Full and individual initial evaluations
41.302(256B,34CFR300) Screening for instructional purposes is not evaluation
41.303(256B,34CFR300) Reevaluations
41.304(256B,34CFR300) Evaluation procedures
41.305(256B,34CFR300) Additional requirements for evaluations and reevaluations
41.306(256B,34CFR300) Determination of eligibility
41.307(256B,34CFR300) Specific learning disabilities
41.308(256B,34CFR300) Additional group members
41.309(256B,34CFR300) Determining the existence of a specific learning disability
41.310(256B,34CFR300) Observation
41.311(256B,34CFR300) Specific documentation for the eligibility determination
41.312(256B,34CFR300) General education interventions
41.313(256B,34CFR300) Systematic problem-solving process
41.314(256B,34CFR300) Progress monitoring and data collection
41.315 to 41.319 Reserved
41.320(256B,34CFR300) Definition of individualized education program
41.321(256B,34CFR300) IEP team
41.322(256B,34CFR300) Parent participation
41.323(256B,34CFR300) When IEPs must be in effect
41.324(256B,34CFR300) Development, review, and revision of IEP
41.325(256B,34CFR300) Private school placements by public agencies
41.326(256B,34CFR300) Other rules concerning IEPs
41.327(256B,34CFR300) Educational placements
41.328(256B,34CFR300) Alternative means of meeting participation
41.329 to 41.399 Reserved

DIVISION VI
ADDITIONAL RULES RELATED TO AEAs, LEAs, AND SPECIAL EDUCATION
41.400(256B,34CFR300) Shared responsibility
41.401(256B,34CFR300) Licensure (certification)
41.402(256B,273,34CFR300) Authorized personnel
41.403(256B) Paraprofessionals
41.404(256B) Policies and procedures required of all public agencies
41.405(256B) Special health services
41.406(256B) Additional requirements of LEAs
41.407(256B,273,34CFR300) Additional requirements of AEAs
41.408(256B,273,34CFR300) Instructional services
41.409(256B,34CFR300) Support services
41.410(256B,34CFR300) Itinerant services
41.411(256B,34CFR300) Related services, supplementary aids and services
41.412(256B,34CFR300) Transportation
41.413(256,256B,34CFR300) Additional rules relating to accredited nonpublic schools
41.414 to 41.499 Reserved

DIVISION VII
PROCEDURAL SAFEGUARDS
41.500(256B,34CFR300) Responsibility of SEA and other public agencies
41.501(256B,34CFR300) Opportunity to examine records; parent participation in meetings
41.502(256B,34CFR300) Independent educational evaluation
41.503(256B,34CFR300) Prior notice by the public agency; content of notice
41.504(256B,34CFR300) Procedural safeguards notice
41.505(256B,34CFR300) Electronic mail
41.506(256B,34CFR300) Mediation
41.507(256B,34CFR300) Filing a due process complaint
41.508(256B,34CFR300) Due process complaint
41.509(256B,34CFR300) Model forms
41.510(256B,34CFR300) Resolution process
41.511(256B,34CFR300) Impartial due process hearing
41.512(256B,34CFR300) Hearing rights
41.513(256B,34CFR300) Hearing decisions
41.514(256B,34CFR300) Finality of decision
41.515(256B,34CFR300) Timelines and convenience of hearings
41.516(256B,34CFR300) Civil action
41.517(256B,34CFR300) Attorneys’ fees
41.518(256B,34CFR300) Child’s status during proceedings
41.519(256B,34CFR300) Surrogate parents
41.520(256B,34CFR300) Transfer of parental rights at age of majority
41.521 to 41.529 Reserved
41.530(256B,34CFR300) Authority of school personnel
41.531(256B,34CFR300) Determination of setting
41.532(256B,34CFR300) Appeal
41.533(256B,34CFR300) Placement during appeals and mediations
41.534(256B,34CFR300) Protections for children not determined eligible for special education and related services
41.535(256B,34CFR300) Referral to and action by law enforcement and judicial authorities
41.536(256B,34CFR300) Change of placement because of disciplinary removals
41.537(256B,34CFR300) State enforcement mechanisms
41.538 to 41.599 Reserved

DIVISION VIII
MONITORING, ENFORCEMENT, CONFIDENTIALITY, AND PROGRAM INFORMATION

41.600(256B,34CFR300) State monitoring and enforcement
41.601(256B,34CFR300) State performance plans and data collection
41.602(256B,34CFR300) State use of targets and reporting
41.603(256B,34CFR300) Department review and determination regarding public agency performance
41.604(256B,34CFR300) Enforcement
41.605(256B,34CFR300) Withholding funds
41.606(256B,34CFR300) Public attention
41.607 Reserved
41.608(256B,34CFR300) State enforcement
41.609(256B,34CFR300) State consideration of other state or federal laws
41.610(256B,34CFR300) Confidentiality
41.611(256B,34CFR300) Definitions
41.612(256B,34CFR300) Notice to parents
41.613(256B,34CFR300) Access rights
41.614(256B,34CFR300) Record of access
41.615(256B,34CFR300) Records on more than one child
41.616(256B,34CFR300) List of types and locations of information
41.617(256B,34CFR300) Fees
41.618(256B,34CFR300) Amendment of records at parent’s request
41.619(256B,34CFR300) Opportunity for a hearing
41.620(256B,34CFR300) Result of hearing
41.621(256B,34CFR300) Hearing procedures
41.622(256B,34CFR300) Consent
41.623(256B,34CFR300) Safeguards
41.624(256B,34CFR300) Destruction of information
41.625(256B,34CFR300) Children’s rights
41.626(256B,34CFR300) Enforcement
41.627 to 41.639 Reserved
41.640(256B,34CFR300) Annual report of children served—report requirement
41.641(256B,34CFR300) Annual report of children served—information required in the report
41.642(256B,34CFR300) Data reporting
41.643(256B,34CFR300) Annual report of children served—certification
41.644(256B,34CFR300) Annual report of children served—criteria for counting children
41.645(256B,34CFR300) Annual report of children served—other responsibilities of the SEA
41.646(256B,34CFR300) Disproportionality
41.647 to 41.699 Reserved

DIVISION IX
ALLOCATIONS BY THE SECRETARY TO THE STATE

41.700 to 41.703 Reserved
41.704(256B,34CFR300) State-level activities
41.705(256B,34CFR300) Subgrants to AEAs
41.706 to 41.799 Reserved
DIVISION X
PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES

41.800(256B,34CFR300) General rule
41.801 and 41.802 Reserved
41.803(256B,34CFR300) Definition of state
41.804(256B,34CFR300) Eligibility
41.805 Reserved
41.806(256B,34CFR300) Eligibility for financial assistance
41.807 to 41.811 Reserved
41.812(256B,34CFR300) Reservation for state activities
41.813(256B,34CFR300) State administration
41.814(256B,34CFR300) Other state-level activities
41.815(256B,34CFR300) Subgrants to AEAs
41.816(256B,34CFR300) Allocations to AEAs
41.817(256B,34CFR300) Reallocation of AEA funds
41.818(256B,34CFR300) Part C of the Act inapplicable
41.819 to 41.899 Reserved

DIVISION XI
ADDITIONAL RULES CONCERNING FINANCE AND PUBLIC ACCOUNTABILITY

41.900(256B,282) Scope
41.901(256B,282) Records and reports
41.902(256B,282) Audit
41.903(256B,282) Contractual agreements
41.904(256B) Research and demonstration projects and models for special education program development
41.905(256B,273) Additional special education
41.906(256B,273,282) Extended school year services
41.907(256B,282,34CFR300,303) Program costs
41.908(256B,282) Accountability
41.909 to 41.999 Reserved

DIVISION XII
PRACTICE BEFORE MEDIATORS AND ADMINISTRATIVE LAW JUDGES

41.1000(17A,256B,290) Applicability
41.1001(17A,256B,290) Definitions
41.1002(256B,34CFR300) Special education mediation conference
41.1003(17A,256B) Procedures concerning due process complaints
41.1004(17A,256B) Participants in the hearing
41.1005(17A,256B) Convening the hearing
41.1006(17A,256B) Stipulated record hearing
41.1007(17A,256B) Evidentiary hearing
41.1008(17A,256B) Mixed evidentiary and stipulated record hearing
41.1009(17A,256B) Witnesses
41.1010(17A,256B) Rules of evidence
41.1011(17A,256B) Communications
41.1012(17A,256B) Record
41.1013(17A,256B) Decision and review
41.1014(17A,256B) Finality of decision
41.1015(256B,34CFR300) Disqualification of mediator
41.1016(17A) Correcting decisions of administrative law judges
41.1017 to 41.1099 Reserved
DIVISION XIII
ADDITIONAL RULES NECESSARY TO IMPLEMENT AND APPLY THIS CHAPTER

41.1100(256B,34CFR300) References to Code of Federal Regulations
41.1101(256B,34CFR300) Severability

CHAPTER 42
Reserved

TITLE VIII
SCHOOL TRANSPORTATION

CHAPTER 43
PUPIL TRANSPORTATION

DIVISION I
TRANSPORTATION ROUTES

43.1(285) Intra-area education agency routes
43.2(285) Interarea education agency routes

DIVISION II
PRIVATE CONTRACTORS

43.3(285) Contract required
43.4(285) Uniform charge
43.5(285) Board must be party
43.6(285) Contract with parents
43.7(285) Vehicle requirements

DIVISION III
FINANCIAL RECORDS AND REPORTS

43.8(285) Required charges
43.9(285) Activity trips deducted

DIVISION IV
USE OF SCHOOL BUSES

43.10(285) Permitted uses listed
43.11(285) Teacher transportation

DIVISION V
THE BUS DRIVER

43.12(285) Driver qualifications
43.13(285) Stability factors
43.14(285) Driver age
43.15(285) Physical fitness
43.16 Reserved
43.17(285) Insulin-dependent diabetics
43.18(285) Authorization to be carried by driver
43.19 and 43.20 Reserved
43.21(285) Experience, traffic law knowledge and driving record
43.22(321) Fee collection and distribution of funds
43.23(285) Application form
43.24(321) Authorization denials and revocations

DIVISION VI
PURCHASE OF BUSES

43.25(285) Local board procedure
43.26(285) Financing
43.27 to 43.29 Reserved
DIVISION VII
MISCELLANEOUS REQUIREMENTS

43.30(285) Semiannual inspection
43.31(285) Maintenance record
43.32(285) Drivers' schools
43.33(285) Insurance
43.34(285) Contract—privately owned buses
43.35(285) Contract—district-owned buses
43.36(285) Accident reports
43.37(285) Railroad crossings
43.38(285) Driver restrictions
43.39(285) Civil defense projects
43.40(285) Pupil instruction
43.41(285) Trip inspections
43.42(285) Loading and unloading areas
43.43(285) Communication equipment

DIVISION VIII
COMMON CARRIERS

43.44(285) Standards for common carriers

CHAPTER 44
SCHOOL BUSES

44.1(285) Requirements for manufacturers
44.2(285) School bus—type classifications
44.3(285) School bus body and chassis specifications
44.4(285) Construction of vehicles for children with mobility challenges
44.5(285) Type III vehicles
44.6(285) Repair, replacement of school bus body and chassis components following original equipment manufacture

CHAPTER 45
Reserved

TITLE IX
VOCATIONAL EDUCATION

CHAPTER 46
VOCATIONAL EDUCATION PROGRAMS

46.1(258) Standards for vocational education
46.2(258) Planning process
46.3(258) Public involvement and participation
46.4(258) Final plan and accountability report
46.5(258) Geographic area
46.6(258) Revised standards for vocational education
46.7(258) Definitions and descriptions of procedures

CHAPTER 47
CAREER ACADEMIES

47.1(260C) Definitions
47.2(260C) Career academy program of study

CHAPTERS 48 to 50
Reserved
TITLE X
VETERANS’ TRAINING

CHAPTER 51
APPROVAL OF ON-THE-JOB TRAINING ESTABLISHMENTS
UNDER THE MONTGOMERY G.I. BILL

51.1 Application
51.2 Content and approval of application
51.3 Wage schedules

CHAPTER 52
APPROVAL OF EDUCATIONAL INSTITUTIONS
FOR THE EDUCATION AND TRAINING OF ELIGIBLE VETERANS
UNDER THE MONTGOMERY G.I. BILL

52.1 Colleges
52.2 High schools
52.3 Reserved
52.4 Schools of Bible or theology
52.5 Schools of nursing
52.6 Hospitals
52.7 Schools of cosmetology
52.8 Schools of barbering
52.9 Reserved
52.10 Schools of business
52.11 Trade schools
52.12 Correspondence schools
52.13 Successful operation on a continuous basis
52.14 Nonaccredited schools
52.15 Evaluation standards

CHAPTERS 53 to 55
Reserved

TITLE XI
VOCATIONAL REHABILITATION EDUCATION

CHAPTER 56
IOWA VOCATIONAL REHABILITATION SERVICES

DIVISION I
SCOPE AND GENERAL PRINCIPLES

56.1 Responsibility of division
56.2 Nondiscrimination

DIVISION II
DEFINITIONS

56.3 Definitions

DIVISION III
ELIGIBILITY

56.4 Individuals who are recipients of SSD/SSI
56.5 Eligibility for vocational rehabilitation services
56.6 Eligibility for specific services
56.7 Areas in which exceptions shall not be granted
56.8 Waiting list
56.9 Individuals who are blind
56.10 Students in high school
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>56.11(259)</td>
<td>Establishment of financial need</td>
</tr>
<tr>
<td>56.12(259)</td>
<td>Case finding and intake</td>
</tr>
<tr>
<td>56.13(259)</td>
<td>Case diagnosis</td>
</tr>
<tr>
<td>56.14(259)</td>
<td>Individual plan for employment (IPE)</td>
</tr>
<tr>
<td>56.15(259)</td>
<td>Scope of services</td>
</tr>
<tr>
<td>56.16(259)</td>
<td>Training</td>
</tr>
<tr>
<td>56.17(259)</td>
<td>Maintenance</td>
</tr>
<tr>
<td>56.18(259)</td>
<td>Transportation</td>
</tr>
<tr>
<td>56.19(259)</td>
<td>Rehabilitation technology</td>
</tr>
<tr>
<td>56.20</td>
<td>Reserved</td>
</tr>
<tr>
<td>56.21(259)</td>
<td>Placement</td>
</tr>
<tr>
<td>56.22(259)</td>
<td>Supported employment and transitional employment</td>
</tr>
<tr>
<td>56.23(259)</td>
<td>Miscellaneous or auxiliary services</td>
</tr>
<tr>
<td>56.24(259)</td>
<td>Facilities</td>
</tr>
<tr>
<td>56.25(259)</td>
<td>Exceptions to payment for services</td>
</tr>
<tr>
<td>56.26(259)</td>
<td>Exceptions to duration of services</td>
</tr>
<tr>
<td>56.27(259)</td>
<td>Maximum rates of payment to training facilities</td>
</tr>
<tr>
<td>56.28(259)</td>
<td>Purchasing</td>
</tr>
<tr>
<td>56.29(259)</td>
<td>Review process</td>
</tr>
<tr>
<td>56.30(259)</td>
<td>Supervisor review</td>
</tr>
<tr>
<td>56.31(259)</td>
<td>Mediation</td>
</tr>
<tr>
<td>56.32(259)</td>
<td>Hearing before impartial hearing officer</td>
</tr>
<tr>
<td>56.33(259)</td>
<td>Collection and maintenance of records</td>
</tr>
<tr>
<td>56.34(259)</td>
<td>Personally identifiable information</td>
</tr>
<tr>
<td>56.35(259)</td>
<td>Other groups of records routinely available for public inspection</td>
</tr>
<tr>
<td>56.36(259)</td>
<td>State rehabilitation council</td>
</tr>
<tr>
<td>56.37(259)</td>
<td>Purpose</td>
</tr>
<tr>
<td>56.38(259)</td>
<td>Eligibility requirements</td>
</tr>
<tr>
<td>56.39(259)</td>
<td>Application procedure</td>
</tr>
<tr>
<td>56.40(259)</td>
<td>Award of technical assistance funds</td>
</tr>
<tr>
<td>56.41(259)</td>
<td>Business plan feasibility study procedure</td>
</tr>
<tr>
<td>56.42(259)</td>
<td>Award of financial assistance funds</td>
</tr>
</tbody>
</table>

**CHAPTER 57**
Reserved
TITLE XII
PROGRAMS ADMINISTRATION

CHAPTER 58
SCHOOL BREAKFAST AND LUNCH PROGRAM; NUTRITIONAL CONTENT STANDARDS FOR OTHER FOODS AND BEVERAGES

58.1(283A,256) Authority

DIVISION I
SCHOOL BREAKFAST AND LUNCH PROGRAM

58.2(283A) Definitions
58.3(283A) Agreement required
58.4(283A) State plan
58.5(283A) Service area defined
58.6(283A) School breakfast program
58.7(283A) School lunch program
58.8(283A) Procurement

DIVISION II
NUTRITIONAL CONTENT STANDARDS FOR OTHER FOODS AND BEVERAGES

58.9(256) Definitions
58.10(256) Scope
58.11(256) Nutritional content standards

CHAPTER 59
GIFTED AND TALENTED PROGRAMS

59.1(257) Scope and general principles
59.2(257) Definitions
59.3 Reserved
59.4(257) Program plan
59.5(257) Responsibilities of school districts
59.6(257) Responsibilities of area education agencies
59.7(257) Responsibilities of the department

CHAPTER 60
PROGRAMS FOR STUDENTS OF LIMITED ENGLISH PROFICIENCY

60.1(280) Scope
60.2(280) Definitions
60.3(280) School district responsibilities
60.4(280) Department responsibility
60.5(280) Nonpublic school participation
60.6(280) Funding

CHAPTER 61
IOWA READING RESEARCH CENTER

61.1(256) Establishment
61.2(256) Purpose
61.3(256) Intensive summer literacy program
61.4(256) First efforts of the center
61.5(256) Nature of the center’s operation
61.6(256) Nature of the center’s products
61.7(256) Governance and leadership of the center
61.8(256) Financing of the center
61.9(256) Annual report
CHAPTER 62
STATE STANDARDS FOR PROGRESSION IN READING
62.1(256,279) Purpose
62.2(256,279) Assessment of reading proficiency
62.3(256,279) Tools for evaluating and reevaluating reading proficiency
62.4(256,279) Identification of a student as having a substantial deficiency in reading
62.5(256,279) Intensive summer reading program
62.6(256,279) Successful progression for early readers
62.7(256,279) Promotion to grade four
62.8(256,279) Good-cause exemption
62.9(256,279) Ensuring continuous improvement in reading proficiency
62.10(256,279) Miscellaneous provisions

CHAPTER 63
EDUCATIONAL PROGRAMS AND SERVICES FOR PUPILS IN JUVENILE HOMES
63.1(282) Scope
63.2(282) Definitions
63.3(282) Forms
63.4(282) Budget amendments
63.5(282) Area education agency responsibility
63.6(282) Educational program
63.7(282) Special education
63.8(282) Educational services
63.9(282) Media services
63.10(282) Other responsibilities
63.11(282) Curriculum
63.12(282) Disaster procedures
63.13(282) Maximum class size
63.14(282) Teacher certification and preparation
63.15(282) Aides
63.16(282) Accounting
63.17(282) Revenues
63.18(282) Expenditures
63.19(282) Claims
63.20(282) Audits
63.21(282) Waivers

CHAPTER 64
CHILD DEVELOPMENT COORDINATING COUNCIL
64.1(256A,279) Purpose
64.2(256A,279) Definitions
64.3(256A,279) Child development coordinating council
64.4(256A,279) Procedures
64.5(256A,279) Duties
64.6(256A,279) Eligibility identification procedures
64.7(256A,279) Primary eligibility
64.8(256A,279) Secondary eligibility
64.9(256A,279) Grant awards criteria
64.10(256A,279) Application process
64.11(256A,279) Request for proposals
64.12(256A,279) Grant process
64.13(256A,279) Award contracts
64.14(256A,279) Notification of applicants
64.15(256A,279) Grantee responsibilities
64.16(256A,279) Withdrawal of contract offer
64.17(256A,279) Evaluation
64.18(256A,279) Contract revisions and budget reversions
64.19(256A,279) Termination for convenience
64.20(256A,279) Termination for cause
64.21(256A,279) Responsibility of grantee at termination
64.22(256A,279) Appeal from terminations
64.23(256A,279) Refusal to issue ruling
64.24(256A,279) Request for Reconsideration
64.25(256A,279) Refusal to issue decision on request
64.26(256A,279) Granting a Request for Reconsideration

CHAPTER 65
INNOVATIVE PROGRAMS FOR AT-RISK EARLY ELEMENTARY STUDENTS
65.1(279) Purpose
65.2(279) Definitions
65.3(279) Eligibility identification procedures
65.4(279) Primary risk factor
65.5(279) Secondary risk factors
65.6(279) Grant awards criteria
65.7(279) Application process
65.8(279) Request for proposals
65.9(279) Grant process
65.10 Reserved
65.11(279) Notification of applicants
65.12(279) Grantee responsibilities
65.13(279) Withdrawal of contract offer
65.14(279) Evaluation
65.15(279) Contract revisions
65.16(279) Termination for convenience
65.17(279) Termination for cause
65.18(279) Responsibility of grantee at termination
65.19(279) Appeals from terminations
65.20(279) Refusal to issue ruling
65.21(279) Requests for Reconsideration
65.22(279) Refusal to issue decision on request
65.23(279) Granting a Request for Reconsideration

CHAPTER 66
SCHOOL-BASED YOUTH SERVICES PROGRAMS
66.1(279) Scope, purpose and general principles
66.2(279) Definitions
66.3(279) Development of a program plan
66.4(279) Program plan
66.5(279) Evaluation of financial support
66.6(279) Responsibilities of area education agencies
66.7(279) Responsibilities of the department of education
CHAPTER 67
EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS
OF AT-RISK CHILDREN AGED BIRTH THROUGH FIVE YEARS
67.1(279) Purpose
67.2(279) Definitions
67.3(279) Eligibility identification procedures
67.4(279) Eligibility
67.5(279) Secondary eligibility
67.6(279) Grant awards criteria
67.7(279) Application process
67.8(279) Request for proposals
67.9(279) Award contracts
67.10(279) Notification of applicants
67.11(279) Grantee responsibilities
67.12(279) Withdrawal of contract offer
67.13(279) Evaluation
67.14(279) Contract revisions
67.15(279) Termination for convenience
67.16(279) Termination for cause
67.17(279) Responsibility of grantee at termination
67.18(279) Appeal from terminations
67.19(279) Refusal to issue ruling
67.20(279) Request for Reconsideration
67.21(279) Refusal to issue decision on request
67.22(279) Granting a Request for Reconsideration

CHAPTER 68
IOWA PUBLIC CHARTER AND INNOVATION ZONE SCHOOLS
DIVISION I
GENERAL PROVISIONS
68.1(256F,83GA,SF2033) Purpose
68.2(256F,83GA,SF2033) Definitions

DIVISION II
CHARTER SCHOOLS
68.3(256F,83GA,SF2033) Application to a school board
68.4(256F,83GA,SF2033) Review process
68.5(256F,83GA,SF2033) Ongoing review by department
68.6(256F,83GA,SF2033) Renewal of charter
68.7(256F,83GA,SF2033) Revocation of charter
68.8 to 68.10 Reserved

DIVISION III
INNOVATION ZONE SCHOOLS
68.11(256F,83GA,SF2033) Application process
68.12(256F,83GA,SF2033) Review process
68.13(256F,83GA,SF2033) Ongoing review by department
68.14(256F,83GA,SF2033) Renewal of contract
68.15(256F,83GA,SF2033) Revocation of contract

CHAPTER 69
Reserved
TITLE XIII
AREA EDUCATION AGENCIES

CHAPTERS 70 and 71
Reserved

CHAPTER 72
ACCREDITATION OF AREA EDUCATION AGENCIES

72.1(273) Scope
72.2(273) Definitions
72.3(273) Accreditation components
72.4(273) Standards for services
72.5 to 72.8 Reserved
72.9(273) Comprehensive improvement plan
72.10(273) Annual budget and annual progress report
72.11(273) Comprehensive site visit

TITLE XIV
TEACHERS AND PROFESSIONAL LICENSING

CHAPTERS 73 to 76
Reserved

CHAPTER 77
STANDARDS FOR TEACHER INTERN PREPARATION PROGRAMS

77.1(256) General statement
77.2(256) Definitions
77.3(256) Institutions affected
77.4(256) Criteria for Iowa teacher intern preparation programs
77.5(256) Approval of programs
77.6(256) Periodic reports
77.7(256) Approval of program changes
77.8(256) Governance and resources
77.9(256) Diversity
77.10(256) Faculty
77.11(256) Teacher intern selection
77.12(256) Curriculum and instruction
77.13(256) Candidate support
77.14(256) Candidate assessment
77.15(256) Program evaluation

CHAPTER 78
Reserved

CHAPTER 79
STANDARDS FOR PRACTITIONER AND ADMINISTRATOR
PREPARATION PROGRAMS

DIVISION I
GENERAL STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

79.1(256) General statement
79.2(256) Definitions
79.3(256) Institutions affected
79.4(256) Criteria for practitioner preparation programs
79.5(256) Approval of programs
79.6(256) Visiting teams
DIVISION II
SPECIFIC EDUCATION STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS
79.10(256) Governance and resources standard
79.11(256) Diversity standard
79.12(256) Faculty standard
79.13(256) Assessment system and unit evaluation standard

DIVISION III
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO INITIAL PRACTITIONER PREPARATION PROGRAMS FOR TEACHER CANDIDATES
79.14(256) Teacher preparation clinical practice standard
79.15(256) Teacher preparation candidate knowledge, skills and dispositions standard

DIVISION IV
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO ADMINISTRATOR PREPARATION PROGRAMS
79.16(256) Administrator preparation clinical practice standard
79.17(256) Administrator candidate knowledge, skills and dispositions standard
79.18 Reserved

DIVISION V
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO PRACTITIONER PREPARATION PROGRAMS OTHER THAN TEACHER OR ADMINISTRATOR PROGRAMS
79.19(256) Purpose
79.20(256) Clinical practice standard
79.21(256) Candidate knowledge, skills and dispositions standard

CHAPTER 80
STANDARDS FOR PARAEDUCATOR PREPARATION PROGRAMS
80.1(272) General statement
80.2(272) Definitions
80.3(272) Institutions affected
80.4(272) Criteria for Iowa paraeducator preparation programs
80.5(272) Approval of programs
80.6(272) Periodic reports
80.7(272) Reevaluation of paraeducator preparation programs
80.8(272) Approval of program changes
80.9(272) Organizational and resources standards
80.10(272) Diversity
80.11(272) Paraeducator candidate performance standards

CHAPTER 81
STANDARDS FOR SCHOOL BUSINESS OFFICIAL PREPARATION PROGRAMS
81.1(256) Definitions
81.2(256) Institutions eligible to provide a school business official preparation program
81.3(256) Approval of programs
81.4(256) Governance and resources standard
81.5(256) Instructor standard
81.6(256) Assessment system and institution evaluation standard
81.7(256) School business official candidate knowledge and skills standards and criteria
81.8(256) School business official mentoring program
81.9(256) Periodic reports
81.10(256) Reevaluation of school business official preparation programs
81.11(256) Approval of program changes
CHAPTER 82
STANDARDS FOR SCHOOL ADMINISTRATION MANAGER PROGRAMS

82.1(272) Definitions
82.2(272) Organizations eligible to provide a school administration manager training program
82.3(272) Approval of training programs
82.4(272) Governance and resources standard
82.5(272) Trainer and coach standard
82.6(272) Assessment system and organization evaluation standard
82.7(272) School administration manager knowledge and skills standards and criteria
82.8(272) Periodic reports
82.9(272) Reevaluation of school administration manager programs
82.10(272) Approval of program changes and flexibility of programs
82.11(272) Fees

CHAPTER 83
TEACHER AND ADMINISTRATOR QUALITY PROGRAMS

DIVISION I
GENERAL STANDARDS APPLICABLE TO BOTH ADMINISTRATOR AND TEACHER QUALITY PROGRAMS

83.1(284,284A) Purposes
83.2(284,284A) Definitions

DIVISION II
SPECIFIC STANDARDS APPLICABLE TO TEACHER QUALITY PROGRAMS

83.3(284) Mentoring and induction program for beginning teachers
83.4(284) Iowa teaching standards and criteria
83.5(284) Evaluator approval training
83.6(284) Professional development for teachers
83.7(284) Teacher quality committees

DIVISION III
SPECIFIC STANDARDS APPLICABLE TO ADMINISTRATOR QUALITY PROGRAMS

83.8(284A) Administrator quality program
83.9(284A) Mentoring and induction program for administrators
83.10(284A) Iowa school leadership standards and criteria for administrators
83.11(284A) Evaluation
83.12(284A) Professional development of administrators

CHAPTER 84
FINANCIAL INCENTIVES FOR NATIONAL BOARD CERTIFICATION

84.1(256) Purpose
84.2(256) Definitions
84.3(256) Registration fee reimbursement program
84.4(256) NBC annual award
84.5(256) Appeal of denial of a registration fee reimbursement award or an NBC annual award

CHAPTERS 85 to 93
Reserved
TITLE XV
EDUCATIONAL EXCELLENCE

CHAPTER 94
ADMINISTRATIVE ADVANCEMENT AND RECRUITMENT PROGRAM
94.1(256) Purpose
94.2(256) Eligibility identification procedures
94.3(256) Grant award procedure
94.4(256) Application process
94.5(256) Request for proposals
94.6(256) Grant process
94.7(256) Awards contract
94.8(256) Notification of applicants
94.9(256) Grantee responsibility

CHAPTER 95
EQUAL EMPLOYMENT OPPORTUNITY
AND AFFIRMATIVE ACTION IN EDUCATIONAL AGENCIES
95.1(256) Purpose
95.2(256) Definitions
95.3(256) Equal employment opportunity standards
95.4(256) Duties of boards of directors
95.5(256) Plan components
95.6(256) Dissemination
95.7(256) Reports

TITLE XVI
SCHOOL FACILITIES

CHAPTER 96
STATEWIDE/LOCAL OPTION SALES AND SERVICES TAX FOR SCHOOL INFRASTRUCTURE
96.1(423E,423F) Definitions
96.2(423E,423F) Reports to the department
96.3(423E,423F) Combined actual enrollment
96.4(423E,423F) Application and certificate of need process
96.5(423E,423F) Review process
96.6(423E,423F) Award process
96.7(423E,423F) Applicant responsibilities
96.8(423E,423F) Appeal of certificate denial

CHAPTER 97
SUPPLEMENTARY WEIGHTING
97.1(257) Definitions
97.2(257) Supplementary weighting plan
97.3(257) Supplementary weighting plan for at-risk students
97.4(257) Supplementary weighting plan for a regional academy
97.5(257) Supplementary weighting plan for whole-grade sharing
97.6(257) Supplementary weighting plan for ICN video services
97.7(257) Supplementary weighting plan for operational services
CHAPTER 98
FINANCIAL MANAGEMENT OF CATEGORICAL FUNDING

DIVISION I
GENERAL PROVISIONS
98.1(256,257) Definitions
98.2(256,257) General finance
98.3 to 98.10 Reserved

DIVISION II
APPROPRIATE USE OF BUDGETARY ALLOCATIONS
98.11(257) Categorical and noncategorical student counts
98.12(257,299A) Home school assistance program
98.13(256C,257) Statewide voluntary four-year-old preschool program
98.14(257) Supplementary weighting
98.15(257) Operational function sharing supplementary weighting
98.16(257,280) Limited English proficiency (LEP) weighting
98.17(256B,257) Special education weighting
98.18(257) At-risk formula supplementary weighting
98.19(257) Reorganization incentive weighting
98.20(257) Gifted and talented program
98.21(257) Returning dropout and dropout prevention program
98.22(257) Use of the unexpended general fund balance
98.23(256D,257) Iowa early intervention block grant, also known as early intervention supplement
98.24(257,284) Teacher salary supplement
98.25 Reserved
98.26(257,284) Educator quality professional development, also known as professional development supplement
98.27 to 98.39 Reserved

DIVISION III
APPROPRIATE USE OF GRANTS IN AID
98.40(256,257,298A) Grants in aid
98.41 Reserved
98.42(257,284) Beginning teacher mentoring and induction program
98.43(257,284A) Beginning administrator mentoring and induction program
98.44(257,301) Nonpublic textbook services
98.45 to 98.59 Reserved

DIVISION IV
APPROPRIATE USE OF SPECIAL TAX LEVIES AND FUNDS
98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670) General fund
98.62(279,296,298,670) Management fund
98.63(298) Library levy fund
98.64(279,283,297,298) Physical plant and equipment levy (PPEL) fund
98.65(276,300) Public educational and recreational levy (PERL) fund
98.66(257,279,298A,565) District support trust fund
98.67(257,279,298A,565) Permanent funds
98.68(76,274,296,298,298A) Debt service fund
98.69(76,273,298,298A,423E,423F) Capital projects fund
98.70(279,280,298A) Student activity fund
98.71(256B,257,298A) Special education instruction fund
98.72(282,298A) Juvenile home program instruction fund
98.73(283A,298A) School nutrition fund
98.74(279,298A) Child care and before- and after-school programs fund
98.75(298A) Regular education preschool fund
98.76(298A) Student construction fund
98.77(298A) Other enterprise funds
98.78 to 98.81 Reserved
98.82(298A) Internal service funds
98.83 to 98.91 Reserved
98.92(257,279,298A,565) Private purpose trust funds
98.93(298A) Other trust funds
98.94 to 98.100 Reserved
98.101(298A) Agency funds
98.102 to 98.110 Reserved
98.111(24,29C,257,298A) Emergency levy fund
98.112(275) Equalization levy fund

CHAPTER 99
BUSINESS PROCEDURES AND DEADLINES

99.1(257) Definitions
99.2(256,257,285,291) Submission deadlines
99.3(257) Good cause for late submission
99.4(24,256,257,291) Budgets, accounting and reporting

CHAPTER 100
Reserved

TITLE XVII
PROTECTION OF CHILDREN

CHAPTER 101
Reserved

CHAPTER 102
PROCEDURES FOR CHARGING AND INVESTIGATING INCIDENTS OF ABUSE OF STUDENTS BY SCHOOL EMPLOYEES

102.1(280) Statement of intent and purpose
102.2(280) Definitions
102.3(280) Jurisdiction
102.4(280) Exceptions
102.5(280) Duties of school authorities
102.6(280) Filing of a report
102.7(280) Receipt of report
102.8(280) Duties of designated investigator—physical abuse allegations
102.9(280) Duties of designated investigator—sexual abuse allegations
102.10(280) Content of investigative report
102.11(280) Founded reports—designated investigator’s duties
102.12(280) Level-two investigator’s duties
102.13(280) Retention of records
102.14(280) Substantial compliance
102.15(280) Effective date
CHAPTER 103
CORPORAL PUNISHMENT BAN; RESTRAINT; PHYSICAL CONFINEMENT AND DETENTION

103.1(256B,280) Purpose
103.2(256B,280) Ban on corporal punishment
103.3(256B,280) Exclusions
103.4(256B,280) Exceptions and privileges
103.5(256B,280) Reasonable force
103.6(256B,280) Physical confinement and detention
103.7(256B,280) Additional minimum mandatory procedures
103.8(256B,280) Additional provisions concerning physical restraint

CHAPTERS 104 to 119
Reserved

TITLE XVIII
EARLY CHILDHOOD

CHAPTER 120
EARLY ACCESS INTEGRATED SYSTEM OF EARLY INTERVENTION SERVICES

DIVISION I
PURPOSE AND APPLICABILITY

120.1(34CFR303) Purposes and outcomes of the Early ACCESS Integrated System of Early Intervention Services
120.2(34CFR303) Applicability of this chapter
120.3(34CFR303) Applicable federal regulations

DIVISION II
DEFINITIONS

120.4(34CFR303) Act
120.5(34CFR303) At-risk infant or toddler
120.6(34CFR303) Child
120.7(34CFR303) Consent
120.8(34CFR303) Council
120.9(34CFR303) Day
120.10(34CFR303) Developmental delay
120.11(34CFR303) Early intervention service program
120.12(34CFR303) Early intervention service provider
120.13(34CFR303) Early intervention services
120.14(34CFR303) Elementary school
120.15(34CFR303) Free appropriate public education
120.16(34CFR303) Health services
120.17(34CFR303) Homeless children
120.18(34CFR303) Include; including
120.19(34CFR303) Indian; Indian tribe
120.20(34CFR303) Individualized family service plan
120.21(34CFR303) Infant or toddler with a disability
120.22(34CFR303) Lead agency
120.23(34CFR303) Local educational agency
120.24(34CFR303) Multidisciplinary
120.25(34CFR303) Native language
120.26(34CFR303) Natural environments
120.27(34CFR303) Parent
120.28(34CFR303) Parent training and information center
120.29(34CFR303) Personally identifiable information
120.30(34CFR303) Public agency
120.31(34CFR303) Qualified personnel
120.32(34CFR303) Scientifically based research
120.33(34CFR303) Service coordination services (case management)
120.34(34CFR303) State
120.35(34CFR303) State educational agency
120.36(34CFR303) Ward of the state
120.37(34CFR303) Other definitions used in this chapter
120.39 to 120.99 Reserved

DIVISION III
STATE ELIGIBILITY FOR A GRANT AND REQUIREMENTS FOR A STATEWIDE SYSTEM: GENERAL AUTHORITY AND ELIGIBILITY

120.100(34CFR303) General authority
120.101(34CFR303) State eligibility—requirements for a grant under Part C of the Act
120.102(34CFR303) State conformity with Part C of the Act
120.103 and 120.104 Reserved
120.105(34CFR303) Positive efforts to employ and advance qualified individuals with disabilities
120.106 to 120.109 Reserved
120.110(34CFR303) Minimum components of a statewide system
120.111(34CFR303) State definition of developmental delay
120.112(34CFR303) Availability of early intervention services
120.113(34CFR303) Evaluation, assessment, and nondiscriminatory procedures
120.114(34CFR303) Individualized family service plan (IFSP)
120.115(34CFR303) Comprehensive child find system
120.116(34CFR303) Public awareness program
120.117(34CFR303) Central directory
120.118(34CFR303) Comprehensive system of personnel development (CSPD)
120.119(34CFR303) Personnel standards
120.120(34CFR303) Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities
120.121(34CFR303) Policy for contracting or otherwise arranging for services
120.122(34CFR303) Reimbursement procedures
120.123(34CFR303) Procedural safeguards
120.124(34CFR303) Data collection
120.125(34CFR303) State interagency coordinating council
120.126(34CFR303) Early intervention services in natural environments
120.127 to 120.199 Reserved

DIVISION IV
STATE APPLICATION AND ASSURANCES

120.200(34CFR303) State application and assurances
120.201(34CFR303) Designation of lead agency
120.202(34CFR303) Certification regarding financial responsibility
120.203(34CFR303) Statewide system and description of services
120.204 Reserved
120.205(34CFR303) Description of use of funds
120.206(34CFR303) Referral policies for specific children
120.207(34CFR303) Availability of resources
120.208(34CFR303) Public participation policies and procedures
120.209(34CFR303) Transition to preschool and other programs
 Coordination with Head Start and Early Head Start, early education, and child care programs

Additional information and assurances

Assurances satisfactory to the Secretary

Expenditure of funds

Payor of last resort

Control of funds and property

Reports and records

Prohibition against supplanting; indirect costs

Fiscal control

Traditionally underserved groups

Subsequent state application and modifications of application

DIVISION V

CHILD FIND; EVALUATIONS AND ASSESSMENTS; INDIVIDUALIZED FAMILY SERVICE PLANS

General

Public awareness program—information for parents

Comprehensive child find system

Referral procedures

Post-referral timeline (45 calendar days)

Reserved

Screening procedures

Evaluation of the child and assessment of the child and family

Determination that a child is not eligible

Reserved

Individualized family service plan—general

Reserved

Procedures for IFSP development, review, and evaluation

IFSP team meeting and periodic review

Content of an IFSP

Interim IFSPs—provision of services before evaluations and assessments are completed

Responsibility and accountability

Reserved

DIVISION VI

PROCEDURAL SAFEGUARDS

General responsibility of lead agency for procedural safeguards

Confidentiality and opportunity to examine records

Confidentiality

Definitions

Notice to parents

Access rights

Record of access

Records on more than one child

List of types and locations of information

Fees for records

Amendment of records at a parent’s request

Opportunity for a hearing

Result of hearing
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>120.413(34CFR303)</td>
<td>Hearing procedures</td>
</tr>
<tr>
<td>120.414(34CFR303)</td>
<td>Consent prior to disclosure or use</td>
</tr>
<tr>
<td>120.415(34CFR303)</td>
<td>Safeguards</td>
</tr>
<tr>
<td>120.416(34CFR303)</td>
<td>Destruction of information</td>
</tr>
<tr>
<td>120.417(34CFR303)</td>
<td>Enforcement</td>
</tr>
<tr>
<td>120.418 and 120.419</td>
<td>Reserved</td>
</tr>
<tr>
<td>120.420(34CFR303)</td>
<td>Parental consent and ability to decline services</td>
</tr>
<tr>
<td>120.421(34CFR303)</td>
<td>Prior written notice and procedural safeguards notice</td>
</tr>
<tr>
<td>120.422(34CFR303)</td>
<td>Surrogate parents</td>
</tr>
<tr>
<td>120.423 to 120.429</td>
<td>Reserved</td>
</tr>
<tr>
<td>120.430(34CFR303)</td>
<td>State dispute resolution options</td>
</tr>
<tr>
<td>120.431(34CFR303)</td>
<td>Mediation</td>
</tr>
<tr>
<td>120.432(34CFR303)</td>
<td>Adoption of state complaint procedures</td>
</tr>
<tr>
<td>120.433(34CFR303)</td>
<td>Minimum state complaint procedures</td>
</tr>
<tr>
<td>120.434(34CFR303)</td>
<td>Filing a complaint</td>
</tr>
<tr>
<td>120.435(34CFR303)</td>
<td>Appointment of an administrative law judge</td>
</tr>
<tr>
<td>120.436(34CFR303)</td>
<td>Parental rights in due process hearing proceedings</td>
</tr>
<tr>
<td>120.437(34CFR303)</td>
<td>Convenience of hearings and timelines</td>
</tr>
<tr>
<td>120.438(34CFR303)</td>
<td>Civil action</td>
</tr>
<tr>
<td>120.439(34CFR303)</td>
<td>Limitation of actions</td>
</tr>
<tr>
<td>120.440(34CFR303)</td>
<td>Rule of construction</td>
</tr>
<tr>
<td>120.441(34CFR303)</td>
<td>Attorney fees</td>
</tr>
<tr>
<td>120.442 to 120.448</td>
<td>Reserved</td>
</tr>
<tr>
<td>120.449(34CFR303)</td>
<td>State enforcement mechanisms</td>
</tr>
<tr>
<td>120.450 to 120.499</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

DIVISION VII
USE OF FUNDS; PAYOR OF LAST RESORT

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>120.500(34CFR303)</td>
<td>Use of funds, payor of last resort, and system of payments</td>
</tr>
<tr>
<td>120.501(34CFR303)</td>
<td>Permissive use of funds by the department</td>
</tr>
<tr>
<td>120.502 to 120.509</td>
<td>Reserved</td>
</tr>
<tr>
<td>120.510(34CFR303)</td>
<td>Payor of last resort</td>
</tr>
<tr>
<td>120.511(34CFR303)</td>
<td>Methods to ensure the provision of, and financial responsibility for, Early ACCESS services</td>
</tr>
<tr>
<td>120.512 to 120.519</td>
<td>Reserved</td>
</tr>
<tr>
<td>120.520(34CFR303)</td>
<td>Policies related to use of public benefits or insurance or private insurance to pay for Early ACCESS services</td>
</tr>
<tr>
<td>120.521(34CFR303)</td>
<td>System of payments and fees</td>
</tr>
<tr>
<td>120.522 to 120.599</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

DIVISION VIII
STATE INTERAGENCY COORDINATING COUNCIL

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>120.600(34CFR303)</td>
<td>Establishment of council</td>
</tr>
<tr>
<td>120.601(34CFR303)</td>
<td>Composition</td>
</tr>
<tr>
<td>120.602(34CFR303)</td>
<td>Meetings</td>
</tr>
<tr>
<td>120.603(34CFR303)</td>
<td>Use of funds by the council</td>
</tr>
<tr>
<td>120.604(34CFR303)</td>
<td>Functions of the council; required duties</td>
</tr>
<tr>
<td>120.605(34CFR303)</td>
<td>Authorized activities by the council</td>
</tr>
<tr>
<td>120.606 to 120.699</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

DIVISION IX
FEDERAL AND STATE MONITORING AND ENFORCEMENT; REPORTING; AND ALLOCATION OF FUNDS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>120.700(34CFR303)</td>
<td>State monitoring and enforcement</td>
</tr>
<tr>
<td>120.701(34CFR303)</td>
<td>State performance plans and data collection</td>
</tr>
</tbody>
</table>
120.702(34CFR303)  State use of targets and reporting
120.703(34CFR303)  Department review and determination regarding EIS program performance
120.704(34CFR303)  Enforcement
120.705(34CFR303)  Withholding funds
120.706(34CFR303)  Public attention
120.707  Reserved
120.708(34CFR303)  State enforcement
120.709(34CFR303)  State consideration of other state or federal laws
120.710 to 120.719  Reserved
120.720(34CFR303)  Data requirements—general
120.721(34CFR303)  Annual report of children served—report requirement
120.722(34CFR303)  Data reporting
120.723(34CFR303)  Annual report of children served—certification
120.724(34CFR303)  Annual report of children served—other responsibilities of the department
120.725 to 120.800  Reserved

DIVISION X
OTHER PROVISIONS

120.801(34CFR303)  Early ACCESS system—state level
120.802(34CFR303)  Interagency service planning
120.803(34CFR303)  System-level disputes
120.804(34CFR303)  Early ACCESS system—regional and community levels
120.805(34CFR303)  Provision of year-round services
120.806(34CFR303)  Evaluation and improvement
120.807(34CFR303)  Research
120.808(34CFR303)  Records and reports
120.809(34CFR303)  Information for department
120.810(34CFR303)  Public information
120.811(34CFR303)  Dispute resolution: practice before mediators and administrative law judges
120.812(34CFR303)  References to federal law
120.813(34CFR303)  Severability
CHAPTER 12
GENERAL ACCREDITATION STANDARDS
[Prior to 9/7/88, see Public Instruction Department[670] Ch 4]

PREAMBLE
The goal for the early childhood through twelfth grade educational system in Iowa is to improve the learning, achievement, and performance of all students so they become successful members of a community and workforce. It is expected that each school and school district shall continue to improve its educational system so that more students will increase their learning, achievement, and performance.

Accreditation focuses on an ongoing school improvement process for schools and school districts. However, general accreditation standards are the minimum requirements that must be met by an Iowa public school district to be accredited. A public school district that does not maintain accreditation shall be merged, by the state board of education, with one or more contiguous school districts as required by Iowa Code subsection 256.11(12). A nonpublic school must meet the general accreditation standards if it wishes to be designated as accredited for operation in Iowa.

General accreditation standards are intended to fulfill the state’s responsibility for making available an appropriate educational program that has high expectations for all students in Iowa. The accreditation standards ensure that each child has access to an educational program that meets the needs and abilities of the child regardless of race, color, national origin, gender, disability, religion, creed, marital status, geographic location, sexual orientation, gender identity, or socioeconomic status.

With local community input, school districts and accredited nonpublic schools shall incorporate accountability for student achievement into comprehensive school improvement plans designed to increase the learning, achievement, and performance of all students. As applicable, and to the extent possible, comprehensive school improvement plans shall consolidate federal and state program goal setting, planning, and reporting requirements. Provisions for multicultural and gender fair education, technology integration, global education, gifted and talented students, at-risk students, students with disabilities, and the professional development of all staff shall be incorporated, as applicable, into the comprehensive school improvement plan. See subrules 12.5(8) to 12.5(13), 12.7(1), and 12.8(1).

DIVISION I
GENERAL STANDARDS

281—12.1(256) General standards.

12.1(1) Schools and school districts governed by general accreditation standards. These standards govern the accreditation of all prekindergarten, if offered, or kindergarten through grade 12 school districts operated by public school corporations and the accreditation, if requested, of prekindergarten or kindergarten through grade 12 schools operated under nonpublic auspices. Each school district shall take affirmative steps to integrate students in attendance centers and courses. Schools and school districts shall collect and annually review district, attendance center, and course enrollment data on the basis of race, national origin, gender, and disability. Equal opportunity in programs shall be provided to all students regardless of race, color, national origin, gender, sexual orientation as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, gender identity as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, socioeconomic status, disability, religion, or creed. Nothing in this rule shall be construed as prohibiting any bona fide religious institution from imposing qualifications based upon religion when such qualifications are related to a bona fide religious purpose.

12.1(2) School board. Each school or school district shall be governed by an identifiable authority which shall exercise the functions necessary for the effective operation of the school and referred to in these rules as the “board.”

12.1(3) Application for accreditation. The board of any school or school district that is not accredited on the effective date of these standards and which seeks accreditation shall file an application with the director, department of education, on or before the first day of January of the school year preceding the school year for which accreditation is sought.
12.1(4) Accredited schools and school districts. Each school or school district receiving accreditation under the provisions of these standards shall remain accredited except when by action of the state board of education it is removed from the list of accredited schools maintained by the department of education in accordance with Iowa Code subsections 256.11(11) and 256.11(12).

12.1(5) When nonaccredited. A school district shall be nonaccredited on the day after the date it is removed from the list of accredited schools by action of the state board of education. A nonpublic school shall be nonaccredited on the date established by the resolution of the state board, which shall be no later than the end of the school year in which the nonpublic school is declared to be nonaccredited.

12.1(6) Alternative provisions for accreditation. School districts may meet accreditation requirements through the provisions of Iowa Code sections 256.13, nonresident students; 273.7A, services to school districts; 279.20, superintendent—term; 280.15, joint employment and sharing; 282.7, attending in another corporation—payment; and 282.10, whole grade sharing. Nonpublic schools may meet accreditation requirements through the provisions of Iowa Code section 256.12.

12.1(7) Minimum school calendar: set by annual hours or days of instruction. The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall adopt a school calendar that sets the number of days or hours of required attendance for student instruction, staff development and in-service time, and time for parent-teacher conferences. Prior to adopting the school calendar, the board of directors of a school district shall hold a public hearing on any proposed school calendar. The board and authorities in charge of an accredited nonpublic school shall notify the department annually of their decision to have a calendar based on days or based on hours. The length of the school calendar does not dictate the length of contract hours or days of employment for instructional and noninstructional staff. Time recorded under either a days or hours calendar system may include passing time between classes but shall exclude the lunch period. Time spent on parent-teacher conferences shall be considered instructional time. The school calendar may be operated any time during the school year of July 1 to June 30 as defined by Iowa Code section 279.10 as amended by 2013 Iowa Acts, House File 215, section 81. A minimum of 180 days or 1,080 hours of instruction shall be set in the school calendar, for school districts and accredited nonpublic schools beginning no sooner than a day during the calendar week in which the first day of September falls, and shall be used for student instruction. However, if the first day of September falls on a Sunday, school may begin any day during the calendar week preceding September 1. These 180 days shall meet the requirements of “day of school” for those districts or accredited nonpublic schools that are utilizing a schedule based on days, defined in paragraph 12.1(8)“a.” “Minimum school day” defined in subrule 12.1(9), and “day or hour of attendance” defined in subrule 12.1(10). (Exception: A school or school district may, by board policy, excuse graduating seniors up to five days or 30 hours of instruction after school or school district requirements for graduation have been met.) If additional days are added to the regular school calendar because of inclement weather, a graduating senior who has met the school district’s requirements for graduation may be excused from attendance during the extended school calendar. A school district may begin employment of instructional and noninstructional staff, for in-service training and development purposes, earlier than the first day of school. A school or school district choosing a schedule based on hours shall follow the definition of “hour of school” set forth in paragraph 12.1(8) “b.”

12.1(8) Day and hour of school.

a. Day of school. A day of school is a day during which the school or school district is in session and students are under the guidance and instruction of the instructional professional staff. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff. All grade levels of the school or school district must be operated and available for attendance by all students. An exception is if either the elementary or secondary grades are closed and provided that the time missed is made up at some other point during the school calendar so as to meet the minimum of 180 days or 1,080 hours of instruction for all grades 1 through 12.

b. Hour of school. For schools or school districts adopting a calendar based on a 1,080-hour minimum schedule, an official hour of school is an hour in which the school or school district is in session and students are under the guidance and instruction of the instructional professional staff. For
purposes of this rule, an “hour” is defined as 60 minutes. The calculation of minimum hours shall exclude the lunch period. Passing time between classes may be counted as part of the hour requirement. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff. All grade levels of the school or school district must be operated and available for attendance by all students. Schools or school districts have flexibility on how they can reach the threshold of 1,080 hours of instruction but must keep annual documentation of how they met that standard. The school calendar may include more than or less than or may equal the 180-day schedule. The hours included in an individual day under an hours format may vary.

12.1(9) Minimum school day. A school day, for those utilizing a school calendar based on days, shall consist of a minimum of 6 hours of instructional time for all grades 1 through 12. The minimum hours shall exclude the lunch period. Passing time between classes may be counted as part of the 6-hour requirement. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff.

12.1(10) Day or hour of attendance. A day or hour of attendance shall be a day or hour during which students were present and under the guidance and instruction of the instructional professional staff. When staff development designated by the board or by authorities in charge of an accredited nonpublic school occurs outside of the time required for a “minimum school day,” students shall be counted in attendance.

12.1(11) Kindergarten. The number of instructional days or hours within the school calendar and the length of the school day for kindergarten shall be defined by the board or by authorities in charge of an accredited nonpublic school that operates a kindergarten program.

[ARC 1115C; IAB 10/16/13, effective 11/20/15]

DIVISION II
DEFINITIONS

281—12.2(256) Definitions. For purposes of these rules, the following definitions shall apply:

“Alternative options education programs” means alternative programs or schools as identified in Iowa Code section 280.19A.

“Alternative program” means a class or environment established within the regular educational program and designed to accommodate specific student educational needs such as, but not limited to, work-related training; reading, mathematics or science skills; communication skills; social skills; physical skills; employability skills; study skills; or life skills.

“Alternative school” means an environment established apart from the regular educational program and that includes policies and rules, staff, and resources designed to accommodate student needs and to provide a comprehensive education consistent with the student learning goals and content standards established by the school district or by the school districts participating in a consortium. Students attend by choice.

“Annual improvement goals” means the desired one-year rate of improvement for students. Data from multiple measures may be used to determine the rate of improvement.

“At-risk student” means any identified student who needs additional support and who is not meeting or not expected to meet the established goals of the educational program (academic, personal/social, career/vocational). At-risk students include but are not limited to students in the following groups: homeless children and youth, dropouts, returning dropouts, and potential dropouts.

“Baseline data” means information gathered at a selected point in time and used thereafter as a basis from which to monitor change.

“Benchmarks” means specific knowledge and skills anchored to content standards that a student needs to accomplish by a specific grade or grade span.

“Board” means the board of directors in charge of a public school district or the authorities in charge of an accredited nonpublic school.
“Competency-based education” means that learners advance through content or earn credit based on demonstration of proficiency of competencies. Proficiency for this context is the demonstrated skill or knowledge required to advance to and be successful in higher levels of learning in that content area. Some students may advance through more content or earn more credit than in a traditional school year while others might take more than a traditional school year to advance through the same content and to earn credit. A student must meet the requirements of 12.5(14) to be awarded credit in a competency-based system of education.

“Comprehensive school improvement plan” means a design that shall describe how the school or school district will increase student learning, achievement, and performance. This ongoing improvement design may address more than student learning, achievement, and performance.

“Content standards” means broad statements about what students are expected to know and be able to do.

“Curriculum” means a plan that outlines what students shall be taught. Curriculum refers to all the courses offered, or all the courses offered in a particular area of study.

“Department” means the department of education.

“Districtwide” means all attendance centers within a school district or accredited nonpublic school.

“Districtwide assessment” means large-scale achievement or performance measures. At least one districtwide assessment shall allow for the following: the comparison of the same group of students over time as they progress through the grades or the cross-sectional comparison of students at the same grades over multiple years.

“Districtwide progress” means the quantifiable change in school or school district student achievement and performance.

“Dropout” means a school-age student who is served by a public school district and enrolled in any of grades seven through twelve and who does not attend school or withdraws from school for a reason other than death or transfer to another approved school or school district or has been expelled with no option to return.

“Educational program.” The educational program adopted by the board is the entire offering of the school, including out-of-class activities and the sequence of curriculum areas and activities. The educational program shall provide articulated, developmental learning experiences from the date of student entrance until high school graduation.

“Enrolled student” means a person that has officially registered with the school or school district and is taking part in the educational program.

“Incorporate” means integrating career education, multicultural and gender fair education, technology education, global education, higher-order thinking skills, learning skills, and communication skills into the total educational program.

“Indicators” provide information about the general status, quality, or performance of an educational system.

“Library program” means an articulated sequential kindergarten through grade 12 library or media program that enhances student achievement and is integral to the school district’s curricula and instructional program. The library program is planned and implemented by a qualified teacher librarian working collaboratively with the district’s administration and instructional staff. The library program services provided to students and staff shall include the following:

1. Support of the overall school curricula;
2. Collaborative planning and teaching;
3. Promotion of reading and literacy;
4. Information literacy instruction;
5. Access to a diverse and appropriate school library collection; and
6. Learning enhancement through technologies.

“Long-range goals” means desired targets to be reached over an extended period of time.

“Multiple assessment measures.” for reporting to the local community or the state, means more than one valid and reliable instrument that quantifies districtwide student learning, including specific grade-level data.
“Performance levels.” The federal Elementary and Secondary Education Act (ESEA) requires that at least three levels of performance be established to assist in determining which students have or have not achieved a satisfactory or proficient level of performance. At least two of those three levels shall describe what all students ought to know or be able to do if their achievement or performance is deemed proficient or advanced. The third level shall describe students who are not yet performing at the proficient level. A school or school district may establish more than three performance levels that include all students for districtwide or other assessments.

“Physical activity” means any movement, manipulation, or exertion of the body that can lead to improved levels of physical fitness and quality of life.

“Potential dropouts” means resident pupils who are enrolled in a public or nonpublic school who demonstrate poor school adjustment as indicated by two or more of the following:

1. High rate of absenteeism, truancy, or frequent tardiness.
2. Limited or no extracurricular participation or lack of identification with school including, but not limited to, expressed feelings of not belonging.
3. Poor grades including, but not limited to, failing one or more school subjects or grade levels.
4. Low achievement scores in reading or mathematics which reflect achievement at two years or more below grade level.

“Prekindergarten program” includes a school district’s implementation of the preschool program established pursuant to 2007 Iowa Acts, House File 877, section 2, and is otherwise described herein in subrule 12.5(1).

“Proficient” as it relates to content standards, characterizes student performance at a level that is acceptable by the school or school district.

“Returning dropouts” means resident pupils who have been enrolled in a public or nonpublic school in any of grades seven through twelve who withdrew from school for a reason other than transfer to another school or school district and who subsequently enrolled in a public school in the district.

“School” means an accredited nonpublic school.

“School counseling program” means an articulated sequential kindergarten through grade 12 program that is comprehensive in scope, preventive in design, developmental in nature, driven by data, and integral to the school district’s curricula and instructional program. The program is implemented by at least one school counselor, appropriately licensed by the board of educational examiners, who works collaboratively with the district’s administration and instructional staff. The program standards are described in subrule 12.3(11). The program’s delivery system components shall include the following:

1. School guidance curriculum;
2. Support of the overall school curriculum;
3. Individual student planning;
4. Responsive services; and
5. System support.

“School district” means a public school district.

“School improvement advisory committee” means a committee, as defined in Iowa Code section 280.12, that is appointed by the board. Committee membership shall include students, parents, teachers, administrators, and representatives from the local community which may include business, industry, labor, community agencies, higher education, or other community constituents. To the extent possible, committee membership shall have balanced representation of the following: race, gender, national origin, and disability. The school improvement advisory committee as defined by Iowa Code section 280.12 and the board are also part of, but not inclusive of, the local community.

“Student learning goals” means general statements of expectations for all graduates.

“Students with disabilities” means students who have individualized education programs regardless of the disability.

“Subgroups” means a subset of the student population that has a common characteristic. Subgroups include, but are not limited to, gender, race, students with disabilities, and socioeconomic status.
“Successful employment in Iowa” may be determined by, but is not limited to, reviewing student achievement and performance based on locally identified indicators such as earnings, educational attainment, reduced unemployment, and the attainment of employability skills.

[ARC 7783B, IAB 5/20/09, effective 6/24/09; ARC 1116C, IAB 10/16/13, effective 11/20/13]

DIVISION III
ADMINISTRATION

281—12.3(256) Administration. The following standards shall apply to the administration of accredited schools and school districts.

12.3(1) Board records. Each board shall adopt by written policy a system for maintaining accurate records. The system shall provide for recording and maintaining the minutes of all board meetings, coding all receipts and expenditures, and recording and filing all reports required by the Iowa Code or requested by the director of the department of education. Financial records of school districts shall be maintained in a manner as to be easily audited according to accepted accounting procedures.

12.3(2) Policy manual. The board shall develop and maintain a policy manual which provides a codification of its policies, including the adoption date, the review date, and any revision date for each policy. Policies shall be reviewed at least every five years to ensure relevance to current practices and compliance with the Iowa Code, administrative rules and decisions, and court decisions.

12.3(3) Personnel evaluation. Each board shall adopt evaluation criteria and procedures for all contracted staff. The evaluation processes shall conform to Iowa Code sections 279.14 and 279.23A.

12.3(4) Student records. Each board shall require its administrative staff to establish and maintain a system of student records. This system shall include for each student a permanent office record and a cumulative record.

The permanent office record shall serve as a historical record of official information concerning the student’s education. The permanent office record shall be recorded and maintained under the student’s legal name. At a minimum, the permanent office record should contain evidence of attendance and educational progress, serve as an official transcript, contain other data for use in planning to meet student needs, and provide data for official school and school district reports. This record is to be permanently maintained and stored in a fire-resistant safe or vault or can be maintained and stored electronically with a secure backup file.

The cumulative record shall provide a continuous and current record of significant information on progress and growth. It should reflect information such as courses taken, scholastic progress, school attendance, physical and health record, experiences, interests, aptitudes, attitudes, abilities, honors, extracurricular activities, part-time employment, and future plans. It is the “working record” used by the instructional professional staff in understanding the student. At the request of a receiving school or school district, a copy of the cumulative record shall be sent to officials of that school when a student transfers.

For the sole purpose of implementing an interagency agreement with state and local agencies in accordance with Iowa Code section 280.25, a student’s permanent record may include information contained in the cumulative record as defined above.

The board shall adopt a policy concerning the accessibility and confidentiality of student records that complies with the provisions of the federal Family Educational Rights and Privacy Act of 1974 and Iowa Code chapter 22.

12.3(5) Requirements for graduation. Each board providing a program through grade 12 shall adopt a policy establishing the requirements students must meet for high school graduation. This policy shall make provision for early graduation and shall be consistent with these requirements, Iowa Code section 280.14, and the requirements in the introductory paragraph of subrule 12.5(5).

12.3(6) Student responsibility and discipline. The board shall adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board shall involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies shall relate to the educational purposes of the school or school district. The policies shall
include, but are not limited to, the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled substance; harassment of or by students and staff as detailed in subrule 12.3(13); violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

The policies shall ensure due process rights for students and parents, including consideration for students who have been identified as requiring special education programs and services.

The board shall also consider the potential, disparate impact of the policies on students because of race, color, national origin, gender, sexual orientation as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, gender identity as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, disability, religion, creed, or socioeconomic status.

The board shall publicize its support of these policies, its support of the staff in enforcing them, and the staff’s accountability for implementing them.

**12.3(7) Health services.** Rescinded IAB 12/5/07, effective 1/9/08.

**12.3(8) Audit of school funds.** This subrule applies to school districts. The results of the annual audit of all school district funds conducted by the state auditor or a private auditing firm shall be made part of the official records of the board as described in Iowa Code section 11.6.

**12.3(9) School or school district building grade-level organization.** The board shall adopt a grade-level organization for the buildings under its jurisdiction as described in Iowa Code section 279.39.

**12.3(10) Report on accredited nonpublic school students.** Rescinded IAB 12/5/07, effective 1/9/08.

**12.3(11) Standards for school counseling programs.** The board of directors of each school district shall establish a K-12 comprehensive school counseling program, driven by student data and based on standards in academic, career, personal, and social areas, which supports the student achievement goals of the total school curriculum and to which all students have equitable access.

a. A qualified school counselor, licensed by the board of educational examiners, who works collaboratively with students, teachers, support staff and administrators shall direct the program and provide services and instruction in support of the curricular goals of each attendance center. The school counselor shall be the member of the attendance center instructional team with special expertise in identifying resources and technologies to support teaching and learning. The school counselor and classroom teachers shall collaborate to develop, teach, and evaluate attendance center curricular goals with emphasis on the following:

1. Sequentially presented curriculum, programs, and responsive services that address growth and development of all students; and

2. Attainment of student competencies in academic, career, personal, and social areas.

b. The program shall be regularly reviewed and revised and shall be designed to provide all of the following:

1. Curriculum that is embedded throughout the district’s overall curriculum and systemically delivered by the school counselor in collaboration with instructional staff through classroom and group activities and that consists of structured lessons to help students achieve desired competencies and to provide all students with the knowledge and skills appropriate for their developmental levels;

2. Individual student planning through ongoing systemic activities designed to help students establish educational and career goals to develop future plans;

3. Responsive services through intervention and curriculum that meet students’ immediate and future needs as occasioned by events and conditions in students’ lives and that may require any of the following: individual or group counseling; consultation with parents, teachers, and other educators; referrals to other school support services or community resources; peer helping; and information; and

4. Systemic support through management activities that establish, maintain, and enhance the total school counseling program, including professional development, consultation, collaboration, program management, and operations.
12.3(12) Standards for library programs. The board of directors of each school district shall establish a K-12 library program to support the student achievement goals of the total school curriculum.

a. A qualified teacher librarian, licensed by the board of educational examiners, who works with students, teachers, support staff and administrators shall direct the library program and provide services and instruction in support of the curricular goals of each attendance center. The teacher librarian shall be a member of the attendance center instructional team with special expertise in identifying resources and technologies to support teaching and learning. The teacher librarian and classroom teachers shall collaborate to develop, teach, and evaluate attendance center curricular goals with emphasis on promoting inquiry and critical thinking; providing information literacy learning experiences to help students access, evaluate, use, create, and communicate information; enhancing learning and teaching through technology; and promoting literacy through reader guidance and activities that develop capable and independent readers.

b. The library program shall be regularly reviewed and revised and shall be designed to meet the following goals:
   (1) To provide for methods to improve library collections to meet student and staff needs;
   (2) To make connections with parents and the community;
   (3) To support the district’s school improvement plan;
   (4) To provide access to or support for professional development for the teacher librarian;
   (5) To provide current technology and electronic resources to ensure that students become skillful and discriminating users of information;
   (6) To include a current and diverse collection of fiction and nonfiction materials in a variety of formats to support student and curricular needs; and
   (7) To include a plan for annually updating and replacing library materials, supports, and equipment.

c. The board of directors of each school district shall adopt policies to address selection and reconsideration of school library materials; confidentiality of student library records; and legal and ethical use of information resources, including plagiarism and intellectual property rights.

12.3(13) Policy declaring harassment and bullying against state and school policy. The policy adopted by the board regarding harassment of or by students and staff shall declare harassment and bullying in schools, on school property, and at any school function or school-sponsored activity regardless of its location to be against state and school policy. The board shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

a. A statement declaring harassment and bullying to be against state and school policy. The statement shall include but not be limited to the following provisions:
   (1) School employees, volunteers, and students in school, on school property, or at any school function or school-sponsored activity shall not engage in harassing and bullying behavior.
   (2) School employees, volunteers, and students shall not engage in reprisal, retaliation, or false accusation against a victim, a witness, or an individual who has reliable information about such an act of harassment or bullying.

b. A definition of harassment and bullying consistent with the following: Harassment and bullying shall be construed to mean any electronic, written, verbal, or physical act or conduct toward a student which is based on the student’s actual or perceived age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status, and which creates an objectively hostile school environment that meets one or more of the following conditions:
   (1) Places the student in reasonable fear of harm to the student’s person or property.
   (2) Has a substantially detrimental effect on the student’s physical or mental health.
   (3) Has the effect of substantially interfering with a student’s academic performance.
(4) Has the effect of substantially interfering with the student’s ability to participate in or benefit from the services, activities, or privileges provided by a school. The local board policy must set forth all 17 of the above-enumerated traits or characteristics, but does not need to be limited to the 17 enumerated traits or characteristics.

c. A description of the type of behavior expected from school employees, volunteers, parents or guardians, and students relative to prevention, reporting, and investigation of harassment or bullying.

d. The consequences and appropriate remedial action for a person who violates the antiharassment and antibullying policy.

e. A procedure for reporting an act of harassment or bullying, including the identification by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.

f. A procedure for the prompt investigation of complaints, identifying either the school superintendent or the superintendent’s designee as the individual responsible for conducting the investigation, including a statement that investigators will consider the totality of circumstances presented in determining whether conduct objectively constitutes harassment or bullying under this subrule.

g. A statement of the manner in which the policy will be publicized.

The board shall integrate its policy into its comprehensive school improvement plan. The board shall develop and maintain a system to collect harassment and bullying incidence data, and report such data, on forms specified by the department, to the local community and to the department.

[ARC 0016C, IAB 2/22/12, effective 3/28/12 (See Delay note at end of chapter)]

DIVISION IV
SCHOOL PERSONNEL

281—12.4(256) School personnel. License/certificate and endorsement standards required in this rule relate to licenses/certificates and endorsements issued by the state board of educational examiners. The following standards shall apply to personnel employed in accredited schools.

12.4(1) Instructional professional staff. Each person who holds a license/certificate endorsed for the service for which that person is employed shall be eligible for classification as a member of the instructional professional staff.

12.4(2) Noninstructional professional staff. A person who holds a statement of professional recognition, including but not limited to a physician, dentist, nurse, speech therapist, or a person in one of the other noninstructional professional areas designated by the state board of education, shall be eligible for classification as a member of the noninstructional professional staff.

12.4(3) Basis for approval of professional staff. Each member of the professional staff shall be classified as either instructional or noninstructional. An instructional professional staff member shall be regarded as approved when holding either an appropriate license/certificate with endorsement or endorsements, or a license/certificate with an endorsement statement, indicating the specific teaching assignments that may be given. A noninstructional professional staff member shall be regarded as approved when holding a statement of professional recognition for the specific type of noninstructional professional school service for which employed.

12.4(4) Required administrative personnel. Each board that operates both an elementary school and a secondary school shall employ as its executive officer and chief administrator a person who holds a license/certificate endorsed for service as a superintendent. The board of a school district may meet this requirement by contracting with its area education agency for “superintendency services” as provided by Iowa Code section 273.7A. The individual employed or contracted for as superintendent may serve as an elementary principal or as a high school principal in that school or school district provided that the superintendent holds the proper licensure/certification. For purposes of this subrule, high school means a school which commences with either grade 9 or grade 10, as determined by the board of directors of the school district, or by the governing authority of the nonpublic school in the case of nonpublic schools. Boards of school districts may jointly employ a superintendent, provided such arrangements comply with the provisions of Iowa Code subsection 279.23(4).
12.4(5) Staffing policies—elementary schools. The board operating an elementary school shall develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating an elementary school shall employ at least one elementary principal. This position may be combined with that of secondary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements.

When grades seven and eight are part of an organized and administered junior high school, the staffing policies adopted by the board for secondary schools shall apply. When grades seven and eight are part of an organized and administered middle school, the staffing policies adopted by the board for elementary schools shall apply.

12.4(6) Staffing policies—secondary schools. The board operating a secondary school shall develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating a secondary school shall employ at least one secondary principal. This position may be combined with that of elementary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements. This position may be combined with that of superintendent, but one person may not serve as elementary principal, secondary principal, and superintendent.

12.4(7) Principal. “Principal” means a licensed/certificated member of a school’s instructional staff who serves as an instructional leader, coordinates the process and substance of educational and instructional programs, coordinates the budget of the school, provides formative evaluation for all practitioners and other persons in the school, recommends or has effective authority to appoint, assign, promote, or transfer personnel in a school building, implements the local school board’s policy in a manner consistent with professional practice and ethics, and assists in the development and supervision of a school’s student activities program.

12.4(8) Teacher. A teacher shall be defined as a member of the instructional professional staff who holds a license/certificate endorsed for the type of position in which employed. A teacher diagnoses, prescribes, evaluates, and directs student learning in terms of the school’s objectives, either singly or in concert with other professional staff members; shares responsibility with the total professional staff for developing educational procedures and student activities to be used in achieving the school’s objectives; supervises educational aides who assist in serving students for whom the teacher is responsible; and evaluates or assesses student progress during and following instruction in terms of the objectives sought, and uses this information to develop further educational procedures.

12.4(9) Educational assistant. An educational assistant shall be defined as an employee who, in the presence or absence of an instructional professional staff member but under the direction, supervision, and control of the instructional professional staff, supervises students or assists in providing instructional and other direct educational services to students and their families. An educational assistant shall not substitute for or replace the functions and duties of a teacher as established in subrule 12.4(8).

During the initial year of employment, an educational assistant shall complete staff development approved by the board as provided in subrule 12.7(1).

12.4(10) Record of license/certificate or statement of professional recognition. The board shall require each administrator, teacher, support service staff member, and noninstructional professional staff member on its staff to supply evidence that each holds a license/certificate or statement of professional recognition which is in force and valid for the type of position in which employed.

12.4(11) Record required regarding teacher and administrative assignments. The board shall require its superintendent or other designated administrator to maintain a file for all regularly employed members of the instructional professional staff, including substitute teachers. The file shall consist of legal licenses/certificates or copies thereof for all members of the instructional professional staff, including substitute teachers, showing that they are eligible for the position in which employed. The official shall also maintain on file a legal license/certificate or statement of professional recognition as defined in subrule 12.4(2) for each member of the noninstructional professional staff. These records shall be on file at the beginning of and throughout each school year and shall be updated annually to reflect all professional growth.
On December 1 of each year, the official shall verify to the department of education the licensure/certification and endorsement status of each member of the instructional and administrative staff. This report shall be on forms provided by the department of education and shall identify all persons holding authorizations and their specific assignment(s) with the authorization(s).

12.4(12) Nurses. The board of each school district shall employ a school nurse and shall require a current license to be filed with the superintendent or other designated administrator as specified in subrule 12.4(10).

12.4(13) Prekindergarten staff. Prekindergarten teachers shall hold a license/certificate valid for the prekindergarten level. The board shall employ personnel as necessary to provide effective supervision and instruction in the prekindergarten program.


12.4(15) Support staff. The board shall develop and implement procedures for the use of educational support staff to augment classroom instruction and to meet individual student needs. These staff members may be employed by the board or by the area education agency.

12.4(16) Volunteer. A volunteer shall be defined as an individual who, without compensation or remuneration, provides a supportive role and performs tasks under the direction, supervision, and control of the school or school district staff. A volunteer shall not work as a substitute for or replace the functions and duties of a teacher as established in subrule 12.4(8).

[ARC 0016C, IAB 2/22/12, effective 3/28/12 (See Delay note at end of chapter)]

DIVISION V
EDUCATION PROGRAM

281—12.5(256) Education program. The following education program standards shall be met by schools and school districts for accreditation with the start of the 1989-1990 school year.

12.5(1) Prekindergarten program. If a school offers a prekindergarten program, the program shall be designed to help children to work and play with others, to express themselves, to learn to use and manage their bodies, and to extend their interests and understanding of the world about them. The prekindergarten program shall relate the role of the family to the child’s developing sense of self and perception of others. Planning and carrying out prekindergarten activities designed to encourage cooperative efforts between home and school shall focus on community resources. A prekindergarten teacher shall hold a license/certificate licensing/certifying that the holder is qualified to teach in prekindergarten. A nonpublic school which offers only a prekindergarten may, but is not required to, seek and obtain accreditation.

12.5(2) Kindergarten program. The kindergarten program shall include experiences designed to develop healthy emotional and social habits and growth in the language arts and communication skills, as well as a capacity for the completion of individual tasks, and protect and increase physical well-being with attention given to experiences relating to the development of life skills and human growth and development. A kindergarten teacher shall be licensed/certificated to teach in kindergarten. An accredited nonpublic school must meet the requirements of this subrule only if the nonpublic school offers a kindergarten program.

12.5(3) Elementary program, grades 1-6. The following areas shall be taught in grades one through six: English-language arts, social studies, mathematics, science, health, human growth and development, physical education, traffic safety, music, and visual art.

In implementing the elementary program standards, the following general curriculum definitions shall be used.

a. English-language arts. English-language arts instruction shall include the following communication processes: speaking; listening; reading; writing; viewing; and visual expression and nonverbal communication. Instruction shall incorporate language learning and creative, logical, and critical thinking. The following shall be taught: oral and written composition; communication processes and skills, including handwriting and spelling; literature; creative dramatics; and reading.

b. Social studies. Social studies instruction shall include citizenship education, history, and social sciences. Democratic beliefs and values, problem-solving skills, and social and political participation
skills shall be incorporated. Instruction shall encompass geography, history of the United States and Iowa, and cultures of other peoples and nations. American citizenship, including the study of national, state, and local government; and the awareness of the physical, social, emotional and mental self shall be infused in the instructional program.

c. **Mathematics.** Mathematics instruction shall include number sense and numeration; concepts and computational skills with whole numbers, fractions, mixed numbers and decimals; estimation and mental arithmetic; geometry; measurement; statistics and probability; and patterns and relationships. This content shall be taught through an emphasis on mathematical problem solving, reasoning, and applications; language and symbolism to communicate mathematical ideas; and connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

d. **Science.** Science instruction shall include life, earth, and physical science and shall incorporate hands-on process skills; scientific knowledge; application of the skills and knowledge to students and society; conservation of natural resources; and environmental awareness.

e. **Health.** Health instruction shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; substance abuse and nonuse, encompassing the effects of alcohol, tobacco, drugs, and poisons on the human body; human sexuality, self-esteem, stress management, and interpersonal relationships; emotional and social health; health resources; and prevention and control of disease, and the characteristics of communicable diseases, including acquired immune deficiency syndrome.

f. **Physical education.** Physical education instruction shall include movement experiences and body mechanics; fitness activities; rhythmic activities; stunts and tumbling; simple games and relays; sports skills and activities; and water safety.

g. **Traffic safety.** Traffic safety instruction shall include pedestrian safety; bicycle safety; auto passenger safety; school bus passenger safety; seat belt use; substance education; and the application of legal responsibility and risk management to these concepts.

h. **Music.** Music instruction shall include skills, knowledge, and attitudes and shall include singing and playing music; listening to and using music; reading and writing music; recognizing the value of the world’s musical heritage; respecting individual musical aspirations and values; and preparing for consuming, performing, or composing.

i. **Visual art.** Visual art instruction shall include perceiving, comprehending, and evaluating the visual world; viewing and understanding the visual arts; developing and communicating imaginative and inventive ideas; and making art.

12.5(4) **Junior high program, grades 7 and 8.** The following shall be taught in grades 7 and 8: English-language arts, social studies, mathematics, science, health, human growth and development, physical education, music, visual art, family and consumer education, career education, and technology education. Instruction in the following areas shall include the contributions and perspectives of persons with disabilities, both men and women, and persons from diverse racial and ethnic groups, and shall be designed to eliminate career and employment stereotypes.

In implementing the junior high program standards, the following general curriculum definitions shall be used.

a. **English-language arts.** Same definition as in 12.5(3) “a” with the exclusion of handwriting.

b. **Social studies.** Social studies instruction shall include citizenship education, history and social sciences. Democratic beliefs and values, problem-solving skills, and social and political participation skills shall be incorporated. Instruction shall encompass history, economics, geography, government including American citizenship, behavioral sciences, and the cultures of other peoples and nations. Strategies for continued development of positive self-perceptions shall be infused.

c. **Mathematics.** Mathematics instruction shall include number and number relationships including ratio, proportion, and percent; number systems and number theory; estimation and computation; geometry; measurement; statistics and probability; and algebraic concepts of variables, patterns, and functions. This content shall be taught through an emphasis on mathematical problem solving, reasoning, and applications; language and symbolism to communicate mathematical ideas; and
connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

d. Science. Same definition as in 12.5(3)“d.”

e. Health. Health instruction shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; substance abuse and nonuse, encompassing the effects of alcohol, tobacco, drugs, and poisons on the human body; human sexuality, self-esteem, stress management, and interpersonal relationships; emotional and social health; health resources; and prevention and control of disease and the characteristics of communicable diseases, including sexually transmitted diseases and acquired immune deficiency syndrome.

f. Physical education. Physical education shall include the physical fitness activities that increase cardiovascular endurance, muscular strength, and flexibility; sports and games; tumbling and gymnastics; rhythms and dance; water safety; leisure and lifetime activities.

g. Music. Same definition as in 12.5(3)“h” with the addition of using music as an avocation or vocation.

h. Visual art. Same definition as in 12.5(3)“i” with the addition of using visual arts as an avocation or vocation.

i. Family and consumer education. Family and consumer education instruction shall include the development of positive self-concept, understanding personal growth and development and relationships with peers and family members in the home, school and community, including men, women, minorities and persons with disabilities. Subject matter emphasizes the home and family, including parenting, child development, textiles and clothing, consumer and resource management, foods and nutrition, housing, and family and individual health. This subrule shall not apply to nonpublic schools.

j. Career education. Career education instruction shall include exploration of employment opportunities, experiences in career decision making, and experiences to help students integrate work values and work skills into their lives. This subrule shall not apply to nonpublic schools. However, nonpublic schools shall comply with subrule 12.5(7).

k. Technology education. Technology education instruction shall include awareness of technology and its impact on society and the environment; furthering students’ career development by contributing to their scientific principles, technical information and skills to solve problems related to an advanced technological society; and orienting students to technologies which impact occupations in all six of the required service areas. The purpose of this instruction is to help students become technologically literate and become equipped with the necessary skills to cope with, live in, work in, and contribute to a highly technological society. This subrule shall not apply to nonpublic schools.

l. Secondary credit.

(1) An individual pupil in a grade that precedes ninth grade may be allowed to take a course for secondary credit if all of the following are true:

1. The pupil satisfactorily completes the course.
2. The course is taught by a teacher licensed by the Iowa board of educational examiners for grades 9-12 and endorsed in the subject area.
3. The course meets all components listed in subrule 12.5(5) for the specific curricular area.
4. The board of the school district or the authorities in charge of the nonpublic school have developed enrollment criteria that a student must meet to be enrolled in the course.

(2) Neither school districts nor accredited nonpublic schools are mandated to offer secondary credit under this paragraph. If credit is offered under this paragraph, the credit must apply toward graduation requirements of the district or accredited nonpublic school.

12.5(5) High school program, grades 9-12. In grades 9 through 12, a unit is a course or equivalent related components or partial units taught throughout the academic year as defined in subrule 12.5(14). The following shall be offered and taught as the minimum program: English-language arts, six units; social studies, five units; mathematics, six units as specified in 12.5(5)“c”; science, five units; health, one unit; physical education, one unit; fine arts, three units; foreign language, four units; and vocational education, 12 units as specified in 12.5(5)“i.” Beginning with the 2010-2011 school year graduating class, all students in schools and school districts shall satisfactorily complete at least four units of
English-language arts, three units of mathematics, three units of science, three units of social studies, and one full unit of physical education as conditions of graduation. The three units of social studies may include the existing graduation requirements of one-half unit of United States government and one unit of United States history.

In implementing the high school program standards, the following curriculum standards shall be used.

a. English-language arts (six units). English-language arts instruction shall include the following communication processes: speaking; listening; reading; writing; viewing; and visual expression and nonverbal communication. Instruction shall incorporate language learning and creative, logical, and critical thinking. The program shall encompass communication processes and skills; written composition; speech; debate; American, English, and world literature; creative dramatics; and journalism.

b. Social studies (five units). Social studies instruction shall include citizenship education, history, and the social sciences. Instruction shall encompass the history of the United States and the history and cultures of other peoples and nations including the analysis of persons, events, issues, and historical evidence reflecting time, change, and cause and effect. Instruction in United States government shall include an overview of American government through the study of the United States Constitution, the bill of rights, the federal system of government, and the structure and relationship between the national, state, county, and local governments; and voter education including instruction in statutes and procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot. Students’ knowledge of the Constitution and the bill of rights shall be assessed. Economics shall include comparative and consumer studies in relation to the market and command economic systems. Geography shall include the earth’s physical and cultural features, their spatial arrangement and interrelationships, and the forces that affect them. Sociology, psychology, and anthropology shall include the scientific study of the individual and group behavior(s) reflecting the impact of these behaviors on persons, groups, society, and the major institutions in a society. Democratic beliefs and values, problem-solving skills, and social and political skills shall be incorporated. All students in grades nine through twelve must, as a condition of graduation, complete a minimum of one-half unit of United States government and one unit of United States history and receive instruction in the government of Iowa.

c. Mathematics (six units). Mathematics instruction shall include:

1. Four sequential units which are preparatory to postsecondary educational programs. These units shall include strands in algebra, geometry, trigonometry, statistics, probability, and discrete mathematics. Mathematical concepts, operations, and applications shall be included for each of these strands. These strands shall be taught through an emphasis on mathematical problem solving, reasoning, and structure; language and symbolism to communicate mathematical ideas; and connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

2. Two additional units shall be taught. These additional units may include mathematical content as identified in, but not limited to, paragraphs 12.5(3)“c,” 12.5(4)“c,” and 12.5(5)“c”1. These units are to accommodate the locally identified needs of the students in the school or school district. This content shall be taught through an emphasis on mathematical problem solving, reasoning, and structure; language and symbolism to communicate mathematical ideas; and connections among mathematical topics and between mathematics and other disciplines. Calculators and computers shall be used in concept development and problem solving.

d. Science (five units). Science instruction shall include biological, earth, and physical science, including physics and chemistry. Full units of chemistry and physics shall be taught but may be offered in alternate years. All science instruction shall incorporate hands-on process skills; scientific knowledge; the application of the skills and knowledge to students and society; conservation of natural resources; and environmental awareness.

e. Health (one unit). Health instruction shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; human growth and
development; substance abuse and nonuse; emotional and social health; health resources; and
prevention and control of disease, including sexually transmitted diseases and acquired immune
deficiency syndrome, current crucial health issues, human sexuality, self-esteem, stress management,
and interpersonal relationships.

f. Physical education (one unit). Physical education shall include the physical fitness activities
that increase cardiovascular endurance, muscular strength and flexibility; sports and games; tumbling
and gymnastics; rhythms and dance; water safety; leisure and lifetime activities.

All physically able students shall be required to participate in the program for a minimum of
one-eighth unit during each semester they are enrolled except as otherwise provided in this paragraph.
A twelfth-grade student may be excused from this requirement by the principal of the school in which
the student is enrolled under one of the following circumstances:

(1) The student is enrolled in a cooperative, work-study, or other educational program authorized
by the school which requires the student’s absence from the school premises during the school day.
(2) The student is enrolled in academic courses not otherwise available.
(3) An organized and supervised athletic program which requires at least as much time of
participation per week as one-eighth unit of physical education.

Students in grades nine through eleven may be excused from the physical education requirement in
order to enroll in academic courses not otherwise available to the student if the board of directors of the
school district in which the school is located, or the authorities in charge of the school, if the school is
a nonpublic school, determine that students from the school may be permitted to be excused from the
physical education requirement.

A student may be excused by the principal of the school in which the student is enrolled, in
consultation with the student’s counselor, for up to one semester, trimester, or the equivalent of a
semester or trimester, per year if the parent or guardian of the student requests in writing that the
student be excused from the physical education requirement. The student seeking to be excused from
the physical education requirement must, at some time during the period for which the excuse is sought,
be a participant in an organized and supervised athletic program which requires at least as much time of
participation per week as one-eighth unit of physical education.

The student’s parent or guardian must request the excuse in writing. The principal shall inform the
superintendent that the student has been excused.

g. Fine arts (three units). Fine arts instruction shall include at least two of the following:

(1) Dance. Dance instruction shall encompass developing basic movement skills; elementary
movement concepts; study of dance forms and dance heritage; participating in dance; and evaluating
dance as a creative art; and using dance as an avocation or vocation.
(2) Music. Music instruction shall include skills, knowledge, and attitudes and the singing and
playing of music; listening to and using music; reading and writing music; recognizing the value of the
world’s musical heritage; respecting individual musical aspirations and values; preparing for consuming,
performing, or composing; and using music as an avocation or vocation.
(3) Theatre. Theatre instruction shall encompass developing the internal and external resources
used in the theatre process; creating theatre through artistic collaboration; relating theatre to its social
context; forming aesthetic judgments; and using theatre as an avocation or vocation.
(4) Visual art. Visual art instruction shall include developing concepts and values about natural
and created environments; critiquing works of art; evaluating relationships between art and societies;
analyzing, abstracting, and synthesizing visual forms to express ideas; making art; and using visual art
as an avocation or vocation.

h. Foreign language (four units). The foreign language program shall be a four-unit sequence
of uninterrupted study in at least one language. Foreign language instruction shall include listening
comprehension appropriate to the level of instruction; rateable oral proficiency; reading comprehension
appropriate to the level of instruction; writing proficiency appropriate to the level of instruction and
cultural awareness.

All high schools shall offer and teach the first two units of the sequence. The third and fourth
units must be offered. However, the department of education may, on an annual basis, waive the
third and fourth unit requirements upon the request of the board. The board must document that a licensed/certificated teacher was employed and assigned a schedule that would have allowed students to enroll, that the class was properly scheduled, that students were aware of the course offerings, and that no students enrolled.

i. Vocational education—school districts (three units each in at least four of the six service areas). A minimum of three sequential units, of which only one may be a core unit, shall be taught in four of the following six service areas: agricultural education, business and office education, health occupations education, home economics education, industrial education, and marketing education. The instruction shall be competency-based; shall provide a base of knowledge which will prepare students for entry level employment, additional on-the-job training, and postsecondary education within their chosen field; shall be articulated with postsecondary programs of study, including apprenticeship programs; shall reinforce basic academic skills; shall include the contributions and perspectives of persons with disabilities, both men and women, and persons from diverse racial and ethnic groups. Vocational core courses may be used in more than one vocational service area. Multioccupations may be used to complete a sequence in more than one vocational service area; however, a core course(s) and multioccupations cannot be used in the same sequence. If a district elects to use multioccupations to meet the requirements in more than one service area, documentation must be provided to indicate that a sufficient variety of quality training stations be available to allow students to develop occupational competencies. A district may apply for a waiver if an innovative plan for meeting the instructional requirement for the standard is submitted to and approved by the director of the department of education.

The instructional programs also shall comply with the provisions of Iowa Code chapter 258 relating to vocational education. Advisory committee/councils designed to assist vocational education planning and evaluation shall be composed of public members with emphasis on persons representing business, agriculture, industry, and labor. The membership of local advisory committees/councils will fairly represent each gender and minority residing in the school district. The accreditation status of a school district failing to comply with the provisions of this subrule shall be governed by 281—subrule 46.7(10), paragraph “g.”

(1) A service area is the broad category of instruction in the following occupational cluster areas (definitions are those used in these rules):

(2) “Agricultural education programs” prepare individuals for employment in agriculture-related occupations. Such programs encompass the study of applied sciences and business management principles, as they relate to agriculture. Agricultural education focuses on, but is not limited to, study in horticulture, forestry, conservation, natural resources, agricultural products and processing, production of food and fiber, aquaculture and other agricultural products, mechanics, sales and service, economics marketing, and leadership development.

(3) “Business and office education programs” prepare individuals for employment in varied occupations involving such activities as planning, organizing, directing, and controlling all business office systems and procedures. Instruction offered includes such activities as preparing, transcribing, systematizing, preserving communications; analyzing financial records; receiving and disbursing money; gathering, processing and distributing information; and performing other business and office duties.

(4) “Health occupations education programs” prepare individuals for employment in a variety of occupations concerned with providing care in the areas of wellness, prevention of disease, diagnosis, treatment, and rehabilitation. Instruction offered encompasses varied activities in such areas as dental science, medical science, diagnostic services, treatment therapy, patient care areas, rehabilitation services, record keeping, emergency care, and health education. Many occupations in this category require licensing or credentialing to practice, or to use a specific title.

(5) “Home economics education programs” encompass two categories of instructional programs:

1. “Consumer and family science” programs may be taught to prepare individuals for a multiple role of homemaker and wage earner and may include such content areas as food and nutrition; consumer education; family living and parenthood; child development and guidance; family and individual health; housing and home management; and clothing and textiles.
2. “Home economics occupations programs” prepare individuals for paid employment in such home economics-related occupations as child care aide/assistant, food production management and services, and homemaker/home health aide.

(6) “Industrial education programs” encompass two categories of instructional programs—industrial technology and trade and industrial. Industrial technology means an applied discipline designed to promote technological literacy which provides knowledge and understanding of the impact of technology including its organizations, techniques, tools, and skills to solve practical problems and extend human capabilities in areas such as construction, manufacturing, communication, transportation, power and energy. Trade and industrial programs prepare individuals for employment in such areas as protective services, construction trades, mechanics and repairers, precision production, transportation, and graphic communications. Instruction includes regular systematic classroom activities, followed by experiential learning with the most important processes, tools, machines, management ideas, and impacts of technology.

(7) “Marketing education programs” prepare individuals for marketing occupations, including merchandising and management—those activities which make products and services readily available to consumers and business. Instruction stresses the concept that marketing is the bridge between production (including the creation of services and ideas) and consumption. These activities are performed by retailers, wholesalers, and businesses providing services in for-profit and not-for-profit business firms.

(8) “Sequential unit” applies to an integrated offering, directly related to the educational and occupational skills preparation of individuals for jobs and preparation for postsecondary education. Sequential units provide a logical framework for the instruction offered in a related occupational area and do not require prerequisites for enrollment. A unit is defined in subrule 12.5(18).

(9) “Competency” is a learned student performance statement which can be accurately repeated and measured. Instruction is based on incumbent worker-validated statements of learner results (competencies) which clearly describe what skills the students will be able to demonstrate as a result of the instruction. Competencies function as the basis for building the instructional program to be offered. Teacher evaluation of students, based upon their ability to perform the competencies, is an integral part of a competency-based system.

(10) “Minimum competency lists” contain competencies validated by statewide technical committees, composed of representatives from appropriate businesses, industries, agriculture, and organized labor. These lists contain essential competencies which lead to entry level employment and are not intended to be the only competencies learned. Districts will choose one set of competencies per service area upon which to build their program or follow the process detailed in 281—subrule 46.7(2) to develop local competencies.

(11) “Clinical experience” involves direct instructor supervision in the actual workplace, so that the learner has the opportunity to apply theory and to perfect skills taught in the classroom and laboratory.

“Field training” is an applied learning experience in a nonclassroom environment under the supervision of an instructor.

“Lab training” is experimentation, practice or simulation by students under the supervision of an instructor.

“On-the-job training” is a cooperative work experience planned and supervised by a teacher-coordinator and the supervisor in the employment setting.

(12) “Coring” is an instructional design whereby competencies common to two or more different vocational service areas are taught as one course offering. Courses shall be no longer than one unit of instruction. Course(s) may be placed wherever appropriate within the program offered. This offering may be acceptable as a unit or partial unit in more than one vocational program to meet the standard.

(13) “Articulation” is the process of mutually agreeing upon competencies and performance levels transferable between institutions and programs for advanced placement or credit in a vocational program. An articulation agreement is the written document which explains the decisions agreed upon and the process used by the institution to grant advanced placement or credit.
(14) “Multioccupational courses” combine on-the-job training in any of the occupational areas with the related classroom instruction. The instructor provides the related classroom instruction and coordinates the training with the employer at the work site. A multioccupational course may only be used to complete a sequence in more than one vocational service area if competencies from the appropriate set of minimum competencies are a part of the related instruction.

f. Vocational education/nonpublic schools (five units). A nonpublic school which provides an educational program that includes grades 9 through 12 shall offer and teach five units of occupational education subjects, which may include, but are not limited to, programs, services, and activities which prepare students for employment in business or office occupations, trade and industrial occupations, consumer and family sciences or home economics occupations, agricultural occupations, marketing occupations, and health occupations. By July 1, 1993, instruction shall be competency-based, articulated with postsecondary programs of study, and may include field, laboratory, or on-the-job training.

12.5(6) Exemption from physical education course, health course, physical activity requirement, or cardiopulmonary resuscitation course completion. A pupil shall not be required to enroll in a physical education course if the pupil’s parent or guardian files a written statement with the school principal that the course conflicts with the pupil’s religious beliefs. A pupil shall not be required to enroll in a health course if the pupil’s parent or guardian files a written statement with the school principal that the course conflicts with the pupil’s religious beliefs. A pupil shall not be required to meet the requirements of subrule 12.5(19) regarding physical activity if the pupil’s parent or guardian files a written statement with the school principal that the requirement conflicts with the pupil’s religious beliefs. A pupil shall not be required to meet the requirements of subrule 12.5(20) regarding completion of a cardiopulmonary resuscitation course if the pupil’s parent or guardian files a written statement with the school principal that the completion of such a course conflicts with the pupil’s religious beliefs.

12.5(7) Career education. Each school or school district shall incorporate school-to-career educational programming into its comprehensive school improvement plan. Curricular and cocurricular teaching and learning experiences regarding career education shall be provided from the prekindergarten level through grade 12. Career education shall be incorporated into the total educational program and shall include, but is not limited to, awareness of self in relation to others and the needs of society; exploration of employment opportunities, at a minimum, within Iowa; experiences in personal decision making; experiences that help students connect work values into all aspects of their lives; and the development of employability skills. In the implementation of this subrule, the board shall comply with Iowa Code section 280.9.

12.5(8) Multicultural and gender fair approaches to the educational program. The board shall establish a policy to ensure that students are free from discriminatory practices in the educational program as required by Iowa Code section 256.11. In developing or revising the policy, parents, students, instructional and noninstructional staff, and community members shall be involved. Each school or school district shall incorporate multicultural and gender fair goals for the educational program into its comprehensive school improvement plan. Incorporation shall include the following:

a. Multicultural approaches to the educational program. These shall be defined as approaches which foster knowledge of, and respect and appreciation for, the historical and contemporary contributions of diverse cultural groups, including race, color, national origin, gender, disability, religion, creed, and socioeconomic background. The contributions and perspectives of Asian Americans, African Americans, Hispanic Americans, American Indians, European Americans, and persons with disabilities shall be included in the program.

b. Gender fair approaches to the educational program. These shall be defined as approaches which foster knowledge of, and respect and appreciation for, the historical and contemporary contributions of women and men to society. The program shall reflect the wide variety of roles open to both women and men and shall provide equal opportunity to both sexes.

12.5(9) Special education. The board of each school district shall provide special education programs and services for its resident children which comply with rules of the state board of education implementing Iowa Code chapters 256, 256B, 273, and 280.
12.5(10) **Technology integration.** Each school or school district shall incorporate into its comprehensive school improvement plan demonstrated use of technology to meet its student learning goals.

12.5(11) **Global education.** Each school or school district shall incorporate global education into its comprehensive school improvement plan as required by Iowa Code section 256.11. Global education shall be incorporated into all areas and levels of the educational program so students have the opportunity to acquire a realistic perspective on world issues, problems, and the relationship between an individual’s self-interest and the concerns of people elsewhere in the world.

12.5(12) **Provisions for gifted and talented students.** Each school district shall incorporate gifted and talented programming into its comprehensive school improvement plan as required by Iowa Code section 257.43. The comprehensive school improvement plan shall include the following gifted and talented program provisions: valid and systematic procedures, including multiple selection criteria for identifying gifted and talented students from the total student population; goals and performance measures; a qualitatively differentiated program to meet the students’ cognitive and affective needs; staffing provisions; an in-service design; a budget; and qualifications of personnel administering the program. Each school district shall review and evaluate its gifted and talented programming. This subrule does not apply to accredited nonpublic schools.

12.5(13) **Provisions for at-risk students.** Each school district shall include in its comprehensive school improvement plan the following provisions for meeting the needs of at-risk students: valid and systematic procedures and criteria to identify at-risk students throughout the school district’s school-age population, determination of appropriate ongoing educational strategies for alternative options education programs as required in Iowa Code section 280.19A, and review and evaluation of the effectiveness of provisions for at-risk students. This subrule does not apply to accredited nonpublic schools.

Each school district using additional allowable growth for provisions for at-risk students shall incorporate educational program goals for at-risk students into its comprehensive school improvement plan. Provisions for at-risk students shall align with the student learning goals and content standards established by the school district or by school districts participating in a consortium. The comprehensive school improvement plan shall also include objectives, activities, cooperative arrangements with other service agencies and service groups, and strategies for parental involvement to meet the needs of at-risk children. The incorporation of these requirements into a school district’s comprehensive school improvement plan shall serve as the annual application for additional allowable growth designated in Iowa Code section 257.38.

12.5(14) **Unit.** A unit is a course which meets one of the following criteria: it is taught for at least 200 minutes per week for 36 weeks; it is taught for the equivalent of 120 hours of instruction; it requires the demonstration of proficiency of formal competencies associated with the course according to the State Guidelines for Competency-Based Education or its successor organization; or it is an equated requirement as a part of an innovative program filed as prescribed in rule 281—12.9(256). A fractional unit shall be calculated in a manner consistent with this subrule. Unless the method of instruction is competency-based, multiple-section courses taught at the same time in a single classroom situation by one teacher do not meet this unit definition for the assignment of a unit of credit. However, the third and fourth years of a foreign language may be taught at the same time by one teacher in a single classroom situation each yielding a unit of credit.

12.5(15) **Credit.** A student shall receive a credit or a partial credit upon successful completion of a course which meets one of the criteria in subrule 12.5(14). The board may award high school credit to a student who demonstrates required competencies for a course or content area in accordance with assessment methods approved by the local board.

12.5(16) **Subject offering.** A subject shall be regarded as offered when the teacher of the subject has met the licensure and endorsement standards of the state board of educational examiners for that subject; instructional materials and facilities for that subject have been provided; and students have been informed, based on their aptitudes, interests, and abilities, about possible value of the subject.
A subject shall be regarded as taught only when students are instructed in it in accordance with all applicable requirements outlined herein. Subjects which the law requires schools and school districts to offer and teach shall be made available during the school day as defined in subrules 12.1(8) to 12.1(10).

12.5(17) Twenty-first century learning skills. Twenty-first century learning skills include civic literacy, health literacy, technology literacy, financial literacy, and employability skills. Schools and school districts shall address the curricular needs of students in kindergarten through grade twelve in these areas. In doing so, schools and school districts shall apply to all curricular areas the universal constructs of critical thinking, complex communication, creativity, collaboration, flexibility and adaptability, and productivity and accountability.

a. Civic literacy. Components of civic literacy include rights and responsibilities of citizens; principles of democracy and republicanism; purpose and function of the three branches of government; local, state, and national government; inherent, expressed, and implied powers; strategies for effective political action; how law and public policy are established; how various political systems define rights and responsibilities of the individual; the role of the United States in current world affairs.

b. Health literacy. Components of health literacy include understanding and using basic health concepts to enhance personal, family and community health; establish and monitor health goals; effectively manage health risk situations and advocate for others; demonstrate a healthy lifestyle that benefits the individual and society.

c. Technology literacy. Components of technology literacy include creative thinking; development of innovative products and processes; support of personal learning and the learning of others; gathering, evaluating, and using information; use of appropriate tools and resources; conduct of research; project management; problem solving; informed decision making.

d. Financial literacy. Components of financial literacy include developing short- and long-term financial goals; understanding needs versus wants; spending plans and positive cash flow; informed and responsible decision making; repaying debt; risk management options; saving, investing, and asset building; understanding human, cultural, and societal issues; legal and ethical behavior.

e. Employability skills. Components of employability skills include different perspectives and cross-cultural understanding; adaptability and flexibility; ambiguity and change; leadership; integrity, ethical behavior, and social responsibility; initiative and self-direction; productivity and accountability.

12.5(18) Early intervention program. Each school district receiving early intervention program funds shall make provisions to meet the needs of kindergarten through grade 3 students. The intent of the early intervention program is to reduce class size, to achieve a higher level of student success in the basic skills, and to increase teacher-parent communication and accountability. Each school district shall develop a class size management strategy by September 15, 1999, to work toward, or to maintain, class sizes in basic skills instruction for kindergarten through grade 3 that are at the state goal of 17 students per teacher. Each school district shall incorporate into its comprehensive school improvement plan goals and activities for kindergarten through grade 3 students to achieve a higher level of success in the basic skills, especially reading. A school district shall, at a minimum, biannually inform parents of their individual child’s performance on the results of diagnostic assessments in kindergarten through grade 3. If intervention is appropriate, the school district shall inform the parents of the actions the school district intends to take to improve the child’s reading skills and provide the parents with strategies to enable the parents to improve their child’s skills.

12.5(19) Physical activity requirement. Subject to the provisions of subrule 12.5(6), physically able pupils in kindergarten through grade 5 shall engage in physical activity for a minimum of 30 minutes each school day. Subject to the provisions of subrule 12.5(6), physically able pupils in grades 6 through 12 shall engage in physical activity for a minimum of 120 minutes per week in which there are at least five days of school.

a. This requirement may be met by pupils in grades 6 through 12 by participation in the following activities including, but not limited to:

1. Interscholastic athletics sponsored by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union;
2. School-sponsored marching band, show choir, dance, drill, cheer, or similar activities;
(3) Nonschool gymnastics, dance, team sports, individual sports; or
(4) Similar endeavors that involve movement, manipulation, or exertion of the body.
b. When the requirement is to be met in full or in part by a pupil using one or more nonschool activities, the school or school district shall enter into a written agreement with the pupil. The agreement shall state the nature of the activity and the starting and ending dates of the activity and shall provide sufficient information about the duration of time of the activity each week. The agreement shall also be signed by the school principal or principal’s designee and by at least one parent or guardian of the pupil if the pupil is a minor. The pupil shall sign the agreement, regardless of the age of the pupil. The agreement shall be effective for no longer than one school year. There is no limit to the number of agreements that a school or school district may have with any one pupil during the enrollment of the pupil.

c. In no event may a school or school district reduce the regular instructional time, as defined by “unit” in subrule 12.5(14), for any pupil to enable the pupil to meet the physical activity requirement. However, this requirement may be met by physical education classes, activities at recess or during class time, and before- or after-school activities.
d. Schools and school districts must provide documentation that pupils are being provided with the support to complete the physical activity requirement. This documentation may be provided through printed schedules, district policies, student handbooks, and similar means.

12.5(20) Cardiopulmonary resuscitation course completion requirement. Subject to the provisions of subrule 12.5(6), at any time prior to the end of twelfth grade, every pupil physically able to do so shall have completed a psychomotor course that leads to certification in cardiopulmonary resuscitation. A school or school district administrator may waive this requirement for any pupil who is not physically able to complete the course. A course that leads to certification in CPR may be taught during the school day by either a school or school district employee or by a volunteer, as long as the person is certified to teach a course that leads to certification in CPR. In addition, a school or school district shall accept certification from any nationally recognized course in cardiopulmonary resuscitation as evidence that this requirement has been met by a pupil. A school or school district shall not accept auditing of a CPR course, nor a course in infant CPR only. This subrule is effective for the graduating class of 2011-2012.

[ARC 7783B, IAB 5/20/09, effective 6/24/09; ARC 0016C, IAB 2/22/12, effective 3/28/12 (See Delay note at end of chapter); ARC 0525C, IAB 12/12/12, effective 1/16/13; ARC 1116C, IAB 10/16/13, effective 11/20/13; ARC 1663C, IAB 10/15/14, effective 11/19/14]

DIVISION VI
ACTIVITY PROGRAM

281—12.6(256) Activity program. The following standards shall apply to the activity program of accredited schools and school districts.

12.6(1) General guidelines. Each board shall sponsor a pupil activity program sufficiently broad and balanced to offer opportunities for all pupils to participate. The program shall be supervised by qualified professional staff and shall be designed to meet the needs and interests and challenge the abilities of all pupils consistent with their individual stages of development; contribute to the physical, mental, athletic, civic, social, moral, and emotional growth of all pupils; offer opportunities for both individual and group activities; be integrated with the instructional program; and provide balance so a limited number of activities will not be perpetuated at the expense of others.

12.6(2) Supervised intramural sports. If the board sponsors a voluntary program of supervised intramural sports for pupils in grades seven through twelve, qualified personnel and adequate facilities, equipment, and supplies shall be provided. Middle school grades below grade seven may also participate.

DIVISION VII
STAFF DEVELOPMENT

281—12.7(256,284,284A) Professional development. The following standards shall apply to staff development for accredited schools and school districts.
12.7(1) Provisions for school district professional development.

a. Provisions for district professional development plans. Each school district shall incorporate into its comprehensive school improvement plan provisions for the professional development of all staff, including the district professional development plan required in 281—paragraph 83.6(2) “a.” To meet the professional needs of all staff, professional development activities shall align with district goals; shall be based on student and staff information; shall prepare all employees to work effectively with diverse learners and to implement multicultural, gender fair approaches to the educational program; and shall adhere to the professional development standards in 281—paragraph 83.6(2) “b” to realize increased student achievement, learning, and performance as set forth in the comprehensive school improvement plan.

b. Provisions for attendance center professional development plans. Each school district shall ensure that every attendance center has an attendance center professional development plan that addresses, at a minimum, the needs of the teachers in that center; the Iowa teaching standards; the district professional development plan; and the student achievement goals of the attendance center and the school district as set forth in the comprehensive school improvement plan.

c. Provisions for individual teacher professional development plans. Each school district shall ensure that every teacher as defined in rule 281—83.2(284,284A) has an individual teacher professional development plan that meets the expectations in 281—subrule 83.6(1).

d. Budget for staff development. The board shall annually budget specified funds to implement the plan required in paragraph 12.7(1) “a.”

12.7(2) Provisions for accredited nonpublic school professional development.

a. Each accredited nonpublic school shall incorporate into its comprehensive school improvement plan provisions for the professional development of staff. To meet the professional needs of instructional staff, professional development activities shall align with school achievement goals and shall be based on student achievement needs and staff professional development needs. The plan shall deliver research-based instructional practices to realize increased student achievement, learning, and performance as set forth in the comprehensive school improvement plan.

b. Budget for staff development. The board shall annually budget specified funds to implement the plan required in paragraph 12.7(2) “a.”

DIVISION VIII
ACCOUNTABILITY

281—12.8(256) Accountability for student achievement. Schools and school districts shall meet the following accountability requirements for increased student achievement. Area education agencies shall provide technical assistance as required by 281—subrule 72.4(7).

12.8(1) Comprehensive school improvement. The general accreditation standards are minimum, uniform requirements. However, the department encourages schools and school districts to go beyond the minimum with their work toward ongoing improvement. As a means to this end, local comprehensive school improvement plans shall be specific to a school or school district and designed, at a minimum, to increase the learning, achievement, and performance of all students.

As a part of ongoing improvement in its educational system, the board shall adopt a written comprehensive school improvement plan designed for continuous school, parental, and community involvement in the development and monitoring of a plan that is aligned with school or school district determined needs. The plan shall incorporate, to the extent possible, the consolidation of federal and state planning, goal setting, and reporting requirements. The plan shall contain, but is not limited to, the following components:

a. Community involvement.

(1) Local community. The school or school district shall involve the local community in decision-making processes as appropriate. The school or school district shall seek input from the local community about, but not limited to, the following elements at least once every five years:

1. Statement of philosophy, beliefs, mission, or vision;
2. Major educational needs; and
3. Student learning goals.

(2) School improvement advisory committee. To meet requirements of Iowa Code section 280.12(2) as amended by 2007 Iowa Acts, Senate File 61, section 1, the board shall appoint and charge a school improvement advisory committee to make recommendations to the board. Based on the committee members’ analysis of the needs assessment data, the committee shall make recommendations to the board about the following components:
1. Major educational needs;
2. Student learning goals;
3. Long-range goals that include, but are not limited to, the state indicators that address reading, mathematics, and science achievement; and
4. Harassment or bullying prevention goals, programs, training, and other initiatives.

(3) At least annually, the school improvement advisory committee shall also make recommendations to the board with regard to, but not limited to, the following:
1. Progress achieved with the annual improvement goals for the state indicators that address reading, mathematics, and science in subrule 12.8(3);
2. Progress achieved with other locally determined core indicators; and
3. Annual improvement goals for the state indicators that address reading, mathematics, and science achievement.

b. Data collection, analysis, and goal setting.
(1) Policy. The board shall adopt a policy for conducting ongoing and long-range needs assessment processes. This policy shall ensure involvement of and communication with the local community regarding its expectations for adequate preparation for all students as responsible citizens and successful wage earners. The policy shall include provisions for keeping the local community regularly informed of progress on state indicators as described in subrule 12.8(3), other locally determined indicators within the comprehensive school improvement plan as required by Iowa Code section 280.12, and the methods a school district will use to inform kindergarten through grade 3 parents of their individual child’s performance biannually as described in 1999 Iowa Acts, House File 743. The policy shall describe how the school or school district shall provide opportunities for local community feedback on an ongoing basis.

(2) Long-range data collection and analysis. The long-range needs assessment process shall include provisions for collecting, analyzing, and reporting information derived from local, state, and national sources. The process shall include provisions for reviewing information acquired over time on the following:
1. State indicators and other locally determined indicators;
2. Locally established student learning goals; and
3. Specific data collection required by federal and state programs.

Schools and school districts shall also collect information about additional factors influencing student achievement which may include, but are not limited to, demographics, attitudes, health, and other risk factors.

(3) Long-range goals. The board, with input from its school improvement advisory committee, shall adopt long-range goals to improve student achievement in at least the areas of reading, mathematics, and science.

(4) Annual data collection and analysis. The ongoing needs assessment process shall include provisions for collecting and analyzing annual assessment data on the state indicators, other locally determined indicators, and locally established student learning goals.

(5) Annual improvement goals. The board, with input from its school improvement advisory committee, shall adopt annual improvement goals based on data from at least one districtwide assessment. The goals shall describe desired annual increase in the curriculum areas of, but not limited to, mathematics, reading, and science achievement for all students, for particular subgroups of students, or both. Annual improvement goals may be set for the early intervention program as described in subrule
12.5(18), other state indicators, locally determined indicators, locally established student learning goals, other curriculum areas, future student employability, or factors influencing student achievement.

c. **Content standards and benchmarks.**

(1) **Policy.** The board shall adopt a policy outlining its procedures for developing, implementing, and evaluating its total curriculum. The policy shall describe a process for establishing content standards, benchmarks, performance levels, and annual improvement goals aligned with needs assessment information.

(2) **Content standards and benchmarks.** The board shall adopt clear, rigorous, and challenging content standards and benchmarks in reading, mathematics, and science to guide the learning of students from the date of school entrance until high school graduation. Included in the local standards and benchmarks shall be the core content standards from Iowa’s approved standards and assessment system under the applicable provisions of the federal Elementary and Secondary Education Act. Standards and benchmarks may be adopted for other curriculum areas defined in 281—Chapter 12, Division V. The comprehensive school improvement plan submitted to the department shall contain, at a minimum, the core content standards for reading, mathematics, and science. The educational program as defined in 281—Chapter 12, Division II, shall incorporate career education, multicultural and gender fair education, technology integration, global education, higher-order thinking skills, learning skills, and communication skills as outlined in subrules 12.5(7), 12.5(8), 12.5(10), and 12.5(11), and subparagraph 12.8(1)"c"(1).

d. **Determination and implementation of actions to meet the needs.** The comprehensive school improvement plan shall include actions the school or school district shall take districtwide in order to accomplish its long-range and annual improvement goals as required in Iowa Code section 280.12(1)"b."

(1) Actions shall include, but are not limited to, addressing the improvement of curricular and instructional practices to attain the long-range goals, annual improvement goals, and the early intervention goals as described in subrule 12.5(18).

(2) A school or school district shall document consolidation of state and federal resources and requirements, as appropriate, to implement the actions in its comprehensive school improvement plan. State and federal resources shall be used, as applicable, to support implementation of the plan.

(3) A school or school district may have building-level action plans, aligned with its comprehensive school improvement plan. These may be included in the comprehensive school improvement plan or kept on file at the local level.

e. **Evaluation of the comprehensive school improvement plan.** A school or school district shall develop strategies to collect data and information to determine if the plan has accomplished the goals for which it was established.

f. **Assessment of student progress.** Each school or school district shall include in its comprehensive school improvement plan provisions for districtwide assessment of student progress for all students. The plan shall identify valid and reliable student assessments aligned with local content standards, which include the core content standards referenced in subparagraph 12.8(1)"c"(2). These assessments are not limited to commercially developed measures. School districts receiving early intervention funding described in subrule 12.5(18) shall provide for diagnostic reading assessments for kindergarten through grade 3 students.

(1) **State indicators.** Using at least one districtwide assessment, a school or school district shall assess student progress on the state indicators in, but not limited to, reading, mathematics, and science as specified in subrule 12.8(3). At least one districtwide assessment shall allow for, but not be limited to, the comparison of the school or school district’s students with students from across the state and in the nation in reading, mathematics, and science. A school or school district shall use additional assessments to measure progress on locally determined content standards in at least reading, mathematics, and science.

(2) **Performance levels.** A school or school district shall establish at least three performance levels on at least one districtwide valid and reliable assessment in the areas of reading and mathematics for at least grades 4, 8, and 11 and science in grades 8 and 11 or use the achievement levels as established by the Iowa Testing Program to meet the intent of this subparagraph (2).
g. **Assurances and support.** A school or school district shall provide evidence that its board has approved and supports the five-year comprehensive school improvement plan and any future revisions of that plan. This assurance includes the commitment for ongoing improvement of the educational system.

12.8(2) **Submission of a comprehensive school improvement plan.** A school or school district shall submit to the department and respective area education agency a multiyear comprehensive school improvement plan on or before September 15, 2000. Beginning July 1, 2001, a school or school district shall submit a revised five-year comprehensive school improvement plan by September 15 of the school year following the comprehensive site visit specified in Iowa Code section 256.11 which incorporates, when appropriate, areas of improvement noted by the school improvement visitation team as described in subrule 12.8(4). A school or school district may, at any time, file a revised comprehensive school improvement plan with the department and respective area education agency.

12.8(3) **Annual reporting requirements.** A school or school district shall, at minimum, report annually to its local community about the progress on the state indicators and other locally determined indicators.

a. **State indicators.** A school or school district shall collect data on the following indicators for reporting purposes:

   1. The percentage of all fourth, eighth, and eleventh grade students achieving proficient or higher reading status using at least three achievement levels and by gender, race, socioeconomic status, students with disabilities, and other subgroups as required by state or federal law.

   2. The percentage of all fourth, eighth, and eleventh grade students achieving proficient or higher mathematics status using at least three achievement levels and for gender, race, socioeconomic status, students with disabilities, and other subgroups as required by state or federal law.

   3. The percentage of all eighth and eleventh grade students achieving proficient or higher science status using at least three achievement levels.

   4. The percentage of students considered as dropouts for grades 7 to 12 by gender, race, students with disabilities, and other subgroups as required by state or federal law.

   5. The percentage of high school seniors who intend to pursue postsecondary education/training.

   6. The percentage of high school students achieving a score or status on a measure indicating probable postsecondary success. This measure should be the measure used by the majority of students in the school, school district, or attendance center who plan to attend a postsecondary institution.

   7. The percentage of high school graduates who complete a core program of four years of English-language arts and three or more years each of mathematics, science, and social studies.

b. **Annual progress report.** Each school or school district shall submit an annual progress report to its local community, its respective area education agency, and the department. That report shall be submitted to the department by September 15, 2000, and by September 15 every year thereafter. The report shall include, but not be limited to, the following information:

   1. Baseline data on at least one districtwide assessment for the state indicators described in subrule 12.8(3). Every year thereafter the school or school district shall compare the annual data collected with the baseline data. A school or school district is not required to report to the community about subgroup assessment results when a subgroup contains fewer than ten students at a grade level. A school or school district shall report districtwide assessment results for all enrolled and tuitioned-in students.

   2. Locally determined performance levels for at least one districtwide assessment in, at a minimum, the areas of reading, mathematics, and science. Student achievement levels as defined by the Iowa Testing Program may be used to fulfill this requirement.

   3. Long-range goals to improve student achievement in the areas of, but not limited to, reading, mathematics, and science.

   4. Annual improvement goals based on at least one districtwide assessment in, at a minimum, the areas of reading, mathematics, and science. One annual improvement goal may address all areas, or individual annual improvement goals for each area may be identified. When a school or school district does not meet its annual improvement goals for one year, it shall include in its annual progress report the actions it will take to meet annual improvement goals for the next school year.
(5) Data on multiple assessments for reporting achievement for all students in the areas of reading and mathematics by September 15, 2001, and for science by September 15, 2003.

(6) Results by individual attendance centers, as appropriate, on the state indicators as stated in subrule 12.8(3) and any other locally determined factors or indicators. An attendance center, for reporting purposes, is a building that houses students in grade 4 or grade 8 or grade 11.

(7) Progress with the use of technology as required by Iowa Code section 295.3. This requirement does not apply to accredited nonpublic schools.

(8) School districts are encouraged to provide information on the reading proficiency of kindergarten through grade 3 students by grade level. However, all school districts receiving early intervention block grant funds shall report to the department the progress toward achieving their early intervention goals.

(9) Other reports of progress as the director of the department requires and other reporting requirements as the result of federal and state program consolidation.

12.8(4) Comprehensive school improvement and the accreditation process. All schools and school districts having accreditation on August 18, 1999, are presumed accredited unless or until the state board takes formal action to remove accreditation. The department shall use a Phase I and a Phase II process for the continued accreditation of schools and school districts as defined in Iowa Code section 256.11(10).

a. Phase I. The Phase I process includes ongoing monitoring by the department of each school and school district to determine if it is meeting the goals of its comprehensive school improvement plan and meeting the accreditation standards. Phase I contains the following two components:

(1) Annual comprehensive desk audit. This audit consists of a review by the department of a school or school district’s annual progress report. The department shall review the report as required by subrule 12.8(3) and provide feedback regarding the report. The audit shall also include a review by the department of other annual documentation submitted by a school or school district as required for compliance with the educational standards in Iowa Code section 256.11 and other reports required by the director.

When the department determines a school or school district has areas of noncompliance, the department shall consult with the school or school district to determine what appropriate actions shall be taken by the school or school district. The department shall facilitate technical assistance when requested. When the department determines that a school or school district has not met compliance with one or more accreditation standards within a reasonable amount of time, the school or school district shall submit an action plan that is approved by the department. The action plan shall contain reasonable timelines for coming into compliance. If the department determines that the school or school district is not taking the necessary actions, the director of the department may place the school or school district in a Phase II accreditation process.

If a school or school district does not meet its stated annual improvement goals for at least two consecutive years in the areas of mathematics and reading and is not taking corrective steps, the department shall consult with the school or school district and determine whether a self-study shall be required. The department shall facilitate technical assistance when needed. The self-study shall include, but is not limited to, the following:

1. A review of the comprehensive school improvement plan.
2. A review of each attendance center’s student achievement data.
3. Identification of factors that influenced the lack of goal attainment.
4. Submission of new annual improvement goals, if necessary.
5. Submission, if necessary, of a revised comprehensive school improvement plan.

Upon completion of a department-required self-study, the department shall collaborate with the school or school district to determine whether one or more attendance centers are to be identified as in need of improvement. For those attendance centers identified as being in need of improvement, the department shall facilitate technical assistance.

When a school or school district has completed a required self-study and has not met its annual improvement goals for at least two or more consecutive years, the department may conduct a site visit.
When a site visit occurs, the department shall determine if appropriate actions were taken. If the site visit findings indicate that appropriate actions were taken, accreditation status shall remain.

(2) Comprehensive site visit. A comprehensive site visit shall occur at least once every five years as required by Iowa Code section 256.11(10) or before, if requested by the school or school district. The purpose of a comprehensive site visit is to assess progress with the comprehensive school improvement plan, to provide a general assessment of educational practices, to make recommendations with regard to the visit findings for the purposes of improving educational practices above the level of minimum compliance, and to determine that a school or school district is in compliance with the accreditation standards. The department and the school district or school may coordinate the accreditation with activities of other accreditation associations. The comprehensive site visit shall include the following components:

1. School improvement site visit team. The department shall determine the size and composition of the school improvement site visit team. The team shall include members of the department staff and may include other members such as, but not limited to, area education agency staff, postsecondary staff, and other school district or school staff.

2. Previsit actions. The school improvement team shall review the five-year comprehensive school improvement plan, annual progress reports, and any other information requested by the department.

3. The site visit report. Upon review of documentation and site visit findings, the department shall provide a written report to the school or school district based on the comprehensive school improvement plan and other general accreditation standards. The report shall state areas of strength, areas in need of improvement, and areas, if any, of noncompliance. For areas of noncompliance, the school or school district shall submit, within a reasonable time frame, an action plan to the department. The department shall determine if the school or school district is implementing the necessary actions to address areas of noncompliance. If the department determines that the school or school district is not taking the necessary actions, the director of the department may place the school or school district in a Phase II accreditation process.

b. Conditions under which a Phase II visit may occur. A Phase II accreditation process shall occur if one or more of the following conditions exist:

(1) When either the annual monitoring or the comprehensive site visit indicates that a school or school district is deficient and fails to be in compliance with accreditation standards;

(2) In response to a petition filed with the director of the department requesting such a committee visitation that is signed by 20 percent or more of the registered voters of a school district;

(3) In response to a petition filed with the director of the department requesting such a committee visitation that is signed by 20 percent or more of the families having enrolled students in a school or school district;

(4) At the direction of the state board of education; or

(5) Upon recommendation of the school budget review committee for a district that exceeds its authorized budget or carries a negative unspent balance for at least two consecutive years.

c. The Phase II process. The Phase II process shall consist of monitoring by the department. This monitoring shall include the appointment of an accreditation committee to complete a comprehensive review of the school or school district documentation on file with the department. The accreditation committee shall complete one or more site visits. The Phase II process shall include the following components:

1. Accreditation committee. The director of the department shall determine accreditation committee membership. The chairperson and majority of the committee shall be department staff. The committee may also include at least one representative from another school or school district, AEA staff, postsecondary education staff, board members, or community members. No member of an accreditation committee shall have a direct interest, as determined by the department, in the school or school district involved in the Phase II process. The accreditation committee shall have access to all documentation obtained from the Phase I process.

2. Site visit. The accreditation committee shall conduct one or more site visits to determine progress made on noncompliance issues.
(3) Accreditation committee actions. The accreditation committee shall make a recommendation to the director of the department regarding accreditation status of the school or school district. This recommendation shall be contained in a report to the school or school district that includes areas of strength, areas in need of improvement, and, if any, the areas still not in compliance. The committee shall provide advice on available resources and technical assistance for meeting the accreditation standards. The school or school district may respond in writing to the director if it does not agree with the findings in the Phase II accreditation committee report.

(4) State board of education actions. The director of the department shall provide a report and a recommendation to the state board as a result of the Phase II accreditation committee visit and findings. The state board shall determine accreditation status. When the state board determines that a school or school district shall not remain accredited, the director of the department shall collaborate with the school or school district board to establish an action plan that includes deadlines by which areas of noncompliance shall be corrected. The action plan is subject to approval by the state board.

(5) Accreditation status. During the period of time the school or school district is implementing the action plan approved by the state board, the school or school district shall remain accredited. The accreditation committee may revisit the school or school district and determine whether the areas of noncompliance have been corrected. The accreditation committee shall report and recommend one of the following actions:

1. The school or school district shall remain accredited.
2. The school or school district shall remain accredited under certain specified conditions.
3. The school or school district shall have its accreditation removed as outlined in Iowa Code section 256.11(12).

The state board shall review the report and recommendation, may request additional information, and shall determine the accreditation status and further actions required by the school or school district as outlined in Iowa Code section 256.11(12).

DIVISION IX
EXEMPTION REQUEST PROCESS

281—12.9(256) General accreditation standards exemption request. A school or school district may seek department approval for an exemption as stated in Iowa Code sections 256.9(43) and 256.11(8). The school or school district shall submit the exemption request to the director of the department with, at a minimum, the following: (1) the written request and (2) the standard exemption plan as described in subrule 12.9(1). For the 1999-2000 school year, the written request and plan shall be submitted before October 1, 1999. For subsequent school years, the written request and plan shall be submitted on or before January 1 preceding the beginning of the school year for which the exemption is sought. The exemption request may be approved for a time period not to exceed five years. The department may approve, on request of the school or school district, an extension of the exemption beyond the initial five-year period. The department shall notify the school or school district of the approval or denial of its exemption request not later than March 1 of the school year in which the request was submitted.

12.9(1) General accreditation standards exemption plan. The plan shall contain, but is not limited to, the following components:

a. The standard or standards for which the exemption is requested.

b. A rationale for each general accreditation standard identified in paragraph “a.” The rationale shall describe how the approval of the request will assist the school or school district to improve student achievement or performance as described in its comprehensive school improvement plan.

c. The sources of supportive research evidence and information, when appropriate, that were analyzed and used to form the basis of each submitted rationale.

d. How the school or school district staff collaborated with the local community or with the school improvement advisory committee about the need for the exemption request.

e. Evidence that the board approved the exemption request.

f. A list of the indicators that will be measured to determine success.
g. How the school or school district will measure the success of the standards exemption plan on improving student achievement or performance.

In its annual progress report as described in paragraph 12.8(3) "b," the school or school district that receives an exemption approval shall include data to support increased student learning, achievement, or performance that has resulted from the approved standards exemption.

12.9(2) General accreditation standards exemption request and exemption plan review criteria. The department shall use the information provided in the written request and exemption plan as described in subrule 12.9(1) to determine approval or denial of requests for exemptions from the general accreditation standards. The department will use the following criteria for approval or denial of an exemption plan:

a. Components “a” through “g” listed in subrule 12.9(1) are addressed.

b. Clarity, thoroughness, and reasonableness are evident, as determined by the department, for each component of the accreditation standards exemption plan.

DIVISION X
INDEPENDENT ACCREDITING AGENCIES

281—12.10(256) Independent accrediting agencies. Notwithstanding subsections 1 through 12 of Iowa Code section 256.11 and this chapter, a nonpublic school may be accredited by an independent accrediting agency that appears on a list maintained by the state board of education instead of being accredited by the state board.

12.10(1) Compliance required by a nonpublic school. A nonpublic school that participates in the accreditation process offered by an independent accrediting agency on the approved list published pursuant to this rule shall be deemed to meet the education standards of Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, and this chapter. However, such a school shall comply with statutory health and safety requirements for school facilities. A nonpublic school accredited under this chapter shall abide by all state and federal laws and regulations. Notwithstanding Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, the department is not precluded from enforcing compliance with all state and federal laws and regulations.

12.10(2) Compliance required by accrediting agency. Agencies approved under subrule 12.10(3) shall abide by all state and federal laws and regulations and shall enforce those laws and regulations on the schools they accredit. Notwithstanding Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, the department is not precluded from enforcing compliance with all state and federal laws and regulations.

12.10(3) List maintained by state board. The state board shall maintain a list of approved independent accrediting agencies comprised of at least six regional or national nonprofit, nongovernmental agencies recognized as reliable authorities concerning the quality of education offered by a school and shall publish the list of independent accrediting agencies on the department’s Internet site. The list shall include accrediting agencies that, as of January 1, 2013, accredited a nonpublic school in this state that was concurrently accredited under this rule and shall include any agency that has a formalized partnership agreement with another agency on the list and has member schools in this state as of January 1, 2013. Agencies that met this standard as of November 20, 2013, are the Independent Schools Association of the Central States (ISACS), Christian Schools International (CSI), AdvancEd, the National Lutheran Schools Association (NLSA), and the Association of Christian Schools International (ASCI).

12.10(4) Criteria for recognizing an agency as a “reliable authority concerning the quality of education offered by a school.” In any decision to add an agency to the list maintained pursuant to subrule 12.10(1) or to remove an agency from the list pursuant to subrule 12.10(3), the following criteria may be applied:

a. Whether the agency’s accreditation standards require a school to set high academic and nonacademic standards for all students, including preparation of students for postsecondary success.

b. Whether the agency’s accreditation standards require a school to monitor and assess all students’ progress toward high academic and nonacademic standards.
c. Whether the agency’s accreditation standards require a school to recruit and retain properly licensed quality professional staff, and provide those staff members with ongoing professional development.

d. Whether the agency’s accreditation standards set requirements for fiscal, data, and contract management.

e. Whether the agency monitors compliance with its standards and takes appropriate corrective action when standards are not met.

f. Whether the agency itself has appropriate fiscal, data, and contract management policies and procedures.

g. Any uncorrected citation of noncompliance by any governmental or nongovernmental agency or organization with jurisdiction or oversight of an accrediting agency listed pursuant to subrule 12.10(1).

h. Any uncorrected negative audit finding of an accrediting agency listed pursuant to subrule 12.10(1).

i. Any judgments, orders, decrees, consent decrees, settlement agreements, or verdicts concerning the agency listed pursuant to subrule 12.10(1) entered by any state or federal court of competent jurisdiction.

j. Whether the agency listed pursuant to subrule 12.10(1) continues to retain its nonprofit status.

k. Whether the agency listed pursuant to subrule 12.10(1) has received any form of recognition for innovation or excellence concerning its work.

l. Any other criterion used by the agency to determine accreditation.

m. Any other reports or findings sent to the nonpublic school regarding accreditation, including findings related to Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89.

12.10(5) Removal of agency from approved independent accrediting agencies. If the state board takes preliminary action to remove an agency from the approved list published on the department’s Internet site pursuant to subrule 12.10(1), the department shall, at least one year prior to removing the agency from the approved list, notify the nonpublic schools participating in the accreditation process offered by the agency of the state board’s intent to remove the accrediting agency from its approved list of independent accrediting agencies. The department shall give notice to the independent accrediting agency, along with an opportunity to respond. The notice shall also be posted on the department’s Internet site and shall contain the proposed date of removal. If a nonpublic school receives notice pursuant to this subrule and it chooses to remain accredited, the nonpublic school shall attain accreditation under this rule or otherwise attain accreditation in a manner provided by this chapter or Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, not later than one year following the date on which the state board removes the agency from its list of independent accrediting agencies.

12.10(6) Rule of construction: “at least six.” The obligation to maintain a list of at least six agencies in subrule 12.10(1) shall not be construed to require the list to contain an agency that is not a regional or nonprofit, nongovernmental agency recognized as a reliable authority concerning the quality of education offered by a school.

12.10(7) Adoption by the department of standard procedures. The department shall adopt standard procedures, schedules, and forms for the implementation of this rule, including procedures for adding independent accrediting agencies from the list maintained by the state board pursuant to subrule 12.10(1) and removing agencies from that list pursuant to subrule 12.10(3).

12.10(8) Automatic repeal. Pursuant to the repeal clause in 2013 Iowa Acts, House File 215, section 89, this rule is rescinded July 1, 2020.

[ARC 1118C, IAB 10/16/13, effective 11/20/13]

These rules are intended to implement Iowa Code sections 256.11, 280.23, and 256.7(21).

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]
[Filed emergency 7/7/89—published 7/26/89, effective 7/7/89]
[Filed 10/13/89, Notice 7/26/89—published 11/1/89, effective 12/6/89]
[Filed 9/13/91, Notice 2/6/91—published 10/2/91, effective 11/6/91]
[Filed 1/15/93, Notice 9/16/92—published 2/3/93, effective 3/10/93]
[Filed 11/17/94, Notice 9/28/94—published 12/7/94, effective 1/11/95]
[Filed 10/24/97, Notice 8/27/97—published 11/19/97, effective 12/24/97]
[Filed 6/25/99, Notice 4/7/99—published 7/14/99, effective 8/18/99]
[Filed 1/16/01, Notice 10/4/00—published 2/7/01, effective 3/14/01]
[Filed 8/10/01, Notice 4/18/01—published 9/5/01, effective 10/10/01]
[Filed 11/16/05, Notice 9/28/05—published 12/7/05, effective 1/11/06]
[Filed 5/10/07, Notice 3/28/07—published 6/6/07, effective 7/11/07]
[Filed 11/14/07, Notice 8/15/07—published 12/5/07, effective 1/9/08]
[Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]
[Filed 2/8/08, Notice 12/19/07—published 2/27/08, effective 4/2/08]
[Filed 4/3/08, Notice 10/10/07—published 4/23/08, effective 5/28/08]

[Filed ARC 7783B (Notice ARC 7504B, IAB 1/14/09), IAB 5/20/09, effective 6/24/09]
[Filed ARC 0016C (Notice ARC 9909B, IAB 12/14/11), IAB 2/22/12, effective 3/28/12]

[Editorial change: IAC Supplement 3/21/12]
[Filed ARC 0525C (Notice ARC 0297C, IAB 8/22/12), IAB 12/12/12, effective 1/16/13]
[Filed ARC 1115C (Notice ARC 0954C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]
[Filed ARC 1116C (Notice ARC 0958C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]
[Filed ARC 1118C (Notice ARC 0964C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]
[Filed ARC 1663C (Notice ARC 1527C, IAB 7/9/14), IAB 10/15/14, effective 11/19/14]

◊ Two or more ARCs
1 Effective date of Chapter 4 delayed 70 days by Administrative Rules Review Committee at its meeting held April 20, 1988.
2 March 28, 2012, effective date of 12.3(3), 12.4(6), 12.4(14), 12.5(4) “l,” and 12.5(17) delayed 30 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.
TITLE IV
DRIVER AND SAFETY EDUCATION

CHAPTER 26
DRIVER EDUCATION

[Prior to 9/7/88, see Public Instruction Department[670] Ch 6]
Rescinded IAB 8/21/02, effective 9/25/02
CHAPTER 27
WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

281—27.1(260C) Purpose. The purpose of the workforce training and economic development funds is to provide revenue for each community college to address the workforce development needs of the state. The primary focus of workforce training and economic development funds is to provide training and retraining of Iowa workers to develop the skills of employees employed in targeted areas or to address a workforce development need of a targeted area. Moneys are appropriated for each community college from the Iowa skilled worker and job creation fund to the workforce training and economic development funds. [ARC 1662C, IAB 10/15/14, effective 11/19/14]

281—27.2(260C) Definitions.

“Community college” or “college” means a community college established under Iowa Code chapter 260C.

“Department” means the Iowa department of education.

“Fund” or “funds” means the workforce training and economic development funds created by Iowa Code section 260C.18A and allocated to each community college.

“Project” means a training or educational activity funded by a workforce training and economic development fund.

“State board” or “board” means the Iowa state board of education.

“Targeted areas” means the areas of advanced manufacturing; information technology and insurance; alternative and renewable energy including the alternative and renewable energy sectors listed in Iowa Code section 476.42(1) “a”; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology. [ARC 1662C, IAB 10/15/14, effective 11/19/14]

281—27.3(260C) Funds allocation. The department shall allocate moneys, appropriated by the general assembly or other moneys accepted by the department, for the workforce training and economic development fund established for each community college by utilizing the most current distribution formula that is used for the allocation of state general aid to the community colleges available on July 1 of the fiscal year for which funds are being allocated. Each community college shall establish a workforce training and economic development fund account within its college accounting system into which the department shall make deposits of the allocated moneys. The deposits shall be made quarterly or on a more frequent basis. Moneys that are not used and that remain in a community college’s fund at the end of a fiscal year shall remain available to that college for expenditure in subsequent fiscal years. [ARC 1662C, IAB 10/15/14, effective 11/19/14]

281—27.4(260C) Community college workforce and economic development fund plans and progress reports. For the fiscal year beginning July 1, 2013, and each fiscal year thereafter, each community college, to receive its allocation for the forthcoming fiscal year, shall prepare and submit to the department for state board consideration the following items for the fiscal year.

27.4(1) Workforce training and economic development fund plan. Each college shall adopt a workforce training and economic development fund plan for the upcoming year that outlines the community college’s proposed use of moneys appropriated to its workforce training and economic development fund. Plans shall be based on fiscal years and must be submitted to the department, in a manner prescribed by the department, by September 30 for the current fiscal year allocation. Plans shall describe how the college proposes to allocate funds to support individual allowable uses pursuant to 281—27.5(260C) and the planned amount to be used to support targeted areas.

27.4(2) Progress reports. Each college that receives an allocation of moneys pursuant to 281—27.3(260C) shall prepare an annual progress report detailing the plan’s implementation. The report shall be submitted to the department by September 30 of each year in a manner and form as prescribed by the department. The report shall provide information regarding projects supported by the
college’s fund including, but not limited to, the number of participants enrolled in each program, the number of participants who complete each program, the dollars spent on each allowable use pursuant to 281—27.5(260C), the dollars spent in targeted areas, and other data necessary to report on state program performance metrics.

[ARC 1662C, IAB 10/15/14, effective 11/19/14]

281—27.5(260C) Use of funds. Moneys deposited into each community college fund may be expended for the following permissive uses, provided that 70 percent of the moneys be used on projects in targeted areas and projects are operated in compliance with state and federal law:

27.5(1) Projects in which an agreement between a community college and an employer located within the community college’s merged area meets all of the requirements of the accelerated career education program pursuant to Iowa Code chapter 260G and 261—Chapter 20 and which are approved by the Iowa economic development authority, when applicable.

27.5(2) Projects in which an agreement between a community college and a business meets all the requirements of the Iowa jobs training Act under Iowa Code chapter 260F and 261—Chapter 7.

27.5(3) For the development and implementation of career academies meeting all of the requirements of 281—47.1(260C).

27.5(4) Programs and courses that provide vocational and technical training and programs for in-service training and retraining under Iowa Code section 260C.1, subsections 2 and 3. As it pertains to Iowa Code section 260C.1, subsection 2, vocational and technical training shall mean new or expanded career and technical education coursework that has department approval and results in the conferring of a diploma, degree, or certificate. The enhancement of academic core courses within career and technical programs is also eligible. As they pertain to Iowa Code section 260C.1, subsection 3, eligible activities shall mean short-term, noncredit training and retraining projects.

27.5(5) Development and implementation of the pathways for career and employment program meeting all of the requirements of Iowa Code chapter 260H and 281—Chapter 25.

27.5(6) Development and implementation of the GAP tuition assistance program meeting all of the requirements of Iowa Code chapter 260I and 281—Chapter 25.

27.5(7) Programs for entrepreneurship education, small business assistance, and business incubators.

27.5(8) Development and implementation of the National Career Readiness Certificate and the Skills Certification System endorsed by the National Association of Manufacturers.

[ARC 1662C, IAB 10/15/14, effective 11/19/14]

281—27.6(260C) Prior approval. Any individual project using over $1 million of moneys from a workforce training and economic development fund shall require prior approval from the state board of education.

[ARC 1662C, IAB 10/15/14, effective 11/19/14]

281—27.7(260C) Annual plan and progress report approval.

27.7(1) The state board of education shall review and consider approval of reports and plans submitted pursuant to 281—27.4(260C).

27.7(2) The state board of education may reject a plan or progress report for any of the following reasons, including but not limited to:

a. Incomplete information or data;

b. Seventy percent of fund expenditures not utilized for projects in the areas of advanced manufacturing; information technology and insurance; alternative and renewable energy including the alternative and renewable energy sectors listed in Iowa Code section 476.42(1)”a”; and life sciences which include the areas of biotechnology, health care technology, and nursing care technology;

c. Project not operated in compliance with state or federal law.

[ARC 1662C, IAB 10/15/14, effective 11/19/14]
Options upon default or noncompliance. If the state board does not accept a college’s annual progress report, the college shall be subject to the following actions as prescribed by the board based upon the severity of the noncompliance or default, including but not limited to:

1. The withholding of a portion of new fiscal year moneys based upon amounts awarded deemed to be ineligible;
2. Tighter oversight and control of the college’s fund by the department;
3. Loss of funds for one year;
4. Other action deemed appropriate by the board.

These rules are intended to implement Iowa Code section 260C.18A.

[Filed ARC 1662 (Notice ARC 1529, IAB 7/9/14), IAB 10/15/14, effective 11/19/14]
CHAPTERS 28 to 30
Reserved
Title VIII
School Transportation

Chapter 43
Pupil Transportation

[Prior to 9/7/88, see Public Instruction Department[670] Ch 22]

Division 1
Transportation Routes

281—43.1(285) Intra-area education agency routes.

43.1(1) Bus routes within the boundaries of transporting districts as well as within designated areas must be as efficient and economical as possible under existing conditions. Duplication of service facilities shall be avoided insofar as possible.

43.1(2) A route shall provide a load of at least 75 percent capacity of the bus.

43.1(3) The riding time, under normal conditions, from the designated stop to the attendance center, or on the return trip, shall not exceed 75 minutes for high school pupils or 60 minutes for elementary pupils. (These limits may be waived upon request of the parents.)

43.1(4) Pupils whose residence is within two miles of an established stop on a bus route are within the area served by the bus and are not eligible for parent or private transportation at public expense to the school served by the bus, except as follows:

   a. Bus is fully loaded.
   b. Physical handicap makes bus transportation impractical.

All parents or guardians who are required by their school district to furnish transportation for their children up to two miles to an established stop on a bus route shall be reimbursed pursuant to Iowa Code subsection 285.1(4).

43.1(5) Transporting districts shall arrange routes to provide the greatest possible convenience to the pupils. Distance pupils who are required to transport themselves to meet the bus shall be kept to the minimum consistent with road conditions, uniform standards and legal requirements for locating bus routes.

43.1(6) Each bus route shall be reviewed annually for safety hazards.

281—43.2(285) Interarea education agency routes.

43.2(1) Joint consultation shall be held by the area education agency boards involved. The initial steps may be undertaken by the area education agency administrators. If there are no difficulties and agreement is reached, the route is approved and no further action need be taken.

43.2(2) If agreement is not reached in the initial attempt, the administrator of the area education agency in which the applying school is located shall advise the superintendent of reasons for failure to reach agreement and request that the superintendent revise the transportation plan to meet the objection and resubmit same.

43.2(3) If the area education agency boards do not reach agreement on the route, the home area education agency administrator shall forward the complete record of the case together with disapproved transportation plan to the state department of education. Every effort should be made, however, to settle the matter locally.

43.2(4) All legal provisions, standards and regulations applying to approval and operation of bus routes apply equally to interarea education agency bus routes.

43.2(5) All interarea education agency bus routes must be approved each year. If there has been no change in the designations, nor in the proposed route, transportation plan may be made and agreement indicated by letter.
DIVISION II
PRIVATE CONTRACTORS

281—43.3(285) Contract required. All private contractors wishing to transport pupils to and from school in privately owned vehicles must be under contract with the board of education. This requirement will not apply to individuals who transport their own children or other children on a not-for-hire basis. The contract form used shall be that provided by the department of education. (Form TR-F-4-497)

281—43.4(285) Uniform charge. The contract must provide for a uniform charge for all pupils transported. No differentiations may be made between pupils of different districts except as provided in Iowa Code section 285.1(12).

281—43.5(285) Board must be party. The contractor may not arrange with individual families for transportation. The contractor undertakes to transport only those families indicated by the board of education.

281—43.6(285) Contract with parents. Parents, guardians, or custodians undertaking to transport other children for hire, in addition to their own, are private contractors. These individuals must be under contract, and must obtain an appropriate driver’s license and a school bus driver’s authorization.

281—43.7(285) Vehicle requirements. Any vehicle used, other than that used by individuals to transport their own children or other children on a not-for-hire basis, is considered to be a school bus and must meet all requirements for the type of vehicle used. (This requirement is not intended to restrict the use of passenger cars during the time the vehicles are not actually engaged in transporting school pupils.)

DIVISION III
FINANCIAL RECORDS AND REPORTS

281—43.8(285) Required charges. Full pro rata costs must be charged and collected for the transportation of all nonresident pupils. No differentiation may be made in charges due to differences in distance or grade in school.

281—43.9(285) Activity trips deducted. Transporting school districts which use their equipment for activity trips, or educational tours, or other types of transportation services as permitted in Iowa Code sections 285.10(9) and 285.10(10), must deduct the cost of trips from the total yearly transportation cost. In other words, costs may not be included in the pro rata costs which determine the charge to sending districts.

Accurate and complete accounting records must be kept so that the cost of transportation to and from school may be ascertained.

DIVISION IV
USE OF SCHOOL BUSES

281—43.10(285) Permitted uses listed. School buses may be used to transport pupils under the following conditions:

43.10(1) The program is a part of the regular or extracurricular program of a public school and has been so adopted and made a matter of record in the minutes of all the boards involved.

43.10(2) The pupils are enrolled in a public school.

43.10(3) The program or activity must be sponsored by a school or group of schools cooperatively and be under the direct control of a qualified teacher or recreational or playground director of a school district.

a. A regularly certificated teacher must be in charge of the program. Several or all schools may engage the same instructor on a cooperative basis.
b. In transporting pupils to Red Cross swimming classes a superintendent of schools may be designated by action of the district board as the supervisor or director of the activity and may use the Red Cross instructor to carry on the actual instruction in swimming.

c. If the Red Cross instructor holds a regular teacher’s certificate issued by the board of educational examiners, the instructor can be named as general supervisor of the activity by the several schools.

43.10(4) The bus shall be driven by a regularly approved driver holding an appropriate driver’s license and a school bus driver’s authorization. In addition, the buses must be accompanied by a member of the faculty or other employee of the school or a parent or other adult volunteer as authorized by a school administrator who will be responsible for the conduct and the general supervision of the pupils on the bus and at the place of the activity. If the faculty member is an approved driver, that person can act both as a driver and faculty sponsor.

43.10(5) School buses may be used by an organization of, or sponsoring activities for, senior citizens, children, handicapped, and other persons and groups, and for transportation of persons other than pupils to activities in which pupils from the school are participants or are attending the activity or for which the school is a sponsor under the following conditions:

a. The “school bus” signs shall be covered and the flashing warning lamps and stop arm made inoperable when the bus is being used in a nonschool-sponsored activity.

b. Transportation outside the state of Iowa shall not be provided without the approval of the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

c. A chaperone shall accompany each bus to assist the passengers in boarding and disembarking from the bus and to aid them in case of illness or injury.

d. The driver of the bus shall be approved by the local board of education and must possess an appropriate driver’s license and a school bus driver’s authorization.

e. The driver of the bus shall observe the maximum speed limits for school buses at all times.

43.10(6) Seating.

a. Each passenger shall have a comfortable seat.

b. Student passengers shall have a minimum of 13 inches of allowable seating per person.

c. For adult groups, no more than two persons shall occupy a 39-inch seat.

d. Standees are prohibited in all situations, whether the bus is transporting students or adults.

e. The maximum number of passengers shall never exceed the rated capacity of the vehicle as it is equipped.

281—43.11(285) Teacher transportation. Public school teachers who are transported should be included in the average number transported and should be charged the pro rata cost by the transporting district.

DIVISION V
THE BUS DRIVER

281—43.12(285) Driver qualifications. General character and emotional stability are qualities which must be given careful consideration by boards of education in the selection of school bus drivers. Elements that should be considered in setting a character standard are:

1. Reliability or dependability.

2. Initiative, self-reliance, and leadership.

3. Ability to get along with others.

4. Freedom from use of undesirable language.

5. Personal habits of cleanliness.

6. Moral conduct above reproach.

7. Honesty.

8. Freedom from addiction to narcotics or habit-forming drugs.

9. Freedom from addiction to alcoholic beverages or liquors.

281—43.13(285) Stability factors. Factors to be considered in determining emotional stability are:
43.13(1) Patience.
43.13(2) Considerateness.
43.13(3) Even temperament.
43.13(4) Calmness under stress.

281—43.14(285) Driver age. School bus drivers must be at least 18 years of age on or before August 1 preceding the opening of the school year for which a school bus driver’s authorization is required.

281—43.15(285) Physical fitness. Except for insulin-dependent diabetics, an applicant for a school bus driver’s authorization must undergo a biennial physical examination by a certified medical examiner who is listed on the National Registry of Certified Medical Examiners. The applicant must submit annually to the applicant’s employer the signed medical examiner’s certificate (pursuant to Federal Motor Carrier Safety Administration regulations 49 CFR Sections 391.41 to 391.49), indicating, among other requirements, sufficient physical capacity to operate the bus effectively and to render assistance to the passengers in case of illness or injury and freedom from any communicable disease. At the discretion of the chief administrator or designee of the employer or prospective employer, the chief administrator or designee shall evaluate the applicant’s ability in operating a school bus, including all safety equipment, in providing assistance to passengers in evacuation of the school bus, and in performing other duties required of a school bus driver.

[ARC 1661C, IAB 10/15/14, effective 11/19/14]

281—43.16(285) Tests for tuberculosis. Rescinded IAB 8/16/06, effective 9/20/06.

281—43.17(285) Insulin-dependent diabetics. A person who is an insulin-dependent diabetic may qualify to be a school bus driver if the person meets all qualifications of Iowa Code subsection 321.375(3). Such driver is subject to an annual physical examination by a qualified medical examiner as listed in rule 281—43.15(285).

281—43.18(285) Authorization to be carried by driver. Every school bus driver shall carry a copy of the driver’s school bus driver’s authorization at all times when the driver is acting in that capacity.

281—43.19(285) Vision requirements. Rescinded IAB 12/8/04, effective 1/12/05.

281—43.20(285) Hearing requirements. Rescinded IAB 12/8/04, effective 1/12/05.

281—43.21(285) Experience, traffic law knowledge and driving record. No driver applicant shall be employed or allowed to transport students until the board determines that the applicant has an acceptable driving record, demonstrates the ability to safely operate the vehicle(s) representative of the vehicle(s) required to be operated during employment and is knowledgeable of traffic laws and regulations pertaining to the operation of a school bus. Each local district, or the district’s contracted transportation service, must, at a minimum, check the driving record of each applicant or renewing driver on the Iowa court information system available to the general public. The local district shall determine what an acceptable driving record is based upon the district’s review and must maintain records of the review of each driver. Nothing in this rule precludes the district from examining other records to determine whether the driver has an acceptable driving record nor does it restrict the district to such examinations only at the time of hiring and renewal.

[ARC 0517C, IAB 12/12/12, effective 1/16/13]

281—43.22(321) Fee collection and distribution of funds. The department of education, commencing with the biannual school bus inspections for the 2002-2003 school year and each year thereafter, shall assess a fee for each school bus or allowable alternative vehicle (pursuant to rule 761—911.7(321)) inspected by the department. The department shall present for payment a fee statement to the owner of each school bus or allowable alternative vehicle inspected.
The department of education shall submit an annual budget request for an amount equal to 100 percent of the total projected fees to be collected during the next fiscal year which shall be based on an amount equal to the number of school bus and allowable alternative vehicle inspections completed during the previous school year multiplied by the inspection fee authorized by statute.

One component of the annual budget shall be an annual “school bus driver and passenger safety education plan.” The plan shall outline the projects and activities to be included during each year. These projects and activities may include, but not be limited to, curriculum development costs, printing and distribution of safety literature and manuals, purchase of equipment used in conducting school bus safety education programs, and other expenditures deemed appropriate by the department of education.

281—43.23(285) Application form. The school bus driver and the board of education shall submit an application for the school bus driver’s authorization annually, and upon a form prescribed by the department of education.

281—43.24(321) Authorization denials and revocations. A person who believes that a school bus driver who holds an authorization issued by the department of education or who seeks a school bus authorization has committed acts in violation of Iowa Code subsection 321.375(2) or rule 281—43.12(285) may file a complaint with the department against the driver or applicant. The department shall notify the driver or applicant that a complaint has been filed and shall provide the driver or applicant with a copy of the complaint. A hearing shall be set for the purpose of determining whether the bus driver’s authorization shall be denied, suspended, or revoked, or whether the bus driver should receive a reprimand or warning. Hearing procedures in 281—Chapter 6 shall be applicable to such proceedings. No school bus driver or applicant shall retain or obtain employment if the local district finds that the individual is listed on the sex offender registry under Iowa Code section 692A.121 available to the general public, the central registry for child abuse information established under Iowa Code section 235A.14, or the central registry for dependent adult abuse information established under Iowa Code section 235B.5. A hearing conducted pursuant to Iowa Code section 321.375(3) or 321.376 shall be limited to the question of whether the school bus driver or applicant was incorrectly listed on the registry. The driver or applicant shall not serve in the capacity of a school bus driver while the appeal process is being conducted.

[ARC 0517C; IAB 12/12/12; effective 1/16/13]

DIVISION VI
PURCHASE OF BUSES

281—43.25(285) Local board procedure. The board of education shall proceed as follows in purchasing school buses:

43.25(1) Rescinded IAB 12/15/10, effective 1/19/11.
43.25(2) Notify dealers of intent to purchase school transportation equipment and request bids.
43.25(3) Reserve right to reject all bids.
43.25(4) Require all bids to be on comparable equipment which meets all state and federal requirements.
43.25(5) Hold an open meeting for dealers to present merits of their equipment.
43.25(6) Review bids, tabulate all bids, make a record of action taken.
43.25(7) Sign contracts or orders for purchase of school transportation equipment. The purchase agreement must provide that the dealer will deliver equipment which will pass initial state inspection at no further cost to the school and further provide that the school board shall withhold at least $150 until the vehicle passes initial state inspection.
43.25(8) Notify the bureau of nutrition programs and school transportation of the state department of education of purchase and date of delivery so that arrangements can be made for the initial school bus inspection. No school bus can be put into service until it has passed a pre-use inspection conducted pursuant to Form TR-F-27B by the local board of education and the form has been provided to the bureau.
of nutrition programs and school transportation. The initial school bus inspection will be conducted at
the earliest possible time convenient to the school and the department of education.
[ARC 9262B, IAB 12/15/10, effective 1/19/11]

281—43.26(285) Financing. The board of education may finance purchase of transportation equipment
as follows:

43.26(1) The board may pay all of the cost of each bus from funds on hand in general fund.
43.26(2) Bonds may be voted to purchase equipment, and funds so derived shall be used for that
purpose.

281—43.27 to 43.29 Reserved.

DIVISION VII
MISCELLANEOUS REQUIREMENTS

281—43.30(285) Semiannual inspection. To facilitate the semiannual inspection program, school and
school district officials shall send their buses to inspection centers as scheduled. A sufficient number
of drivers or other school personnel shall be available at the inspection to operate the equipment for the
inspectors. The fee for each vehicle inspected shall be $20 effective July 1, 2005; $25 effective July 1,
2007; and $28 effective July 1, 2009. Effective July 3, 2013, the fee for each vehicle inspected shall be
$40.
[ARC 0767C, IAB 5/29/13, effective 7/3/13]

281—43.31(285) Maintenance record. School officials shall cause the chassis of all buses and
allowable alternative vehicles, whether publicly or privately owned, to be inspected annually and
all necessary repairs made before the vehicle is put into service. The inspection and repairs shall
be recorded on a form (TR-F-27A) prescribed by the department of education. The completed form
(TR-F-27A) shall be signed by the mechanic and carried in the glove compartment of the bus.

281—43.32(285) Drivers’ schools. All school bus drivers shall attend classes or schools of instruction
as approved by the department of education and provided for in Iowa Code subsection 321.376(2). All
new drivers shall, within the first six months of employment, successfully complete the “new driver
STOP class” approved by the department. All current school bus drivers shall attend the annual course
of instruction. Upon missing a year of instruction, a current driver shall successfully complete the course
of instruction for new drivers prior to receiving an authorization. The employer of a school bus driver
may impose additional training requirements for any new or current driver.
[ARC 9472B, IAB 4/20/11, effective 5/25/11]

281—43.33(285) Insurance. The board of education shall carry insurance on all school-owned buses and
see that insurance is carried by all contractors engaged in transporting pupils for the district in the
coverages and limits as determined by the board of education.

281—43.34(285) Contract—privately owned buses. The board of education and a contractor who
undertakes to transport school pupils for the board, in privately owned vehicles, shall sign a contract
substantially similar to that prescribed by the department of education (Form TR-F-4-497). The contract
shall contain the following provisions:

43.34(1) To furnish and operate at the contractor’s own expense a legally approved vehicle of
transportation (or a legally approved chassis on which may be mounted a school bus body supplied and
maintained by the board of education) to and from the . . . . . . . . . . . . . . . . . . . school each day
beginning on the date set by the board over route as described, . . . . . . . . . . . . . . . . . . . .
transporting only children attending the school designated by the board of education.
43.34(2) To comply with all legal and established uniform standards of operation as required by
statute or by legally constituted authorities.
43.34(3) To comply with all uniform standards, established for protection of health and safety for pupils transported.
43.34(4) To comply with all rules and regulations adopted by the board of education for the protection of the children, or to govern the conduct of driver of bus.
43.34(5) To keep bus in good mechanical condition and up to standards required by statutes or by legally constituted authorities.
43.34(6) To take school bus to official inspection when held by state authorities with no additional expense to party of second part.
43.34(7) To see that the bus is swept and the windows cleaned each day and that registration plates and all lights are cleaned before each trip. Further, that the bus is washed and the floor swept and scrubbed with a good disinfectant each week. In case of an epidemic the entire bus shall be washed with a disinfectant.
43.34(8) To use only drivers and substitute drivers who have been approved by the board of education and have received a school bus driver’s authorization.
43.34(9) To furnish the board of education an approved certificate of medical examination for each person who is approved by the board of education to drive the bus.
43.34(10) To attend a school of instruction for bus drivers as prescribed by the bureau of nutrition programs and school transportation of the department of education. (If the owner does not drive the bus, the regular approved driver of the bus shall attend.)
43.34(11) To carry insurance on bus and pupils in the coverages and limits as determined by the board of education. Copy of policy to be filed with superintendent of schools.
43.34(12) To make such reports as may be required by state department of education, area education agency board of education, and superintendent of schools.
43.34(13) That the school bus shall be used only for transporting regularly enrolled students to and from public school and to extracurricular activities approved and designated by the board of education and further to comply with all legal restrictions on use of bus.
43.34(14) To obtain, if possible, the registration numbers of all cars violating the school bus passing law, Iowa Code section 321.372 and file information for prosecution.
43.34(15) The board of education hereby reserves the right to change routing of the bus and, if additional mileage is required, it shall be at an extra cost not exceeding $. . . . . . . per additional mile per month. If shortened. . . . . . . . . . . . . . . . . . . . .
43.34(16) Immoral conduct or the use of alcoholic beverages by the contractor or driver employed by the contractor shall result in appropriate sanctions as provided in Iowa Code section 321.375.
43.34(17) Contract may be terminated on 90-day notice by either party, Iowa Code section 285.5(4).
43.34(18) The contractor agrees that, if the contractor desires to terminate the contract, the school bus will be sold to the board of education at its request as provided in Iowa Code section 285.5(1). (This requirement does not apply to a passenger auto used as a school bus.)
[ARC 9262A, IAB 12/15/10, effective 1/19/11]

281—43.35(285) Contract—district-owned buses. The board of education and a private individual undertaking to transport school pupils for the board in school district-owned vehicles shall sign a contract substantially similar to that prescribed by the department of education (Form TR-F-5-497(revised)). The contract shall contain the following provisions:
43.35(1) To conform to all rules of the board of education in and for the district adopted for the protection of the children and to govern the conduct of the person in charge of the conveyance.
43.35(2) To make reports as may be required by the state department of education, area education agency, or superintendent of schools.
43.35(3) To conform to all standards for operation of the school buses as required by statute or by legally constituted authorities.
43.35(4) That the employee shall be entitled to benefits as outlined in the school board policy for the school district.
43.35(5) To attend a school of instruction for bus drivers as prescribed by the bureau of nutrition and school transportation of the department of education.

43.35(6) That the employer can terminate the contract and dismiss the employee for failure to conform to all laws of the state of Iowa and rules promulgated by the Iowa department of education applicable to drivers of school buses.

43.35(7) That this contract shall not be in force until the driver presents an official school bus driver’s authorization.

281—43.36(285) Accident reports. The superintendent of schools shall make a report to the bureau of nutrition and school transportation of the department of education on any accident involving any vehicle in use as a school bus. The driver of the bus shall cooperate with the superintendent in making the report. The report shall be made on the department of transportation Iowa Accident Report Form.

281—43.37(285) Railroad crossings. The driver of any school bus shall bring the bus to a complete stop at all railroad crossings, as required in Iowa Code section 321.343, regardless of whether or not there are any pupils in the bus, and regardless of whether or not there is an automatic signal at the crossing. After stopping, the driver shall open the entrance door, look and listen for approaching trains and shall not proceed to cross the tracks until it is safe to do so.

281—43.38(285) Driver restrictions.

43.38(1) The driver of a school bus shall not smoke on the bus or on any school property.

43.38(2) The driver shall not permit firearms to be carried in the bus.

43.38(3) The driver shall not fill the fuel tank while the motor is running or when there are passengers on the bus.

43.38(4) The driver shall ensure that aisles and exits are not blocked.

[ARC 9262B, IAB 12/15/10, effective 1/19/11]

281—43.39(285) Civil defense projects. Civil defense projects may be recognized by the board of directors of any school district as an authorized extracurricular activity under the following conditions:

43.39(1) Such activity may take the form of, but need not be restricted to:

a. First-aid classes.

b. Study and distribution of materials relating to community survival, fallout shelters, radiation detection, and other pertinent disaster measures.

c. Exercises and field trips related to the above matters.

d. Cooperation with local, state and national authorities, both civil and military, and interested organizations, in carrying out civil defense exercises and in planning and making preparations for passive defense in time of actual emergency.

43.39(2) The use of school buses for field trips and exercises, and the planned use of school buses in connection with actual emergency procedures to be carried on in cooperation with local, state or national authorities, civil or military, is hereby defined as properly incident to such authorized extracurricular activity.

43.39(3) All such projects, except an actual emergency operation where time is of the essence, shall have prior approval of the state department of education.

43.39(4) The bus shall be driven by an approved driver holding an appropriate driver’s license and a regular school bus driver’s authorization except that in actual emergency situations, where regular drivers are not available, certain other drivers, including students and teachers, may be used providing the following conditions are met. The driver shall:

a. Be approved by the local board of education.

b. Be at least 18 years of age, be physically and mentally competent, and not possess personal or moral habits which would be detrimental to the best interests of the safety and welfare of the children transported.

43.39(5) Rescinded IAB 12/8/04, effective 1/12/05.
281—43.40(285) Pupil instruction. At least twice during each school year, each pupil who is transported in a school vehicle shall be instructed in safe riding practices and participate in emergency evacuation drills.

281—43.41(285) Trip inspections. A pretrip inspection of each school bus shall be performed and recorded prior to each trip. A written report shall be submitted promptly to the superintendent of schools, transportation supervisor, school bus mechanic, or other person charged with the responsibility for the school transportation program, if any defects or deficiencies are discovered that may affect the safety of the vehicle’s operation or result in its mechanical breakdown. A posttrip inspection of the interior of the school bus shall be performed after each trip.

281—43.42(285) Loading and unloading areas. Restricted loading and unloading areas shall be established for school buses at, or near schools.

281—43.43(285) Communication equipment. Each school bus shall have a two-way communications system or cellular telephone capable of emergency communication between the driver of the bus and the school’s base of operations for school transportation.

DIVISION VIII
COMMON CARRIERS

281—43.44(285) Standards for common carriers. These standards are intended to apply to any vehicle operated by a common carrier when used exclusively for student transportation to and from school.

43.44(1) Vehicles.
   a. The vehicles need not be painted yellow and black as required for conventional school buses.
   b. The vehicles shall, while transporting children to and from school, be equipped with temporary signs, located conspicuously on the front and back of the vehicle. The sign on the front shall have the words “School Bus” printed in black letters not less than six inches high, on a background of national school bus glossy yellow. The sign on the rear shall be at least ten square feet in size and shall be painted national school bus glossy yellow, and have the words “School Bus” printed in black letters not less than eight inches high. The yellow is to be in accordance with the colorimetric specification of Federal Standard No. 595a, Color 13432; the black matching Federal Standard 595a, Color 17038. Both the six-inch and eight-inch letters shall be Series “D” as specified in the Standard Alphabet—Federal Highway Administration, 1966.
   c. Rescinded, effective 8/11/82.

43.44(2) Drivers.
   a. The driver shall have an appropriate driver’s license issued by the Iowa department of transportation.
   b. The driver shall possess a school bus driver’s authorization issued by the Iowa department of education.
   c. The driver shall receive training in accordance with state requirements for school bus drivers.

43.44(3) Seating.
   a. Each passenger shall have a comfortable seat.
   b. Standees are prohibited.

43.44(4) Loading and unloading procedures.
   a. Vehicle shall pull close enough to curb to prevent another vehicle from passing on right side.
   b. If vehicle is not equipped with flashing warning lights or stop arm, or if use of this equipment is prohibited by law, the pupils, on unloading, shall be instructed to remain at the curb until bus has pulled away and it is safe for them to cross the street.

43.44(5) Inspection of vehicles.
   a. Drivers shall be required to perform daily pretrip inspections of their vehicles and to report promptly and in writing any defects or deficiencies discovered that may affect the safety of the vehicle’s operation or result in its mechanical breakdown in accordance with rule 281—43.41(285).
b. Vehicles shall be inspected semiannually by personnel of the department of education in accordance with the provisions of Iowa Code section 285.8(4).

43.44(6) Other requirements.

a. Local school officials shall provide the carrier with passenger conduct rules and the driver shall abide by the policies and procedures established by the local district.

b. The carrier shall make a report to the bureau of nutrition and school transportation of the department of education on any accident involving property damage or personal injury while a vehicle is being used as a school bus. The report shall be made on the Iowa Accident Report Form.

c. Student instruction for passenger safety shall be the responsibility of the local school district as specified in rule 281—43.40(285).

These rules are intended to implement Iowa Code chapter 285.

[Filed 6/2/61; amended 4/30/62, 7/12/62, 5/10/66, 5/10/72, 11/19/74, 6/24/75]  
[Filed 6/21/77, Notice 2/9/77—published 7/13/77, effective 8/17/77]  
[Filed emergency 7/24/80—published 8/20/80, effective 7/25/80]  
[Filed 6/16/82, Notice 4/28/82—published 7/7/82, effective 8/11/82]  
[Filed 11/14/86, Notice 8/27/86—published 12/3/86, effective 1/7/87]  
[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]  
[Filed 5/8/92, Notice 3/4/92—published 5/27/92, effective 7/1/92]  
[Filed 8/2/02, Notice 6/26/02—published 8/21/02, effective 9/25/02]  
[Filed 11/17/04, Notice 10/13/04—published 12/8/04, effective 1/12/05]  
[Filed 7/27/06, Notice 4/26/06—published 8/16/06, effective 9/20/06]  
[Filed ARC 9262B (Notice ARC 9013B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]  
[Filed ARC 9472B (Notice ARC 9372B, IAB 2/23/11), IAB 4/20/11, effective 5/25/11]  
[Filed ARC 0517C (Notice ARC 0388C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]  
[Filed ARC 0767C (Notice ARC 0641C, IAB 3/6/13), IAB 5/29/13, effective 7/3/13]  
[Filed ARC 1661C (Notice ARC 1528C, IAB 7/9/14), IAB 10/15/14, effective 11/19/14]
HUMAN SERVICES DEPARTMENT[441]


TITLE I
GENERAL DEPARTMENTAL PROCEDURES

CHAPTER 1
DEPARTMENTAL ORGANIZATION AND PROCEDURES

1.1(17A) Director
1.2(17A) Council
1.3(17A) Organization at state level
1.4(17A) Field operations structure
1.5 Reserved
1.6(17A) Mental health and developmental disabilities commission
1.7(17A) Governor’s developmental disabilities council (governor’s DD council)
1.8(17A,217) Waivers of administrative rules (hereinafter referred to as exceptions to policy)
1.9 Reserved
1.10(17A,514I) HAWK-I board

CHAPTER 2
CONTRACTING OUT DEPARTMENT OF HUMAN SERVICES EMPLOYEES AND PROPERTY

2.1(23A,225C) Definitions
2.2(23A,225C) Contracts for use of the services of department employees
2.3(23A,225C) Contract provisions
2.4(23A,225C) Leasing of space at state institutions
2.5(23A,225C) Requirements prior to leasing

CHAPTER 3
DEPARTMENTAL PROCEDURE FOR RULE MAKING

3.1(17A) Applicability
3.2(17A) Advice on possible rules before notice of proposed rule adoption
3.3(17A) Public rule-making docket
3.4(17A) Notice of proposed rule making
3.5(17A) Public participation
3.6(17A) Regulatory analysis
3.7(17A,25B) Fiscal impact statement
3.8(17A) Time and manner of rule adoption
3.9(17A) Variance between adopted rule and published notice of proposed rule adoption
3.10(17A) Exemptions from public rule-making procedures
3.11(17A) Concise statement of reasons
3.12(17A) Contents, style, and form of rule
3.13(17A) Department rule-making record
3.14(17A) Filing of rules
3.15(17A) Effectiveness of rules prior to publication
3.16(17A) Review by department of rules

CHAPTER 4
PETITIONS FOR RULE MAKING

4.1(17A) Petition for rule making
4.2(17A) Briefs
Analysis, p.2

4.3(17A) Inquiries
4.4(17A) Agency consideration

CHAPTER 5
DECLARATORY ORDERS

5.1(17A) Petition for declaratory order
5.2(17A) Notice of petition
5.3(17A) Intervention
5.4(17A) Briefs
5.5(17A) Inquiries
5.6(17A) Service and filing of petitions and other papers
5.7(17A) Consideration
5.8(17A) Action on petition
5.9(17A) Refusal to issue order
5.10(17A) Contents of declaratory order—effective date
5.11(17A) Copies of orders
5.12(17A) Effect of a declaratory order

CHAPTER 6
Reserved

CHAPTER 7
APPEALS AND HEARINGS

7.1(17A) Definitions
7.2 Reserved

DIVISION I

7.3(17A) Presiding officer
7.4(17A) Notification of hearing procedures
7.5(17A) The right to appeal
7.6(17A) Informing persons of their rights
7.7(17A) Notice of intent to approve, deny, terminate, reduce, or suspend assistance or deny reinstatement of assistance
7.8(17A) Opportunity for hearing
7.9(17A) Continuation of assistance pending a final decision on appeal
7.10(17A) Procedural considerations
7.11(17A) Information and referral for legal services
7.12(17A) Subpoenas
7.13(17A) Rights of appellants during hearings
7.14(17A) Limitation of persons attending
7.15(17A) Medical examination
7.16(17A) The appeal decision
7.17(17A) Exhausting administrative remedies
7.18(17A) Ex parte communication
7.19(17A) Accessibility of hearing decisions
7.20(17A) Right of judicial review and stays of agency action
7.21(17A) Food assistance hearings and appeals
7.22 Reserved
7.23(17A) Contested cases with no factual dispute
7.24(17A) Emergency adjudicative proceedings
7.25 to 7.40 Reserved
DIVISION II
APPEALS BASED ON THE COMPETITIVE PROCUREMENT BID PROCESS

7.41(17A) Scope and applicability
7.42(17A) Requests for timely filing of an appeal
7.43(17A) Bidder appeals
7.44(17A) Procedures for bidder appeal
7.45(17A) Stay of agency action for bidder appeal
7.46(17A) Request for review of the proposed decision
7.47(17A) Other procedural considerations
7.48(17A) Appeal record
7.49(17A) Pleadings
7.50(17A) Ex parte communications
7.51(17A) Right of judicial review

CHAPTER 8
PAYMENT OF SMALL CLAIMS
8.1(217) Authorization to reimburse

CHAPTER 9
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
9.1(17A,22) Definitions
9.2(17A,22) Statement of policy
9.3(17A,22) Requests for access to records
9.4(17A,22) Access to confidential records
9.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examinations
9.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records
9.7(17A,22,228) Consent to disclosure by the subject of a confidential record
9.8(17A,22) Notice to suppliers of information
9.9(17A,22) Release to subject
9.10(17A,22) Use and disclosure without consent of the subject
9.11(22) Availability of records
9.12(22,252G) Personally identifiable information
9.13(217) Distribution of informational materials
9.14(17A,22) Special policies and procedures for protected health information
9.15(17A,22) Person who may exercise rights of the subject

CHAPTER 10
Reserved

CHAPTER 11
COLLECTION OF PUBLIC ASSISTANCE DEBTS
11.1(217) Definitions
11.2(217) Establishment of claim
11.3(217) Application of payment
11.4(217) Setoff against state income tax refund, rebate, or other state payments, including, for example, state employee wages
11.5(234) Setoff against federal income tax refund or other federal payments, including, for example, federal employee wages
CHAPTER 12
VOLUNTEER SERVICES
12.1(234) Definition
12.2(234) Allocation of block grant funds
12.3(234) Requirements for volunteers
12.4(234) Volunteer service programs
12.5(234) Services and benefits available to volunteers

CHAPTER 13
PROGRAM EVALUATION
13.1(234,239B,249A) Definitions
13.2(234,239B,249A) Review of public assistance records by the department
13.3(234,239B,249A) Who shall be reviewed
13.4(234,239B,249A) Notification of review
13.5(234,239B,249A) Review procedure
13.6(234,239B,249A) Failure to cooperate
13.7(234,239B,249A) Report of findings
13.8(234,239B,249A) Federal rereview

CHAPTER 14
OFFSET OF COUNTY DEBTS OWED DEPARTMENT
14.1(217,234) Definitions
14.2(217,234) Identifying counties with liabilities
14.3(217,234) List of counties with amounts owed
14.4(217,234) Notification to county regarding offset
14.5(217,234) Implementing the final decision
14.6(217,234) Offset completed

CHAPTER 15
RESOLUTION OF LEGAL SETTLEMENT DISPUTES
15.1(225C) Definitions
15.2(225C) Assertion of legal settlement dispute
15.3(225C) Response to dispute notification
15.4(225C) Contested case hearing
15.5(225C) Change in determination

TITLE II
Reserved

CHAPTERS 16 to 21
Reserved

TITLE III
MENTAL HEALTH

CHAPTER 22
AUTISM SUPPORT PROGRAM
22.1(225D) Definitions
22.2(225D) Eligibility and application requirements
22.3(225D) Cost-sharing requirements and graduated schedule of cost sharing
22.4(225D) Review of financial eligibility, cost-sharing requirements, exemption from cost sharing, and disenrollment in the program
22.5(225D) Initial service authorization and renewal of service authorization
22.6(225D) Provider network
22.7(225D) Financial management of the program
22.8(225D) Appeal

CHAPTER 23
MENTAL HEALTH AND DISABILITY SERVICES
REDESIGN TRANSITION FUND
23.1(225C,84GA,SF2315) Definitions
23.2(225C,84GA,SF2315) Eligibility
23.3(225C,84GA,SF2315) Application requirements
23.4(225C,84GA,SF2315) Guidelines for the management of transition funds
23.5(225C,84GA,SF2315) Allocation of transition funds

CHAPTER 24
ACCREDITATION OF PROVIDERS OF SERVICES TO PERSONS WITH MENTAL ILLNESS,
INTELLECTUAL DISABILITIES, OR DEVELOPMENTAL DISABILITIES

DIVISION I
SERVICES FOR INDIVIDUALS WITH DISABILITIES
24.1(225C) Definitions
24.2(225C) Standards for policy and procedures
24.3(225C) Standards for organizational activities
24.4(225C) Standards for services
24.5(225C) Accreditation
24.6(225C) Deemed status
24.7(225C) Complaint process
24.8(225C) Appeal procedure
24.9(225C) Exceptions to policy
24.10 to 24.19 Reserved

DIVISION II
CRISIS RESPONSE SERVICES
24.20(225C) Definitions
24.21(225C) Standards for crisis response services
24.22(225C) Standards for policies and procedures
24.23(225C) Standards for organizational activities
24.24(225C) Standards for crisis response staff
24.25(225C) Standards for services
24.26(225C) Accreditation
24.27(225C) Deemed status
24.28(225C) Complaint process
24.29(225C) Appeal procedure
24.30(225C) Exceptions to policy
24.31(225C) Standards for individual crisis response services
24.32(225C) Crisis evaluation
24.33(225C) Twenty-four-hour crisis response
24.34(225C) Twenty-four-hour crisis line
24.35(225C) Warm line
24.36(225C) Mobile response
24.37(225C) Twenty-three-hour crisis observation and holding
24.38(225C) Crisis stabilization community-based services (CSCBS)
24.39(225C) Crisis stabilization residential services (CSRS)
24.40(225C) Medication—administration, storage and documentation
CHAPTER 25
DISABILITY SERVICES MANAGEMENT

DIVISION I
REGIONAL CORE SERVICES

25.1(331) Definitions
25.2(331) Core service domains
25.3(331) Access standards
25.4(331) Practices
25.5 to 25.10 Reserved

DIVISION II
REGIONAL SERVICE SYSTEM

25.11(331) Definitions
25.12(331) Regional governance structure
25.13(331) Regional finances
25.14(331) Regional governance agreement
25.15(331) Eligibility, diagnosis, and functional assessment criteria
25.16(331) Financial eligibility requirements
25.17(331) Exempted counties
25.18(331) Annual service and budget plan
25.19(331) Annual service and budget plan approval
25.20(331) Annual report
25.21(331) Policies and procedures manual for the regional service system
25.22 to 25.40 Reserved

DIVISION III
MINIMUM DATA SET

25.41(331) Minimum data set
25.42 to 25.50 Reserved

DIVISION IV
INCENTIVE AND EFFICIENCY POOL FUNDING

25.51(77GA,HF2545) Desired results areas
25.52(77GA,HF2545) Methodology for applying for incentive funding
25.53(77GA,HF2545) Methodology for awarding incentive funding
25.54(77GA,HF2545) Subsequent year performance factors
25.55(77GA,HF2545) Phase-in provisions
25.56 to 25.60 Reserved

DIVISION V
RISK POOL FUNDING

25.61(426B) Definitions
25.62(426B) Risk pool board
25.63(426B) Application process
25.64(426B) Methodology for awarding risk pool funding
25.65(426B) Repayment provisions
25.66(426B) Appeals
25.67 to 25.70 Reserved

DIVISION VI
TOBACCO SETTLEMENT FUND RISK POOL FUNDING

25.71(78GA,ch1221) Definitions
25.72(78GA,ch1221) Risk pool board
25.73(78GA,ch1221) Rate-setting process
25.74(78GA,ch1221) Application process
25.75(78GA,ch1221) Methodology for awarding tobacco settlement fund risk pool funding
25.76(78GA,ch1221) Repayment provisions
25.77(78GA,ch1221) Appeals
25.78 to 25.80 Reserved

DIVISION VII
COMMUNITY MENTAL HEALTH CENTER WAIVER REQUEST
25.81(225C) Waiver request
25.82 to 25.90 Reserved

DIVISION VIII
CRITERIA FOR EXEMPTING COUNTIES FROM JOINING INTO REGIONS TO ADMINISTER
MENTAL HEALTH AND DISABILITY SERVICES
25.91(331) Exemption from joining into mental health and disability services region
25.92 to 25.94 Reserved

DIVISION IX
DATA SUBMISSION TO DETERMINE MEDICAID OFFSET FOR COUNTIES
25.95(426B) Definitions
25.96(426B) Data to determine Medicaid offset

CHAPTERS 26 and 27
Reserved

CHAPTER 28
POLICIES FOR MENTAL HEALTH
INSTITUTES AND RESOURCE CENTERS
28.1(218) Definitions
28.2(218,222) Selection of facility
28.3 Reserved
28.4(225C,229) Grievances
28.5(217,218) Photographing and recording of individuals and use of cameras
28.6(217,218) Interviews and statements
28.7(218) Use of grounds, facilities, or equipment
28.8(218) Tours of facility
28.9(218) Donations
28.10 and 28.11 Reserved
28.12(217) Release of confidential information
28.13(218) Applying county institutional credit balances

CHAPTER 29
MENTAL HEALTH INSTITUTES
29.1(218) Catchment areas
29.2(218,229) Voluntary admissions
29.3(229,230) Certification of county of residence
29.4(218,230) Charges for care
29.5(229) Authorization for treatment
29.6(217,228,229) Rights of individuals
29.7(218) Visiting

CHAPTER 30
STATE RESOURCE CENTERS
30.1(218,222) Catchment areas
30.2(218,222) Admission
30.3(222) Non-Medicaid payment-eligible individuals
30.4(222) Liability for support
30.5(217,218,225C) Rights of individuals
30.6(218) Visiting

CHAPTER 31
CIVIL COMMITMENT UNIT
31.1(229A) Definitions
31.2(229A) Visitation
31.3(229A) Group visitation
31.4(229A) Grievances
31.5(229A) Photographing and recording individuals
31.6(229A) Release of information
31.7(229A) Communication with individuals
31.8(229A) Building and grounds
31.9(8,218) Gifts and bequests
31.10(229A) Cost of care

CHAPTERS 32 and 33
Reserved

CHAPTER 34
ALTERNATIVE DIAGNOSTIC FACILITIES
34.1(225C) Definitions
34.2(225C) Function
34.3(225C) Standards

CHAPTER 35
Reserved

CHAPTER 36
FACILITY ASSESSMENTS
DIVISION I
ASSESSMENT FEE FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED
36.1(249A) Assessment of fee
36.2(249A) Determination and payment of fee for facilities certified to participate in the Medicaid program
36.3(249A) Determination and payment of fee for facilities not certified to participate in the Medicaid program
36.4(249A) Termination of fee assessment
36.5 Reserved

DIVISION II
QUALITY ASSURANCE ASSESSMENT FOR NURSING FACILITIES
36.6(249L) Assessment
36.7(249L) Determination and payment of assessment
36.8 and 36.9 Reserved

DIVISION III
HEALTH CARE ACCESS ASSESSMENT FOR HOSPITALS
36.10(249M) Application of assessment
36.11(249M) Determination and payment of assessment
36.12(249M) Termination of health care access assessment

CHAPTER 37
Reserved
CHAPTER 38
DEVELOPMENTAL DISABILITIES BASIC STATE GRANT
38.1(225C,217) Definitions
38.2(225C,217) Program eligibility
38.3(225C,217) Application under competitive process
38.4(225C,217) Competitive project awards
38.5(225C,217) Sole source or emergency selection project awards
38.6(225C,217) Field-initiated proposals
38.7(225C,217) Notification
38.8(225C,217) Request for reconsideration
38.9(225C,217) Contracts
38.10 Reserved
38.11(225C,217) Reallocation of funds
38.12(225C,217) Conflict of interest policy

CHAPTER 39
Reserved

TITLE IV
FAMILY INVESTMENT PROGRAM

CHAPTER 40
APPLICATION FOR AID

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP
40.1 to 40.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
40.21(239B) Definitions
40.22(239B) Application
40.23(239B) Date of application
40.24(239B) Procedure with application
40.25(239B) Time limit for decision
40.26(239B) Effective date of grant
40.27(239B) Continuing eligibility
40.28(239B) Referral for investigation

CHAPTER 41
GRANTING ASSISTANCE

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP
41.1 to 41.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
41.21(239B) Eligibility factors specific to child
41.22(239B) Eligibility factors specific to payee
41.23(239B) Home, residence, citizenship, and alienage
41.24(239B) Promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) program
41.25(239B) Uncategorized factors of eligibility
41.26(239B) Resources
41.27(239B) Income
41.28(239B) Need standards
41.29(239B) Composite FIP/SSI cases
41.30(239B) Time limits

CHAPTER 42
Reserved

CHAPTER 43
ALTERNATE PAYEES

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP

43.1 to 43.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP

43.21(239B) Conservatorship or guardianship
43.22 and 43.23 Reserved
43.24(239B) Emergency payee

CHAPTER 44
Reserved

CHAPTER 45
PAYMENT

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP

45.1 to 45.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP

45.21(239B) Issuing payment
45.22(239B) Return
45.23(239B) Held warrants
45.24(239B) Underpayment
45.25(239B) Deceased payees
45.26(239B) Limitation on payment
45.27(239B) Rounding of need standard and payment amount

CHAPTER 46
OVERPAYMENT RECOVERY

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP

46.1 to 46.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP

46.21(239B) Definitions
46.22(239B) Monetary standards
46.23(239B) Notification and appeals
46.24(239B) Determination of overpayments
46.25(239B) Source of recoupment
46.26 Reserved
46.27(239B) Procedures for recoupment
46.28 Reserved
46.29(239B) Fraudulent misrepresentation of residence
CHAPTER 47
DIVERSION INITIATIVES

DIVISION I
PROMOTING AWARENESS OF THE BENEFITS OF A HEALTHY MARRIAGE

47.1(234) Eligibility criteria
47.2(234) Notice and eligibility period
47.3 to 47.20 Reserved

DIVISION II
FAMILY SELF-SUFFICIENCY GRANTS PROGRAM

47.21(239B) Definitions
47.22(239B) Availability of the family self-sufficiency grants program
47.23(239B) General criteria
47.24(239B) Assistance available in family self-sufficiency grants
47.25(239B) Application, notification, and appeals
47.26(239B) Approved local plans for family self-sufficiency grants
47.27(239B) Evaluation of family self-sufficiency grants
47.28(239B) Recovery of FSSG overpayments

CHAPTERS 48 and 49
Reserved

TITLE V
STATE SUPPLEMENTARY ASSISTANCE

CHAPTER 50
APPLICATION FOR ASSISTANCE

50.1(249) Definitions
50.2(249) Application procedures
50.3(249) Approval of application and effective date of eligibility
50.4(249) Reviews
50.5(249) Application under conditional benefits

CHAPTER 51
ELIGIBILITY

51.1(249) Application for other benefits
51.2(249) Supplementation
51.3(249) Eligibility for residential care
51.4(249) Dependent relatives
51.5(249) Residence
51.6(249) Eligibility for supplement for Medicare and Medicaid eligibles
51.7(249) Income from providing room and board
51.8(249) Furnishing of social security number
51.9(249) Recovery

CHAPTER 52
PAYMENT

52.1(249) Assistance standards

CHAPTER 53
Reserved
CHAPTER 54
FACILITY PARTICIPATION
54.1(249) Application and contract agreement
54.2(249) Maintenance of case records
54.3(249) Financial and statistical report
54.4(249) Goods and services provided
54.5(249) Personal needs account
54.6(249) Case activity report
54.7(249) Billing procedures
54.8(249) Audits

TITLE VI
GENERAL PUBLIC ASSISTANCE PROVISIONS

CHAPTERS 55 and 56
Reserved

CHAPTER 57
INTERIM ASSISTANCE REIMBURSEMENT
57.1(249) Definitions
57.2(249) Requirements for reimbursement
57.3(249) Certificate of authority

CHAPTER 58
EMERGENCY ASSISTANCE

DIVISION I
IOWA DISASTER AID INDIVIDUAL ASSISTANCE GRANT PROGRAM
58.1(29C) Definitions
58.2(29C) Program implementation
58.3(29C) Application for assistance
58.4(29C) Eligibility criteria
58.5(29C) Eligible categories of assistance
58.6(29C) Eligibility determination and payment
58.7(29C) Contested cases
58.8(29C) Discontinuance of program
58.9 to 58.20 Reserved

DIVISION II
FAMILY INVESTMENT PROGRAM—EMERGENCY ASSISTANCE
58.21 to 58.40 Reserved

DIVISION III
TEMPORARY MEASURES RELATED TO DISASTERS
58.41(217) Purpose
58.42(234,237A,239B,249,249A,249J,514I) Extension of scheduled reporting and review requirements
58.43(237A) Need for child care services
58.44(249A,249J,514I) Premium payments
58.45(249A) Citizenship and identity
58.46 to 58.50 Reserved

DIVISION IV
IOWANS HELPING IOWANS UNMET NEEDS DISASTER ASSISTANCE PROGRAM
58.51(234) Definitions
58.52(234) Program implementation
58.53(234) Application for assistance
58.54(234) Eligibility criteria
58.55(234) Eligible categories of assistance
58.56(234) Eligibility determination and payment
58.57(234) Contested cases
58.58(234) Discontinuance of program
58.59 and 58.60 Reserved

DIVISION V
TICKET TO HOPE PROGRAM

58.61(234) Definitions
58.62(234) Application process
58.63(234) Eligibility criteria
58.64(234) Provider participation
58.65(234) Provider reimbursement
58.66(234) Reconsideration
58.67(234) Appeal
58.68(234) Discontinuance of program

CHAPTER 59
Reserved

CHAPTER 60
REFUGEE CASH ASSISTANCE

60.1(217) Alienage requirements
60.2(217) Application procedures
60.3(217) Effective date of grant
60.4(217) Accepting other assistance
60.5(217) Eligibility factors
60.6(217) Students in institutions of higher education
60.7(217) Time limit for eligibility
60.8(217) Criteria for exemption from registration for employment services, registration, and refusal to register
60.9(217) Work and training requirements
60.10(217) Uncategorized factors of eligibility
60.11(217) Temporary absence from home
60.12(217) Application
60.13(217) Continuing eligibility
60.14(217) Alternate payees
60.15(217) Payment
60.16(217) Overpayment recovery

CHAPTER 61
REFUGEE SERVICES PROGRAM

61.1(217) Definitions
61.2(217) Authority
61.3(217) Eligibility for refugee services
61.4(217) Planning and coordinating the placement of refugees in advance of their arrival
61.5(217) Services of the department available for refugees
61.6(217) Provision of services
61.7(217) Application for services
61.8(217) Adverse service actions
61.9(217) Client appeals
61.10(217) Refugee sponsors
61.11(217) Adverse actions regarding sponsor applications
61.12(217) Administrative review of denial of sponsorship application
61.13(217) Refugee resettlement moneys
61.14(217) Unaccompanied refugee minors program
61.15(217,622A) Interpreters and translators for legal proceedings
61.16(217) Pilot recredentialing services
61.17(217) Targeted assistance grants
61.18(217) Iowa refugee services foundation

CHAPTERS 62 to 64
Reserved

TITLE VII
FOOD PROGRAMS

CHAPTER 65
FOOD ASSISTANCE PROGRAM ADMINISTRATION

DIVISION 1

65.1(234) Definitions
65.2(234) Application
65.3(234) Administration of program
65.4(234) Issuance
65.5(234) Simplified reporting
65.6(234) Delays in certification
65.7 Reserved
65.8(234) Deductions
65.9(234) Treatment centers and group living arrangements
65.10 Reserved
65.11(234) Discrimination complaint
65.12(234) Appeals
65.13(234) Joint processing
65.14 Reserved
65.15(234) Proration of benefits
65.16(234) Complaint system
65.17(234) Involvement in a strike
65.18 and 65.19 Reserved
65.20(234) Notice of expiration issuance
65.21(234) Claims
65.22(234) Verification
65.23(234) Prospective budgeting
65.24(234) Inclusion of foster children in household
65.25(234) Effective date of change
65.26(234) Eligible students
65.27(234) Voluntary quit or reduction in hours of work
65.28(234) Work requirements
65.29(234) Income
65.30(234) Resources
65.31(234) Homeless meal providers
65.32(234) Basis for allotment
65.33(234) Dependent care deduction
65.34 to 65.36 Reserved
65.37(234) Eligibility of noncitizens
65.38(234) Income deductions
65.39(234) Categorical eligibility
65.40 Reserved
65.41(234) Actions on changes increasing benefits
65.42 and 65.43 Reserved
65.44(234) Reinstatement
65.45 Reserved
65.46(234) Disqualifications
65.47 to 65.49 Reserved
65.50(234) No increase in benefits
65.51(234) State income and eligibility verification system
65.52(234) Systematic alien verification for entitlements (SAVE) program

CHAPTER 66
EMERGENCY FOOD ASSISTANCE PROGRAM

66.1(234) Definitions
66.2(234) Application to be a TEFAP contractor
66.3(234) Contracts
66.4(234) Distribution
66.5(234) Household eligibility
66.6(234) Reimbursement for allowable costs
66.7(234) Commodity losses and claims
66.8(234) State monitoring
66.9(234) Limits on unrelated activities
66.10(234) Complaints

CHAPTERS 67 to 73
Reserved

TITLE VIII
MEDICAL ASSISTANCE

CHAPTER 74
IOWA HEALTH AND WELLNESS PLAN

74.1(249A,85GA,SF446) Definitions
74.2(249A,85GA,SF446) Eligibility factors
74.3(249A,85GA,SF446) Application
74.4(249A,85GA,SF446) Financial eligibility
74.5(249A,85GA,SF446) Enrollment period
74.6(249A,85GA,SF446) Reporting changes
74.7(249A,85GA,SF446) Reenrollment
74.8(249A,85GA,SF446) Terminating enrollment
74.9(249A,85GA,SF446) Recovery
74.10(249A,85GA,SF446) Right to appeal
74.11(249A,85GA,SF446) Financial participation
74.12(249A,85GA,SF446) Benefits and service delivery
74.13(249A,85GA,SF446) Claims and reimbursement methodologies
74.14(249A,85GA,SF446) Discontinuance of program
74.15(249A,85GA,ch138) Enrollment for IowaCare members

CHAPTER 75
CONDITIONS OF ELIGIBILITY

DIVISION I
GENERAL CONDITIONS OF ELIGIBILITY, COVERAGE GROUPS, AND SSI-RELATED PROGRAMS

75.1(249A) Persons covered
75.2(249A) Medical resources
75.3(249A) Acceptance of other financial benefits
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>75.4(249A)</td>
<td>Medical assistance lien</td>
</tr>
<tr>
<td>75.5(249A)</td>
<td>Determination of countable income and resources for persons in a medical institution</td>
</tr>
<tr>
<td>75.6(249A)</td>
<td>Entrance fee for continuing care retirement community or life care community</td>
</tr>
<tr>
<td>75.7(249A)</td>
<td>Furnishing of social security number</td>
</tr>
<tr>
<td>75.8(249A)</td>
<td>Medical assistance corrective payments</td>
</tr>
<tr>
<td>75.9(249A)</td>
<td>Treatment of Medicaid qualifying trusts</td>
</tr>
<tr>
<td>75.10(249A)</td>
<td>Residency requirements</td>
</tr>
<tr>
<td>75.11(249A)</td>
<td>Citizenship or alienage requirements</td>
</tr>
<tr>
<td>75.12(249A)</td>
<td>Inmates of public institutions</td>
</tr>
<tr>
<td>75.13(249A)</td>
<td>Categorical relatedness</td>
</tr>
<tr>
<td>75.14(249A)</td>
<td>Establishing paternity and obtaining support</td>
</tr>
<tr>
<td>75.15(249A)</td>
<td>Disqualification for long-term care assistance due to substantial home equity</td>
</tr>
<tr>
<td>75.16(249A)</td>
<td>Client participation in payment for medical institution care</td>
</tr>
<tr>
<td>75.17(249A)</td>
<td>Verification of pregnancy</td>
</tr>
<tr>
<td>75.18(249A)</td>
<td>Continuous eligibility for pregnant women</td>
</tr>
<tr>
<td>75.19(249A)</td>
<td>Continuous eligibility for children</td>
</tr>
<tr>
<td>75.20(249A)</td>
<td>Disability requirements for SSI-related Medicaid</td>
</tr>
<tr>
<td>75.21(249A)</td>
<td>Health insurance premium payment (HIPP) program</td>
</tr>
<tr>
<td>75.22(249A)</td>
<td>AIDS/HIV health insurance premium payment program</td>
</tr>
<tr>
<td>75.23(249A)</td>
<td>Disposal of assets for less than fair market value after August 10, 1993</td>
</tr>
<tr>
<td>75.24(249A)</td>
<td>Treatment of trusts established after August 10, 1993</td>
</tr>
<tr>
<td>75.25(249A)</td>
<td>Definitions</td>
</tr>
<tr>
<td>75.26</td>
<td>Reserved</td>
</tr>
<tr>
<td>75.27(249A)</td>
<td>AIDS/HIV settlement payments</td>
</tr>
<tr>
<td>75.28(249A)</td>
<td>Recovery</td>
</tr>
<tr>
<td>75.29(249A)</td>
<td>Investigation by quality control or the department of inspections and appeals</td>
</tr>
<tr>
<td>75.30(249A)</td>
<td>Member lock-in</td>
</tr>
<tr>
<td>75.31 to 75.49</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

**DIVISION II**

**ELIGIBILITY FACTORS SPECIFIC TO COVERAGE GROUPS RELATED TO THE FAMILY MEDICAL ASSISTANCE PROGRAM (FMAP)**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>75.50(249A)</td>
<td>Definitions</td>
</tr>
<tr>
<td>75.51</td>
<td>Reserved</td>
</tr>
<tr>
<td>75.52(249A)</td>
<td>Continuing eligibility</td>
</tr>
<tr>
<td>75.53(249A)</td>
<td>Iowa residency policies specific to FMAP and FMAP-related coverage groups</td>
</tr>
<tr>
<td>75.54(249A)</td>
<td>Eligibility factors specific to child</td>
</tr>
<tr>
<td>75.55(249A)</td>
<td>Eligibility factors specific to specified relatives</td>
</tr>
<tr>
<td>75.56(249A)</td>
<td>Resources</td>
</tr>
<tr>
<td>75.57(249A)</td>
<td>Income</td>
</tr>
<tr>
<td>75.58(249A)</td>
<td>Need standards</td>
</tr>
<tr>
<td>75.59(249A)</td>
<td>Persons who may be voluntarily excluded from the eligible group when determining eligibility for the family medical assistance program (FMAP) and FMAP-related coverage groups</td>
</tr>
<tr>
<td>75.60(249A)</td>
<td>Pending SSI approval</td>
</tr>
<tr>
<td>75.61 to 75.69</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

**DIVISION III**

**FINANCIAL ELIGIBILITY BASED ON MODIFIED ADJUSTED GROSS INCOME (MAGI)**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>75.70(249A)</td>
<td>Financial eligibility based on modified adjusted gross income (MAGI)</td>
</tr>
<tr>
<td>75.71(249A)</td>
<td>Income limits</td>
</tr>
</tbody>
</table>
CHAPTER 76
ENROLLMENT AND REENROLLMENT

76.1(249A) Definitions
76.2(249A) Application with the department
76.3(249A) Referrals from a health insurance marketplace
76.4(249A) Express lane eligibility
76.5(249A) Enrollment through SSI
76.6(249A) Referral for Medicare savings program
76.7(249A) Presumptive eligibility
76.8(249A) Applicant responsibilities
76.9(249A) Responsible persons and authorized representatives
76.10(249A) Right to withdraw the application
76.11(249A) Choice of electronic notifications
76.12(249A) Application not required
76.13(249A) Initial enrollment
76.14(249A) Reenrollment
76.15(249A) Report of changes
76.16(249A) Action on information received
76.17(249A) Automatic redetermination of eligibility

CHAPTER 77
CONDITIONS OF PARTICIPATION FOR PROVIDERS
OF MEDICAL AND REMEDIAL CARE

77.1(249A) Physicians
77.2(249A) Retail pharmacies
77.3(249A) Hospitals
77.4(249A) Dentists
77.5(249A) Podiatrists
77.6(249A) Optometrists
77.7(249A) Opticians
77.8(249A) Chiropractors
77.9(249A) Home health agencies
77.10(249A) Medical equipment and appliances, prosthetic devices and medical supplies
77.11(249A) Ambulance service
77.12(249A) Behavioral health intervention
77.13(249A) Hearing aid dispensers
77.14(249A) Audiologists
77.15(249A) Community mental health centers
77.16(249A) Screening centers
77.17(249A) Physical therapists
77.18(249A) Orthopedic shoe dealers and repair shops
77.19(249A) Rehabilitation agencies
77.20(249A) Independent laboratories
77.21(249A) Rural health clinics
77.22(249A) Psychologists
77.23(249A) Maternal health centers
77.24(249A) Ambulatory surgical centers
77.25(249A) Home- and community-based habilitation services
77.26(249A) Behavioral health services
77.27(249A) Birth centers
77.28(249A) Area education agencies
77.29(249A) Case management provider organizations
77.30(249A) HCBS health and disability waiver service providers
77.31(249A) Occupational therapists
77.32(249A) Hospice providers
77.33(249A) HCBS elderly waiver service providers
77.34(249A) HCBS AIDS/HIV waiver service providers
77.35(249A) Federally qualified health centers
77.36(249A) Advanced registered nurse practitioners
77.37(249A) Home- and community-based services intellectual disability waiver service providers
77.38(249A) Assertive community treatment
77.39(249A) HCBS brain injury waiver service providers
77.40(249A) Lead inspection agencies
77.41(249A) HCBS physical disability waiver service providers
77.42(249A) Public health agencies
77.43(249A) Infant and toddler program providers
77.44(249A) Local education agency services providers
77.45(249A) Indian health service 638 facilities
77.46(249A) HCBS children's mental health waiver service providers
77.47(249A) Health home services providers
77.48(249A) Speech-language pathologists
77.49(249A) Physician assistants
77.50(249A) Ordering and referring providers

CHAPTER 78
AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL SERVICES

78.1(249A) Physicians’ services
78.2(249A) Prescribed outpatient drugs
78.3(249A) Inpatient hospital services
78.4(249A) Dentists
78.5(249A) Podiatrists
78.6(249A) Optometrists
78.7(249A) Opticians
78.8(249A) Chiropractors
78.9(249A) Home health agencies
78.10(249A) Durable medical equipment (DME), prosthetic devices and medical supplies
78.11(249A) Ambulance service
78.12(249A) Behavioral health intervention
78.13(249A) Nonemergency medical transportation
78.14(249A) Hearing aids
78.15(249A) Orthopedic shoes
78.16(249A) Community mental health centers
78.17(249A) Physical therapists
78.18(249A) Screening centers
78.19(249A) Rehabilitation agencies
78.20(249A) Independent laboratories
78.21(249A) Rural health clinics
78.22(249A) Family planning clinics
78.23(249A) Other clinic services
78.24(249A) Psychologists
78.25(249A) Maternal health centers
78.26(249A) Ambulatory surgical center services
78.27(249A)  Home- and community-based habilitation services
78.28(249A)  List of medical services and equipment requiring prior authorization, preprocedure review or preadmission review
78.29(249A)  Behavioral health services
78.30(249A)  Birth centers
78.31(249A)  Hospital outpatient services
78.32(249A)  Area education agencies
78.33(249A)  Case management services
78.34(249A)  HCBS ill and handicapped waiver services
78.35(249A)  Occupational therapist services
78.36(249A)  Hospice services
78.37(249A)  HCBS elderly waiver services
78.38(249A)  HCBS AIDS/HIV waiver services
78.39(249A)  Federally qualified health centers
78.40(249A)  Advanced registered nurse practitioners
78.41(249A)  HCBS intellectual disability waiver services
78.42(249A)  Pharmacies administering influenza vaccine to children
78.43(249A)  HCBS brain injury waiver services
78.44(249A)  Lead inspection services
78.45(249A)  Assertive community treatment
78.46(249A)  Physical disability waiver service
78.47(249A)  Pharmaceutical case management services
78.48(249A)  Public health agencies
78.49(249A)  Infant and toddler program services
78.50(249A)  Local education agency services
78.51(249A)  Indian health service 638 facility services
78.52(249A)  HCBS children’s mental health waiver services
78.53(249A)  Health home services
78.54(249A)  Speech-language pathology services

CHAPTER 79
OTHER POLICIES RELATING TO PROVIDERS OF MEDICAL AND REMEDIAL CARE
79.1(249A)  Principles governing reimbursement of providers of medical and health services
79.2(249A)  Sanctions
79.3(249A)  Maintenance of records by providers of service
79.4(249A)  Reviews and audits
79.5(249A)  Nondiscrimination on the basis of handicap
79.6(249A)  Provider participation agreement
79.7(249A)  Medical assistance advisory council
79.8(249A)  Requests for prior authorization
79.9(249A)  General provisions for Medicaid coverage applicable to all Medicaid providers and services
79.10(249A)  Requests for preadmission review
79.11(249A)  Requests for preprocedure surgical review
79.12(249A)  Advance directives
79.13(249A)  Requirements for enrolled Medicaid providers supplying laboratory services
79.14(249A)  Provider enrollment
79.15(249A)  Education about false claims recovery
79.16(249A)  Electronic health record incentive program
CHAPTER 80
PROCEDURE AND METHOD OF PAYMENT

80.1 Reserved
80.2(249A) Submission of claims
80.3(249A) Payment from other sources
80.4(249A) Time limit for submission of claims and claim adjustments
80.5(249A) Authorization process
80.6(249A) Payment to provider—exception
80.7(249A) Health care data match program

CHAPTER 81
NURSING FACILITIES

DIVISION I
GENERAL POLICIES

81.1(249A) Definitions
81.2 Reserved
81.3(249A) Initial approval for nursing facility care
81.4(249A) Arrangements with residents
81.5(249A) Discharge and transfer
81.6(249A) Financial and statistical report and determination of payment rate
81.7(249A) Continued review
81.8 Reserved
81.9(249A) Records
81.10(249A) Payment procedures
81.11(249A) Billing procedures
81.12(249A) Closing of facility
81.13(249A) Conditions of participation for nursing facilities
81.14(249A) Audits
81.15 Reserved
81.16(249A) Nurse aide requirements and training and testing programs
81.17 Reserved
81.18(249A) Sanctions
81.19 Reserved
81.20(249A) Out-of-state facilities
81.21(249A) Outpatient services
81.22(249A) Rates for Medicaid eligibles
81.23(249A) State-funded personal needs supplement
81.24 to 81.30 Reserved

DIVISION II
ENFORCEMENT OF COMPLIANCE

81.31(249A) Definitions
81.32(249A) General provisions
81.33(249A) Factors to be considered in selecting remedies
81.34(249A) Available remedies
81.35(249A) Selection of remedies
81.36(249A) Action when there is immediate jeopardy
81.37(249A) Action when there is no immediate jeopardy
81.38(249A) Action when there is repeated substandard quality of care
81.39(249A) Temporary management
81.40(249A) Denial of payment for all new admissions
81.41(249A) Secretarial authority to deny all payments
81.42(249A) State monitoring
81.43(249A) Directed plan of correction
81.44(249A) Directed in-service training
81.45(249A) Closure of a facility or transfer of residents, or both
81.46(249A) Civil money penalties—basis for imposing penalty
81.47(249A) Civil money penalties—when penalty is collected
81.48(249A) Civil money penalties—notice of penalty
81.49(249A) Civil money penalties—waiver of hearing, reduction of penalty amount
81.50(249A) Civil money penalties—amount of penalty
81.51(249A) Civil money penalties—effective date and duration of penalty
81.52(249A) Civil money penalties—due date for payment of penalty
81.53(249A) Use of penalties collected by the department
81.54(249A) Continuation of payments to a facility with deficiencies
81.55(249A) State and federal disagreements involving findings not in agreement when there is no immediate jeopardy
81.56(249A) Duration of remedies
81.57(249A) Termination of provider agreement

CHAPTER 82
INTERMEDIATE CARE FACILITIES FOR PERSONS WITH AN INTELLECTUAL DISABILITY
82.1(249A) Definition
82.2(249A) Licensing and certification
82.3(249A) Conditions of participation for intermediate care facilities for persons with an intellectual disability
82.4 Reserved
82.5(249A) Financial and statistical report
82.6(249A) Eligibility for services
82.7(249A) Initial approval for ICF/ID care
82.8(249A) Determination of need for continued stay
82.9(249A) Arrangements with residents
82.10(249A) Discharge and transfer
82.11(249A) Continued stay review
82.12(249A) Quality of care review
82.13(249A) Records
82.14(249A) Payment procedures
82.15(249A) Billing procedures
82.16(249A) Closing of facility
82.17(249A) Audits
82.18(249A) Out-of-state facilities
82.19(249A) State-funded personal needs supplement

CHAPTER 83
MEDICAID WAIVER SERVICES
DIVISION I—HCBS HEALTH AND DISABILITY WAIVER SERVICES
83.1(249A) Definitions
83.2(249A) Eligibility
83.3(249A) Application
83.4(249A) Financial participation
83.5(249A) Redetermination
83.6(249A) Allowable services
83.7(249A) Service plan
83.8(249A) Adverse service actions
83.9(249A) Appeal rights
83.10 to 83.20 Reserved

DIVISION II—HCBS ELDERLY WAIVER SERVICES

83.21(249A) Definitions
83.22(249A) Eligibility
83.23(249A) Application
83.24(249A) Client participation
83.25(249A) Redetermination
83.26(249A) Allowable services
83.27(249A) Service plan
83.28(249A) Adverse service actions
83.29(249A) Appeal rights
83.30(249A) Enhanced services
83.31 to 83.40 Reserved

DIVISION III—HCBS AIDS/HIV WAIVER SERVICES

83.41(249A) Definitions
83.42(249A) Eligibility
83.43(249A) Application
83.44(249A) Financial participation
83.45(249A) Redetermination
83.46(249A) Allowable services
83.47(249A) Service plan
83.48(249A) Adverse service actions
83.49(249A) Appeal rights
83.50 to 83.59 Reserved

DIVISION IV—HCBS INTELLECTUAL DISABILITY WAIVER SERVICES

83.60(249A) Definitions
83.61(249A) Eligibility
83.62(249A) Application
83.63(249A) Client participation
83.64(249A) Redetermination
83.65 Reserved
83.66(249A) Allowable services
83.67(249A) Service plan
83.68(249A) Adverse service actions
83.69(249A) Appeal rights
83.70 and 83.71 Reserved
83.72(249A) Rent subsidy program
83.73 to 83.80 Reserved

DIVISION V—BRAIN INJURY WAIVER SERVICES

83.81(249A) Definitions
83.82(249A) Eligibility
83.83(249A) Application
83.84(249A) Client participation
83.85(249A) Redetermination
83.86(249A) Allowable services
83.87(249A) Service plan
83.88(249A) Adverse service actions
83.89(249A) Appeal rights
83.90 to 83.100 Reserved
DIVISION VI—PHYSICAL DISABILITY WAIVER SERVICES

83.101(249A) Definitions
83.102(249A) Eligibility
83.103(249A) Application
83.104(249A) Client participation
83.105(249A) Redetermination
83.106(249A) Allowable services
83.107(249A) Individual service plan
83.108(249A) Adverse service actions
83.109(249A) Appeal rights
83.110 to 83.120 Reserved

DIVISION VII—HCBS CHILDREN’S MENTAL HEALTH WAIVER SERVICES

83.121(249A) Definitions
83.122(249A) Eligibility
83.123(249A) Application
83.124(249A) Financial participation
83.125(249A) Redetermination
83.126(249A) Allowable services
83.127(249A) Service plan
83.128(249A) Adverse service actions
83.129(249A) Appeal rights

CHAPTER 84
EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT

84.1(249A) Definitions
84.2(249A) Eligibility
84.3(249A) Screening services
84.4(249A) Referral
84.5(249A) Follow up

CHAPTER 85
SERVICES IN PSYCHIATRIC INSTITUTIONS

DIVISION I
PSYCHIATRIC HOSPITALS

85.1(249A) Acute care in psychiatric hospitals
85.2(249A) Out-of-state placement
85.3(249A) Eligibility of persons under the age of 21
85.4(249A) Eligibility of persons aged 65 and over
85.5(249A) Client participation
85.6(249A) Responsibilities of hospitals
85.7(249A) Psychiatric hospital reimbursement
85.8(249A,81GA,ch167) Eligibility of persons aged 21 through 64
85.9 to 85.20 Reserved

DIVISION II
PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN

85.21(249A) Conditions for participation
85.22(249A) Eligibility of persons under the age of 21
85.23(249A) Client participation
85.24(249A) Responsibilities of facilities
85.25(249A) Reimbursement to psychiatric medical institutions for children
85.26(249A) Outpatient day treatment for persons aged 20 or under
85.27 to 85.40 Reserved
### DIVISION III

**NURSING FACILITIES FOR PERSONS WITH MENTAL ILLNESS**

- 85.41(249A) Conditions of participation
- 85.42(249A) Out-of-state placement
- 85.43(249A) Eligibility of persons aged 65 and over
- 85.44(249A) Client participation
- 85.45(249A) Responsibilities of nursing facility
- 85.46(249A) Policies governing reimbursement
- 85.47(249A) State-funded personal needs supplement

### CHAPTER 86

**HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM**

- 86.1(514I) Definitions
- 86.2(514I) Eligibility factors
- 86.3(514I) Application process
- 86.4(514I) Coordination with Medicaid
- 86.5(514I) Effective date of coverage
- 86.6(514I) Selection of a plan
- 86.7(514I) Cancellation
- 86.8(514I) Premiums and copayments
- 86.9(514I) Annual reviews of eligibility
- 86.10(514I) Reporting changes
- 86.11(514I) Notice requirements
- 86.12(514I) Appeals and fair hearings
- 86.13(514I) Third-party administrator
- 86.14(514I) Covered services
- 86.15(514I) Participating health and dental plans
- 86.16(514I) Clinical advisory committee
- 86.17(514I) Use of donations to the HAWK-I program
- 86.18(505) Health insurance data match program
- 86.19(514I) Recovery
- 86.20(514I) Supplemental dental-only coverage

### CHAPTER 87

**STATE-FUNDED FAMILY PLANNING PROGRAM**

- 87.1(82GA,ch1187) Definitions
- 87.2(82GA,ch1187) Eligibility
- 87.3(82GA,ch1187) Application
- 87.4(82GA,ch1187) Effective date
- 87.5(82GA,ch1187) Period of eligibility and reapplication
- 87.6(82GA,ch1187) Reporting changes
- 87.7(82GA,ch1187) Allocation of funds
- 87.8(82GA,ch1187) Availability of services
- 87.9(82GA,ch1187) Payment of covered services
- 87.10(82GA,ch1187) Submission of claims

### CHAPTER 88

**MANAGED HEALTH CARE PROVIDERS**

- 88.1(249A) Definitions
- 88.2(249A) Participation
- 88.3(249A) Enrollment
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>88.4(249A)</td>
<td>Disenrollment</td>
</tr>
<tr>
<td>88.5(249A)</td>
<td>Covered services</td>
</tr>
<tr>
<td>88.6(249A)</td>
<td>Emergency and urgent care services</td>
</tr>
<tr>
<td>88.7(249A)</td>
<td>Access to service</td>
</tr>
<tr>
<td>88.8(249A)</td>
<td>Grievance procedures</td>
</tr>
<tr>
<td>88.9(249A)</td>
<td>Records and reports</td>
</tr>
<tr>
<td>88.10(249A)</td>
<td>Marketing</td>
</tr>
<tr>
<td>88.11(249A)</td>
<td>Patient education</td>
</tr>
<tr>
<td>88.12(249A)</td>
<td>Reimbursement</td>
</tr>
<tr>
<td>88.13(249A)</td>
<td>Quality assurance</td>
</tr>
<tr>
<td>88.14(249A)</td>
<td>Contracts with federally qualified health centers (FQHCs) and rural health clinics (RHCs)</td>
</tr>
<tr>
<td>88.15 to 88.20</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

DIVISION II
PREPAID HEALTH PLANS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>88.21(249A)</td>
<td>Definitions</td>
</tr>
<tr>
<td>88.22(249A)</td>
<td>Participation</td>
</tr>
<tr>
<td>88.23(249A)</td>
<td>Enrollment</td>
</tr>
<tr>
<td>88.24(249A)</td>
<td>Disenrollment</td>
</tr>
<tr>
<td>88.25(249A)</td>
<td>Covered services</td>
</tr>
<tr>
<td>88.26(249A)</td>
<td>Emergency services</td>
</tr>
<tr>
<td>88.27(249A)</td>
<td>Access to service</td>
</tr>
<tr>
<td>88.28(249A)</td>
<td>Grievance procedures</td>
</tr>
<tr>
<td>88.29(249A)</td>
<td>Records and reports</td>
</tr>
<tr>
<td>88.30(249A)</td>
<td>Marketing</td>
</tr>
<tr>
<td>88.31(249A)</td>
<td>Patient education</td>
</tr>
<tr>
<td>88.32(249A)</td>
<td>Payment to the PHP</td>
</tr>
<tr>
<td>88.33(249A)</td>
<td>Quality assurance</td>
</tr>
<tr>
<td>88.34 to 88.40</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

DIVISION III
MEDICAID PATIENT MANAGEMENT

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>88.41(249A)</td>
<td>Definitions</td>
</tr>
<tr>
<td>88.42(249A)</td>
<td>Eligible recipients</td>
</tr>
<tr>
<td>88.43(249A)</td>
<td>Project area</td>
</tr>
<tr>
<td>88.44(249A)</td>
<td>Eligible providers</td>
</tr>
<tr>
<td>88.45(249A)</td>
<td>Contracting for the provision of patient management</td>
</tr>
<tr>
<td>88.46(249A)</td>
<td>Enrollment and changes in enrollment</td>
</tr>
<tr>
<td>88.47(249A)</td>
<td>Disenrollment</td>
</tr>
<tr>
<td>88.48(249A)</td>
<td>Services</td>
</tr>
<tr>
<td>88.49(249A)</td>
<td>Grievance procedure</td>
</tr>
<tr>
<td>88.50(249A)</td>
<td>Payment</td>
</tr>
<tr>
<td>88.51(249A)</td>
<td>Utilization review and quality assessment</td>
</tr>
<tr>
<td>88.52(249A)</td>
<td>Marketing</td>
</tr>
<tr>
<td>88.53 to 88.60</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

DIVISION IV
IOWA PLAN FOR BEHAVIORAL HEALTH

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>88.61(249A)</td>
<td>Definitions</td>
</tr>
<tr>
<td>88.62(249A)</td>
<td>Participation</td>
</tr>
<tr>
<td>88.63(249A)</td>
<td>Enrollment</td>
</tr>
<tr>
<td>88.64(249A)</td>
<td>Disenrollment</td>
</tr>
<tr>
<td>88.65(249A)</td>
<td>Covered services</td>
</tr>
</tbody>
</table>
Emergency services
Access to service
Review of contractor decisions and actions
Records and reports
Marketing
Enrollee education
Payment to the contractor
Claims payment
Quality assurance
Iowa Plan advisory committee
Reserved
Scope and definitions
PACE organization application and waiver process
PACE program agreement
Enrollment and disenrollment
Program services
Access to PACE services
Program administrative requirements
Payment
Definitions
Creation of debt
Exceptions
Presumption of intent
Notice of debt
No timely request of a hearing
Timely request for a hearing
Department-requested hearing
Filing and docketing of the order
Exemption from Iowa Code chapter 17A
Definitions
Eligibility
Determination of need for service
Application
Service provision
Terminating services
Appeal rights
Provider requirements
Definitions
Application
Eligibility determination
Notice of decision
Effective date
91.6(249A) Changes in circumstances
91.7(249A) Reinvestigation
91.8(249A) Appeals

CHAPTER 92
IOWACARE

92.1(249A,249J) Definitions
92.2(249A,249J) Eligibility
92.3(249A,249J) Application
92.4(249A,249J) Application processing
92.5(249A,249J) Determining income eligibility
92.6(249A,249J) Effective date
92.7(249A,249J) Financial participation
92.8(249A,249J) Benefits
92.9(249A,249J) Claims and reimbursement methodologies
92.10(249A,249J) Reporting changes
92.11(249A,249J) Reapplication
92.12(249A,249J) Terminating eligibility
92.13(249A,249J) Recovery
92.14(249A,249J) Discontinuance of the program
92.15(249A,249J) Right to appeal

TITLE IX
WORK INCENTIVE DEMONSTRATION

CHAPTER 93
PROMISE JOBS PROGRAM

93.1(239B) Definitions
93.2(239B) Program administration
93.3(239B) Registration and referral
93.4(239B) The family investment agreement (FIA)
93.5(239B) Assessment
93.6(239B) Job readiness and job search activities
93.7(239B) Work activities
93.8(239B) Education and training activities
93.9(239B) Other FIA activities
93.10(239B) Required documentation and verification
93.11(239B) Supportive payments
93.12(239B) Recovery of PROMISE JOBS expense payments
93.13(239B) Resolution of participation issues
93.14(239B) Problems that may provide good cause for participation issues
93.15(239B) Right of appeal
93.16(239B) Resolution of a limited benefit plan
93.17(239B) Worker displacement grievance procedure

CHAPTER 94
Reserved

TITLE X
SUPPORT RECOVERY

CHAPTER 95
COLLECTIONS

95.1(252B) Definitions
95.2(252B) Child support recovery eligibility and services
95.3(252B) Crediting of current and delinquent support
95.4(252B) Prepayment of support
95.5(252B) Lump sum settlement
95.6(252B) Offset against state income tax refund or rebate
95.7(252B) Offset against federal income tax refund and federal nontax payment
95.8(96) Child support offset of unemployment insurance benefits
95.9 to 95.11 Reserved
95.12(252B) Procedures for providing information to consumer reporting agencies
95.13(17A) Appeals
95.14(252B) Termination of services
95.15(252B) Child support recovery unit attorney
95.16(252B) Handling and use of federal 1099 information
95.17(252B) Effective date of support
95.18(252B) Continued services available to canceled family investment program (FIP) or Medicaid recipients
95.19(252B) Cooperation of public assistance recipients in establishing and obtaining support
95.20(252B) Cooperation of public assistance applicants in establishing and obtaining support
95.21(252B) Cooperation in establishing and obtaining support in nonpublic assistance cases
95.22(252B) Charging pass-through fees
95.23(252B) Reimbursing assistance with collections of assigned support
95.24(252B) Child support account
95.25(252B) Emancipation verification

CHAPTER 96
INFORMATION AND RECORDS
96.1(252B) Access to information and records from other sources
96.2(252B) Refusal to comply with written request or subpoena
96.3(252B) Procedure for refusal
96.4(252B) Conference conducted
96.5(252B) Fine assessed
96.6(252B) Objection to fine or failure to pay

CHAPTER 97
COLLECTION SERVICES CENTER
97.1(252B) Definitions
97.2(252B) Transfer of records and payments
97.3(252B) Support payment records
97.4(252B) Method of payment
97.5(252D) Electronic transmission of payments
97.6(252B) Authorization of payment
97.7(252B) Processing misdirected payments

CHAPTER 98
SUPPORT ENFORCEMENT SERVICES
DIVISION 1
MEDICAL SUPPORT ENFORCEMENT
98.1(252E) Definitions
98.2(252E) Provision of services
98.3(252E) Establishing medical support
98.4(252E) Accessibility of the health benefit plan
98.5(252E) Health benefit plan information
98.6(252E) Insurer authorization
98.7(252E) Enforcement
98.8(252E) Contesting the order
98.9 to 98.20 Reserved

DIVISION II
INCOME WITHHOLDING
PART A
DELINQUENT SUPPORT PAYMENTS
98.21(252D) When applicable
98.22 and 98.23 Reserved
98.24(252D) Amount of withholding
98.25 to 98.30 Reserved

PART B
IMMEDIATE INCOME WITHHOLDING
98.31(252D) Effective date
98.32(252D) Withholding automatic
98.33 Reserved
98.34(252D) Approval of request for immediate income withholding
98.35(252D) Modification or termination of withholding
98.36(252D) Immediate income withholding amounts
98.37(252D) Immediate income withholding amounts when current support has ended
98.38 Reserved

PART C
INCOME WITHHOLDING—GENERAL PROVISIONS
98.39(252D,252E) Provisions for medical support
98.40(252D,252E) Maximum amounts to be withheld
98.41(252D) Multiple obligations
98.42(252D) Notice to employer and obligor
98.43(252D) Contesting the withholding
98.44(252D) Termination of order
98.45(252D) Modification of income withholding
98.46(252D) Refunds of amounts improperly withheld
98.47(252D) Additional information about hardship
98.48 to 98.50 Reserved

DIVISION III
REVIEW AND ADJUSTMENT OF CHILD SUPPORT OBLIGATIONS
98.51 to 98.60 Reserved

DIVISION IV
PUBLICATION OF NAMES
98.61(252B) List for publication
98.62(252B) Releasing the list
98.63 to 98.70 Reserved

DIVISION V
ADMINISTRATIVE SEEK EMPLOYMENT ORDERS
98.71(252B) Seek employment order
98.72(252B) Effective date of order
98.73(252B) Method and requirements of reporting
98.74(252B) Reasons for noncompliance
98.75(252B) Method of service
98.76(252B) Duration of order
98.77 to 98.80 Reserved
DIVISION VI
DEBTOR OFFSET
98.81(252B)  Offset against payment owed to a person by a state agency
98.82 to 98.90  Reserved

DIVISION VII
ADMINISTRATIVE LEVY
98.91(252I)  Administrative levy
98.92  Reserved
98.93(252I)  Verification of accounts
98.94(252I)  Notice to financial institution
98.95(252I)  Notice to support obligor
98.96(252I)  Responsibilities of financial institution
98.97(252I)  Challenging the administrative levy
98.98 to 98.100  Reserved

DIVISION VIII
LICENSE SANCTION
98.101(252J)  Referral for license sanction
98.102(252J)  Reasons for exemption
98.103(252J)  Notice of potential sanction of license
98.104(252J)  Conference
98.105(252J)  Payment agreement
98.106(252J)  Staying the process due to full payment of support
98.107(252J)  Duration of license sanction
98.108 to 98.120  Reserved

DIVISION IX
EXTERNAL ENFORCEMENT
98.121(252B)  Difficult-to-collect arrearages
98.122(252B)  Enforcement services by private attorney entitled to state compensation

CHAPTER 99
SUPPORT ESTABLISHMENT AND ADJUSTMENT SERVICES

DIVISION I
CHILD SUPPORT GUIDELINES
99.1(234,252B,252H)  Income considered
99.2(234,252B)  Allowable deductions
99.3(234,252B)  Determining net income
99.4(234,252B)  Applying the guidelines
99.5(234,252B)  Deviation from guidelines
99.6 to 99.9  Reserved

DIVISION II
Paternity Establishment
PART A
JUDICIAL PATERNITY ESTABLISHMENT
99.10(252A)  Temporary support
99.11 to 99.20  Reserved

PART B
ADMINISTRATIVE PATERNITY ESTABLISHMENT
99.21(252F)  When paternity may be established administratively
99.22(252F)  Mother’s certified statement
99.23(252F)  Notice of alleged paternity and support debt
99.24(252F)  Conference to discuss paternity and support issues
99.25(252F)  Amount of support obligation
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>99.26(252F)</td>
<td>Court hearing</td>
</tr>
<tr>
<td>99.27(252F)</td>
<td>Paternity contested</td>
</tr>
<tr>
<td>99.28(252F)</td>
<td>Paternity test results challenge</td>
</tr>
<tr>
<td>99.29(252F)</td>
<td>Agreement to entry of paternity and support order</td>
</tr>
<tr>
<td>99.30(252F)</td>
<td>Entry of order establishing paternity only</td>
</tr>
<tr>
<td>99.31(252F)</td>
<td>Exception to time limit</td>
</tr>
<tr>
<td>99.32(252F)</td>
<td>Genetic test costs assessed</td>
</tr>
<tr>
<td>99.33 to 99.35</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

**PART C**

**PATERNITY DIESTABLISHMENT**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>99.36(598,600B)</td>
<td>Definitions</td>
</tr>
<tr>
<td>99.37(598,600B)</td>
<td>Communication between parents</td>
</tr>
<tr>
<td>99.38(598,600B)</td>
<td>Continuation of enforcement</td>
</tr>
<tr>
<td>99.39(598,600B)</td>
<td>Satisfaction of accrued support</td>
</tr>
<tr>
<td>99.40</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

**DIVISION III**

**ADMINISTRATIVE ESTABLISHMENT OF SUPPORT**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>99.41(252C)</td>
<td>Establishment of an administrative order</td>
</tr>
<tr>
<td>99.42 to 99.60</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

**DIVISION IV**

**REVIEW AND ADJUSTMENT OF CHILD SUPPORT OBLIGATIONS**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>99.61(252B,252H)</td>
<td>Definitions</td>
</tr>
<tr>
<td>99.62(252B,252H)</td>
<td>Review of permanent child support obligations</td>
</tr>
<tr>
<td>99.63(252B,252H)</td>
<td>Notice requirements</td>
</tr>
<tr>
<td>99.64(252B,252H)</td>
<td>Financial information</td>
</tr>
<tr>
<td>99.65(252B,252H)</td>
<td>Review and adjustment of a child support obligation</td>
</tr>
<tr>
<td>99.66(252B,252H)</td>
<td>Medical support</td>
</tr>
<tr>
<td>99.67(252B,252H)</td>
<td>Confidentiality of financial information</td>
</tr>
<tr>
<td>99.68(252B,252H)</td>
<td>Payment of service fees and other court costs</td>
</tr>
<tr>
<td>99.69(252B,252H)</td>
<td>Denying requests</td>
</tr>
<tr>
<td>99.70(252B,252H)</td>
<td>Withdrawing requests</td>
</tr>
<tr>
<td>99.71(252H)</td>
<td>Effective date of adjustment</td>
</tr>
<tr>
<td>99.72 to 99.80</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

**DIVISION V**

**ADMINISTRATIVE MODIFICATION**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>99.81(252H)</td>
<td>Definitions</td>
</tr>
<tr>
<td>99.82(252H)</td>
<td>Availability of service</td>
</tr>
<tr>
<td>99.83(252H)</td>
<td>Modification of child support obligations</td>
</tr>
<tr>
<td>99.84(252H)</td>
<td>Notice requirements</td>
</tr>
<tr>
<td>99.85(252H)</td>
<td>Financial information</td>
</tr>
<tr>
<td>99.86(252H)</td>
<td>Challenges to the proposed modification action</td>
</tr>
<tr>
<td>99.87(252H)</td>
<td>Voluntary reduction of income</td>
</tr>
<tr>
<td>99.88(252H)</td>
<td>Effective date of modification</td>
</tr>
<tr>
<td>99.89(252H)</td>
<td>Confidentiality of financial information</td>
</tr>
<tr>
<td>99.90(252H)</td>
<td>Payment of fees</td>
</tr>
<tr>
<td>99.91(252H)</td>
<td>Denying requests</td>
</tr>
<tr>
<td>99.92(252H)</td>
<td>Withdrawing requests</td>
</tr>
<tr>
<td>99.93 to 99.100</td>
<td>Reserved</td>
</tr>
</tbody>
</table>
DIVISION VI
SUSPENSION AND REINSTATEMENT OF SUPPORT

99.101(252B) Definitions
99.102(252B) Availability of service
99.103(252B) Basis for suspension of support
99.104(252B) Request for assistance to suspend
99.105(252B) Order suspending support
99.106(252B) Suspension of enforcement of current support
99.107(252B) Request for reinstatement
99.108(252B) Reinstatement
99.109(252B) Reinstatement of enforcement of support
99.110(252B) Temporary suspension becomes final

CHAPTER 100
CHILD SUPPORT PARENTAL OBLIGATION PILOT PROJECTS

100.1(17A,80GA,HF667) Definitions
100.2(17A,80GA,HF667) Incentives
100.3(17A,80GA,HF667) Application to be a funded pilot project
100.4(17A,80GA,HF667) Selection of projects
100.5(17A,80GA,HF667) Termination of pilot projects
100.6(17A,80GA,HF667) Reports and records
100.7(17A,80GA,HF667) Appeals
100.8(17A,80GA,HF667) Continued application of rules and sunset provisions

TITLE XI
CHILDREN’S INSTITUTIONS

CHAPTER 101
IOWA JUVENILE HOME

101.1(218) Definitions
101.2(218) Standards
101.3(218) Admission
101.4(218) Plan of care
101.5(218) Communication with individuals
101.6(218) Photographing and recording of individuals
101.7(218) Employment of individual
101.8(218) Temporary home visits
101.9(218) Grievances
101.10(218) Alleged child abuse
101.11(233B) Cost of care
101.12(218) Buildings and grounds
101.13(8,218) Gifts and bequests

CHAPTER 102
Reserved

CHAPTER 103
STATE TRAINING SCHOOL

103.1(218) Definitions
103.2(218) Admission
103.3(218) Plan of care
103.4(218) Communication with individuals
103.5(218) Photographing and recording of individuals
103.6(218) Employment of individual
103.7(218) Temporary home visits
103.8(218) Grievances
103.9(692A) Sex offender registration
103.10(218) Alleged child abuse
103.11(233A) Cost of care
103.12(218) Buildings and grounds
103.13(8,218) Gifts and bequests

CHAPTER 104
Reserved

TITLE XII
LICENSES AND APPROVED STANDARDS

CHAPTER 105
JUVENILE DETENTION
AND SHELTER CARE HOMES

105.1(232) Definitions
105.2(232) Buildings and grounds
105.3(232) Personnel policies
105.4(232) Procedures manual
105.5(232) Staff
105.6(232) Intake procedures
105.7(232) Assessments
105.8(232) Program services
105.9(232) Medication management and administration
105.10(232) Control room—juvenile detention home only
105.11(232) Clothing
105.12(232) Staffing
105.13(232) Child abuse
105.14(232) Daily log
105.15(232) Children’s rights
105.16(232) Discipline
105.17(232) Case files
105.18(232) Discharge
105.19(232) Approval
105.20(232) Provisional approval
105.21(232) Mechanical restraint—juvenile detention only
105.22(232) Chemical restraint

CHAPTER 106
SAFETY STANDARDS FOR CHILDREN’S CENTERS

106.1(237B) Definitions
106.2(237B) Application of the standards
106.3(237B) Providing for basic needs
106.4(237B) Protection from mistreatment, physical abuse, sexual abuse, and neglect
106.5(237B) Record checks
106.6(237B) Seclusion and restraints
106.7(237B) Health
106.8(237B) Safety
106.9(237B) Emergencies
106.10(237B) Buildings
CHAPTER 107  
CERTIFICATION OF ADOPTION INVESTIGATORS

107.1(600) Introduction  
107.2(600) Definitions  
107.3(600) Application  
107.4(600) Requirements for certification  
107.5(600) Granting, denial, or revocation of certification  
107.6(600) Certificate  
107.7(600) Renewal of certification  
107.8(600) Investigative services  
107.9(600) Retention of adoption records  
107.10(600) Reporting of violations  
107.11(600) Appeals  

CHAPTER 108  
LICENSING AND REGULATION OF CHILD-PLACING AGENCIES

108.1(238) Definitions  
108.2(238) Licensing procedure  
108.3(238) Administration and organization  
108.4(238) Staff qualifications  
108.5(238) Staffing requirements  
108.6(238) Personnel administration  
108.7(238) Foster care services  
108.8(238) Foster home studies  
108.9(238) Adoption services  
108.10(238) Supervised apartment living placement services  

CHAPTER 109  
CHILD CARE CENTERS

109.1(237A) Definitions  
109.2(237A) Licensure procedures  
109.3(237A) Inspection and evaluation  
109.4(237A) Administration  
109.5(237A) Parental participation  
109.6(237A) Personnel  
109.7(237A) Professional growth and development  
109.8(237A) Staff ratio requirements  
109.9(237A) Records  
109.10(237A) Health and safety policies  
109.11(237A) Physical facilities  
109.12(237A) Activity program requirements  
109.13(237A) Extended evening care  
109.14(237A) Get-well center  
109.15(237A) Food services  

CHAPTER 110  
CHILD DEVELOPMENT HOMES

110.1(237A) Definitions  
110.2(237A) Application for registration  
110.3(237A) Renewal  
110.4(237A) Number of children  
110.5(237A) Standards  
110.6(237A) Compliance checks
110.7(234) Registration decision
110.8(237A) Additional requirements for child development home category A
110.9(237A) Additional requirements for child development home category B
110.10(237A) Additional requirements for child development home category C
110.12(237A) Registration actions for nonpayment of child support
110.13(237A) Transition exception
110.14(237A) Prohibition from involvement with child care

CHAPTER 111
FAMILY-LIFE HOMES

111.1(249) Definitions
111.2(249) Application for certification
111.3(249) Provisions pertaining to the certificate
111.4(249) Physical standards
111.5(249) Personal characteristics of family-life home family
111.6(249) Health of family
111.7(249) Planned activities and personal effects
111.8(249) Client eligibility
111.9(249) Medical examinations, records, and care of a client
111.10(249) Placement agreement
111.11(249) Legal liabilities
111.12(249) Emergency care and release of client
111.13(249) Information about client to be confidential

CHAPTER 112
LICENSING AND REGULATION OF CHILD FOSTER CARE FACILITIES

112.1(237) Applicability
112.2(237) Definitions
112.3(237) Application for license
112.4(237) License
112.5(237) Denial
112.6(237) Revocation
112.7(237) Provisional license
112.8(237) Adverse actions
112.9(237) Suspension
112.10(232) Mandatory reporting of child abuse

CHAPTER 113
LICENSING AND REGULATION OF FOSTER FAMILY HOMES

113.1(237) Applicability
113.2(237) Definitions
113.3(237) Licensing procedure
113.4(237) Provisions pertaining to the license
113.5(237) Physical standards
113.6(237) Sanitation, water, and waste disposal
113.7(237) Safety
113.8(237) Foster parent training
113.9(237) Involvement of kin
113.10(237) Information on the foster child
113.11(237) Health of foster family
113.12(237) Characteristics of foster parents
113.13(237) Record checks
Analysis, p.36

CHAPTER 113
LICENSES AND REGULATION OF ALL
GROUP LIVING FOSTER CARE FACILITIES FOR CHILDREN

113.14(237) Reference checks
113.15(237) Unannounced visits
113.16(237) Planned activities and personal effects
113.17(237) Medical examinations and health care of the child
113.18(237) Training and discipline of foster children
113.19(237) Emergency care and release of children
113.20(237) Changes in foster family home

CHAPTER 114
LICENSES AND REGULATION OF ALL
GROUP LIVING FOSTER CARE FACILITIES FOR CHILDREN

114.1(237) Applicability
114.2(237) Definitions
114.3(237) Physical standards
114.4(237) Sanitation, water, and waste disposal
114.5(237) Safety
114.6(237) Organization and administration
114.7(237) Policies and record-keeping requirements
114.8(237) Staff
114.9(237) Intake procedures
114.10(237) Program services
114.11(237) Case files
114.12(237) Drug utilization and control
114.13(237) Children’s rights
114.14(237) Personal possessions
114.15(237) Religion—culture
114.16(237) Work or vocational experiences
114.17(237) Family involvement
114.18(237) Children’s money
114.19(237) Child abuse
114.20(237) Discipline
114.21(237) Illness, accident, death, or absence from the facility
114.22(237) Records
114.23(237) Unannounced visits
114.24(237) Standards for private juvenile shelter care and detention homes

CHAPTER 115
LICENSES AND REGULATION OF
COMPREHENSIVE RESIDENTIAL FACILITIES FOR CHILDREN

115.1(237) Applicability
115.2(237) Definitions
115.3(237) Information upon admission
115.4(237) Staff
115.5(237) Program services
115.6(237) Restraints
115.7(237) Control room
115.8(237) Locked cottages
115.9(237) Mechanical restraint
115.10(237) Chemical restraint
CHAPTER 116
LICENSING AND REGULATION OF RESIDENTIAL FACILITIES
FOR MENTALLY RETARDED CHILDREN
116.1(237) Applicability
116.2(237) Definitions
116.3(237) Qualifications of staff
116.4(237) Staff to client ratio
116.5(237) Program components
116.6(237) Restraint

CHAPTER 117
FOSTER PARENT TRAINING
117.1(237) Required preservice training
117.2(237) Required orientation
117.3(237) Application materials for in-service training
117.4(237) Application process for in-service training
117.5(237) Application decisions
117.6(237) Application conference available
117.7(237) Required in-service training
117.8(237) Specific in-service training required
117.9(237) Foster parent training expenses

CHAPTER 118
CHILD CARE QUALITY RATING SYSTEM
118.1(237A) Definitions
118.2(237A) Application for quality rating
118.3(237A) Rating standards for child care centers and preschools (sunsetting on July 31, 2011)
118.4(237A) Rating criteria for child development homes (sunsetting on July 31, 2011)
118.5(237A) Rating standards for child care centers, preschools, and programs operating under the authority of an accredited school district or nonpublic school
118.6(237A) Rating criteria for child development homes
118.7(237A) Award of quality rating
118.8(237A) Adverse actions

CHAPTER 119
RECORD CHECK EVALUATIONS FOR CERTAIN EMPLOYERS AND EDUCATIONAL TRAINING PROGRAMS
119.1(135B,135C) Definitions
119.2(135B,135C) When record check evaluations are requested
119.3(135C) Request for evaluation
119.4(135B,135C) Completion of evaluation
119.5(135B,135C) Appeal rights

CHAPTERS 120 to 129
Reserved

TITLE XIII
SERVICE ADMINISTRATION

CHAPTER 130
GENERAL PROVISIONS
130.1(234) Definitions
130.2(234) Application
130.3(234) Eligibility
130.4(234) Fees
130.5(234) Adverse service actions
130.6(234) Social casework
130.7(234) Case plan
130.8 Reserved
130.9(234) Entitlement

CHAPTER 131
SOCIAL CASEWORK
131.1(234) Definitions
131.2(234) Eligibility
131.3(234) Service provision
131.4 Reserved
131.5(234) Adverse actions

CHAPTER 132
Reserved

CHAPTER 133
IV-A EMERGENCY ASSISTANCE PROGRAM
133.1(235) Definitions
133.2(235) Application
133.3(235) Eligibility
133.4(235) Method of service provision
133.5(235) Duration of services
133.6(235) Discontinuance of the program

CHAPTERS 134 to 141
Reserved

CHAPTER 142
INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN
142.1(238) Compact agreement
142.2(238) Compact administrator
142.3(238) Article II(d)
142.4(238) Article III(a)
142.5(238) Article III(a) procedures
142.6(238) Article III(c)
142.7(238) Article VIII(a)
142.8(238) Applicability

CHAPTER 143
INTERSTATE COMPACT ON JUVENILES
143.1(232) Compact agreement
143.2(232) Compact administrator
143.3(232) Sending a juvenile out of Iowa under the compact
143.4(232) Receiving cases in Iowa under the interstate compact
143.5(232) Runaways

CHAPTERS 144 to 149
Reserved
TITLE XIV
GRANT/CONTRACT/PAYMENT ADMINISTRATION

CHAPTER 150
PURCHASE OF SERVICE

DIVISION I
TERMS AND CONDITIONS FOR IOWA PURCHASE OF SOCIAL SERVICES AGENCY AND INDIVIDUAL CONTRACTS, IOWA PURCHASE OF ADMINISTRATIVE SUPPORT, AND IOWA DONATIONS OF FUNDS CONTRACT AND PROVISIONS FOR PUBLIC ACCESS TO CONTRACTS

150.1(234) Definitions
150.2(234) Categories of contracts
150.3(234) Iowa purchase of social services agency contract
150.4(234) Iowa purchase of social services contract—individual providers
150.5(234) Iowa purchase of administrative support
150.6 to 150.8 Reserved
150.9(234) Public access to contracts

CHAPTER 151
JUVENILE COURT SERVICES DIRECTED PROGRAMS

DIVISION I
GENERAL PROVISIONS

151.1(232) Definitions
151.2(232) Administration of funds for court-ordered services and graduated sanction services
151.3(232) Administration of juvenile court services programs within each judicial district
151.4(232) Billing and payment
151.5(232) Appeals
151.6(232) District program reviews and audits
151.7 to 151.19 Reserved

DIVISION II
COURT-ORDERED SERVICES

151.20(232) Juvenile court services responsibilities
151.21(232) Certification process
151.22(232) Expenses
151.23 to 151.29 Reserved

DIVISION III
GRADUATED SANCTION SERVICES

151.30(232) Life skills
151.31(232) School-based supervision
151.32(232) Supervised community treatment
151.33(232) Tracking, monitoring, and outreach
151.34(232) Administration of graduated sanction services
151.35(232) Contract development for graduated sanction services

CHAPTER 152
FOSTER GROUP CARE CONTRACTING

152.1(234) Definitions
152.2(234) Conditions of participation
152.3(234) Determination of rates
152.4(234) Initiation of contract proposal
152.5(234) Contract
152.6(234) Client eligibility and referral
152.7(234) Billing procedures
152.8(234) Contract management
152.9(234) Provider reviews
152.10(234) Sanctions against providers
152.11(234) Appeals of departmental actions

CHAPTER 153
FUNDING FOR LOCAL SERVICES

DIVISION I
SOCIAL SERVICES BLOCK GRANT

153.1(234) Definitions
153.2(234) Development of preexpenditure report
153.3(234) Amendment to preexpenditure report
153.4(234) Service availability
153.5(234) Allocation of block grant funds
153.6 and 153.7 Reserved
153.8(234) Expenditure of supplemental funds

DIVISION II
DECATEGORIZATION OF CHILD WELFARE AND JUVENILE JUSTICE FUNDING

153.11(232) Definitions
153.12(232) Implementation requirements
153.13(232) Role and responsibilities of decategorization project governance boards
153.14(232) Realignment of decategorization project boundaries
153.15(232) Decategorization services funding pool
153.16(232) Relationship of decategorization funding pool to other department child welfare funding
153.17(232) Relationship of decategorization funding pool to juvenile court services funding streams
153.18(232) Requirements for annual services plan
153.19(232) Requirements for annual progress report
153.20 to 153.30 Reserved

DIVISION III
MENTAL ILLNESS, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES—LOCAL SERVICES

153.31 to 153.50 Reserved

DIVISION IV
STATE PAYMENT PROGRAM FOR LOCAL MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES TO ADULTS WITHOUT LEGAL SETTLEMENT

153.51(331) Definitions
153.52(331) Eligibility requirements
153.53(331) Application procedure
153.54(331) Eligibility determination
153.55(331) Eligible services
153.56(331) Program administration
153.57(331) Reduction, denial, or termination of benefits
153.58(331) Appeals

CHAPTER 154
Reserved
CHAPTER 155
CHILD ABUSE PREVENTION PROGRAM
155.1(235A) Definitions
155.2(235A) Contract for program administration
155.3(235A) Awarding of grants

CHAPTER 156
PAYMENTS FOR FOSTER CARE
156.1(234) Definitions
156.2(234) Foster care recovery
156.3(234) Rate of maintenance payment for foster family care
156.4(234) Reserved
156.5(234) Additional payments
156.6(234) Rate of payment for foster group care
156.7(234) Payment for reserve bed days
156.8(234) Emergency care
156.9(234) Supervised apartment living
156.10(234) Reserved
156.11(234) Voluntary placements
156.12(234) Child’s earnings
156.13(234) Trust funds and investments
156.14(234) Preadoptive homes
156.15(234) Reserved
156.16(234) Rate of payment for care in a residential care facility
156.17(234) Eligibility for foster care payment

CHAPTER 157
Reserved

CHAPTER 158
FOSTER HOME INSURANCE FUND
158.1(234) Payments from the foster home insurance fund
158.2(234) Payment limits
158.3(234) Claim procedures
158.4(234) Time frames for filing claims
158.5(234) Appeals

CHAPTER 159
CHILD CARE RESOURCE AND REFERRAL SERVICES
159.1(237A) Definitions
159.2(237A) Availability of funds
159.3(237A) Participation requirements
159.4(237A) Request for proposals for project grants
159.5(237A) Selection of proposals

CHAPTER 160
ADOPTION OPPORTUNITY GRANT PROGRAM
160.1(234) Definitions
160.2(234) Availability of grant funds
160.3(234) Project eligibility
160.4(234) Request for proposals for project grants
160.5(234) Selection of proposals
160.6(234) Project contracts
160.7(234) Records
160.8(234) Evaluation of projects
160.9(234) Termination
160.10(234) Appeals

CHAPTER 161
IOWA SENIOR LIVING TRUST FUND

161.1(249H) Definitions
161.2(249H) Funding and operation of trust fund
161.3(249H) Allocations from the senior living trust fund
161.4(249H) Participation by government-owned nursing facilities

CHAPTER 162
NURSING FACILITY CONVERSION AND LONG-TERM CARE SERVICES DEVELOPMENT GRANTS

162.1(249H) Definitions
162.2(249H) Availability of grants
162.3(249H) Grant eligibility
162.4(249H) Grant application process
162.5(249H) Grant dispersal stages
162.6(249H) Project contracts
162.7(249H) Grantee responsibilities
162.8(249H) Offset
162.9(249H) Appeals

CHAPTER 163
ADOLESCENT PREGNANCY PREVENTION AND SERVICES TO PREGNANT AND PARENTING ADOLESCENTS PROGRAMS

163.1(234) Definitions
163.2(234) Availability of grants for projects
163.3(234) Project eligibility
163.4(234) Request for proposals for pilot project grants
163.5(234) Selection of proposals
163.6(234) Project contracts
163.7(234) Records
163.8(234) Evaluation
163.9(234) Termination of contract
163.10(234) Appeals

CHAPTER 164
IOWA HOSPITAL TRUST FUND

164.1(249I) Definitions
164.2(249I) Funding and operation of trust fund
164.3(249I) Allocations from the hospital trust fund
164.4(249I) Participation by public hospitals

CHAPTER 165
Reserved
CHAPTER 166
QUALITY IMPROVEMENT INITIATIVE GRANTS
166.1(249A) Definitions
166.2(249A) Availability of grants
166.3(249A) Requirements for applicants
166.4(249A) Requirements for initiatives
166.5(249A) Applications
166.6(249A) Awarding of grants
166.7(249A) Grant requirements

CHAPTER 167
JUVENILE DETENTION REIMBURSEMENT
DIVISION I
ANNUAL REIMBURSEMENT PROGRAM
167.1(232) Definitions
167.2(232) Availability of funds
167.3(232) Eligible facilities
167.4(232) Available reimbursement
167.5(232) Submission of voucher
167.6(232) Reimbursement by the department

CHAPTER 168
CHILD CARE EXPANSION PROGRAMS
168.1(234) Definitions
168.2(234) Availability of funds
168.3(234) Eligibility requirements
168.4(234) Request for proposals
168.5(234) Selection of proposals
168.6(234) Appeals
168.7(234) Contracts
168.8(234) Reporting requirements
168.9(234) Termination of contract

CHAPTER 169
Reserved

TITLE XV
INDIVIDUAL AND FAMILY SUPPORT AND PROTECTIVE SERVICES
CHAPTER 170
CHILD CARE SERVICES
170.1(237A) Definitions
170.2(237A,239B) Eligibility requirements
170.3(237A,239B) Application and determination of eligibility
170.4(237A) Elements of service provision
170.5(237A) Adverse actions
170.6(237A) Appeals
170.7(237A) Provider fraud
170.8 Reserved
170.9(237A) Child care assistance overpayments

CHAPTER 171
Reserved
CHAPTER 172
FAMILY-CENTERED CHILD WELFARE SERVICES

DIVISION I
GENERAL PROVISIONS

172.1(234) Definitions
172.2(234) Purpose and scope
172.3(234) Authorization
172.4(234) Reimbursement
172.5(234) Client appeals
172.6(234) Reviews and audits
172.7 to 172.9 Reserved

DIVISION II
SAFETY PLAN SERVICES

172.10(234) Service requirements
172.11(234) Contractor selection
172.12(234) Service eligibility
172.13(234) Service components
172.14(234) Monitoring of service delivery
172.15(234) Billing and payment
172.16 to 172.19 Reserved

DIVISION III
FAMILY SAFETY, RISK, AND PERMANENCY SERVICES

172.20(234) Service requirements
172.21(234) Contractor selection
172.22(234) Service eligibility
172.23(234) Service components
172.24(234) Monitoring of service delivery
172.25(234) Billing and payment
172.26 to 172.29 Reserved

DIVISION IV
FAMILY-CENTERED SUPPORTIVE SERVICES

172.30(234) Service components
172.31(234) Contractor selection
172.32(234) Service eligibility
172.33(234) Monitoring of service delivery
172.34(234) Billing and payment

CHAPTERS 173 and 174
Reserved

CHAPTER 175
ABUSE OF CHILDREN

DIVISION I
CHILD ABUSE

175.1 to 175.20 Reserved

DIVISION II
CHILD ABUSE ASSESSMENT

175.21(232,235A) Definitions
175.22(232) Receipt of a report of suspected child abuse
175.23(232) Sources of report of suspected child abuse
175.24(232) Assessment intake process
175.25(232) Assessment process
175.26(232) Completion of a written assessment report
175.27(232) Contact with juvenile court or the county attorney
175.28(232) Consultation with health practitioners or mental health professionals
175.29(232) Consultation with law enforcement
175.30(232) Information shared with law enforcement
175.31(232) Completion of required correspondence
175.32(232,235A) Case records
175.33(232,235A) Child protection centers
175.34(232) Department-operated facilities
175.35(232,235A) Jurisdiction of assessments
175.36(235A) Multidisciplinary teams
175.37(232) Community education
175.38(235) Written authorizations
175.39(232) Founded child abuse
175.40 Reserved
175.41(235A) Access to child abuse information
175.42(235A) Person conducting research
175.43(235A) Child protection services citizen review panels

CHAPTER 176
DEPENDENT ADULT ABUSE

176.1(235B) Definitions
176.2(235B) Denial of critical care
176.3(235B) Appropriate evaluation
176.4(235B) Reporters
176.5(235B) Reporting procedure
176.6(235B) Duties of the department upon receipt of report
176.7(235B) Appropriate evaluation or assessment
176.8(235B) Immunity from liability for reporters
176.9(235B) Registry records
176.10(235B) Adult abuse information disseminated
176.11(235B) Person conducting research
176.12(235B) Examination of information
176.13(235B) Dependent adult abuse information registry
176.14 Reserved
176.15(235B) Multidisciplinary teams
176.16(235B) Medical and mental health examinations
176.17(235B) Request for correction or expungement

CHAPTER 177
IN-HOME HEALTH RELATED CARE

177.1(249) In-home health related care
177.2(249) Own home
177.3(249) Service criteria
177.4(249) Eligibility
177.5(249) Providers of health care services
177.6(249) Health care plan
177.7(249) Client participation
177.8(249) Determination of reasonable charges
177.9(249) Written agreements
177.10(249) Emergency services
177.11(249) Termination
### CHAPTERS 178 to 183
Reserved

### CHAPTER 184
**INDIVIDUAL AND FAMILY DIRECT SUPPORT**

#### DIVISION I
**FAMILY SUPPORT SUBSIDY PROGRAM**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>184.1(225C)</td>
<td>Definitions</td>
</tr>
<tr>
<td>184.2(225C)</td>
<td>Eligibility requirements</td>
</tr>
<tr>
<td>184.3(225C)</td>
<td>Application process</td>
</tr>
<tr>
<td>184.4(225C)</td>
<td>Family support services plan</td>
</tr>
<tr>
<td>184.5</td>
<td>Reserved</td>
</tr>
<tr>
<td>184.6(225C)</td>
<td>Amount of subsidy payment</td>
</tr>
<tr>
<td>184.7(225C)</td>
<td>Redetermination of eligibility</td>
</tr>
<tr>
<td>184.8(225C)</td>
<td>Termination of subsidy payments</td>
</tr>
<tr>
<td>184.9(225C)</td>
<td>Appeals</td>
</tr>
<tr>
<td>184.10 to 184.20</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

#### DIVISION II
**COMPREHENSIVE FAMILY SUPPORT PROGRAM**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>184.21(225C)</td>
<td>Definitions</td>
</tr>
<tr>
<td>184.22(225C)</td>
<td>Eligibility</td>
</tr>
<tr>
<td>184.23(225C)</td>
<td>Application</td>
</tr>
<tr>
<td>184.24(225C)</td>
<td>Contractor selection and duties</td>
</tr>
<tr>
<td>184.25(225C)</td>
<td>Direct assistance</td>
</tr>
<tr>
<td>184.26(225C)</td>
<td>Appeals</td>
</tr>
<tr>
<td>184.27(225C)</td>
<td>Parent advisory council</td>
</tr>
</tbody>
</table>

### CHAPTER 185
Reserved

### CHAPTER 186
**COMMUNITY CARE**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>186.1(234)</td>
<td>Definitions</td>
</tr>
<tr>
<td>186.2(234)</td>
<td>Eligibility</td>
</tr>
<tr>
<td>186.3(234)</td>
<td>Services provided</td>
</tr>
<tr>
<td>186.4(234)</td>
<td>Appeals</td>
</tr>
</tbody>
</table>

### CHAPTER 187
**AFTERCARE SERVICES AND SUPPORTS**

#### DIVISION I
**AFTERCARE SERVICES**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>187.1(234)</td>
<td>Purpose</td>
</tr>
<tr>
<td>187.2(234)</td>
<td>Eligibility</td>
</tr>
<tr>
<td>187.3(234)</td>
<td>Services and supports provided</td>
</tr>
<tr>
<td>187.4(234)</td>
<td>Termination</td>
</tr>
<tr>
<td>187.5(234)</td>
<td>Waiting list</td>
</tr>
<tr>
<td>187.6(234)</td>
<td>Administration</td>
</tr>
<tr>
<td>187.7 to 187.9</td>
<td>Reserved</td>
</tr>
</tbody>
</table>

#### DIVISION II
**PREPARATION FOR ADULT LIVING (PAL) PROGRAM**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>187.10(234)</td>
<td>Purpose</td>
</tr>
<tr>
<td>187.11(234)</td>
<td>Eligibility</td>
</tr>
<tr>
<td>187.12(234)</td>
<td>Payment</td>
</tr>
</tbody>
</table>
Termination of stipend
Waiting list
Administration

CHAPTERS 188 to 199
Reserved

TITLE XVI
ALTERNATIVE LIVING

CHAPTER 200
ADOPTION SERVICES

Definitions
Release of custody services
Application
Adoption services
Termination of parental rights
Reserved
Interstate placements
Reserved
Requests for home studies
Reasons for denial
Removal of child from preadoptive family
Consents
Requests for access to information for research or treatment
Requests for information for purposes other than research or treatment
Appeals

CHAPTER 201
SUBSIDIZED ADOPTIONS

Administration
Definitions
Conditions of eligibility or ineligibility
Application
Negotiation of amount of presubsidy or subsidy
Types of subsidy
Termination of subsidy
Reinstatement of subsidy
New application
Medical assistance based on residency
Presubsidy recovery

CHAPTER 202
FOSTER CARE PLACEMENT AND SERVICES

Definitions
Eligibility
Voluntary placements
Selection of facility
Preplacement
Placement
Out-of-area placements
Out-of-state placements
Supervised apartment living
Services to foster parents
202.11(234) Services to the child
202.12(234) Services to parents
202.13(234) Removal of the child
202.14(234) Termination
202.15(234) Case permanency plan
202.16(135H) Department approval of need for a psychiatric medical institution for children
202.17(232) Area group care targets
202.18(235) Local transition committees

CHAPTER 203
IOWA ADOPTION EXCHANGE

203.1(232) Definitions
203.2(232) Children to be registered on the exchange system
203.3(232) Families to be registered on the exchange system
203.4(232) Matching process

CHAPTER 204
SUBSIDIZED GUARDIANSHIP PROGRAM

204.1(234) Definitions
204.2(234) Eligibility
204.3(234) Application
204.4(234) Negotiation of amount of subsidy
204.5(234) Parental liability
204.6(234) Termination of subsidy
204.7(234) Reinstatement of subsidy
204.8(234) Appeals
204.9(234) Medical assistance
CHAPTER 24
ACCREDITATION OF PROVIDERS OF SERVICES TO PERSONS WITH MENTAL ILLNESS, INTELLECTUAL DISABILITIES, OR DEVELOPMENTAL DISABILITIES

PREAMBLE

The mental health and disability services commission has adopted this set of standards to be met by all providers of services to people with mental illness, intellectual disabilities, or developmental disabilities. These standards apply to providers that are not required to be licensed by the department of inspections and appeals. These providers include community mental health centers, mental health services providers, case management providers, supported community living providers, and crisis response providers in accordance with Iowa Code chapter 225C.

The standards serve as the foundation of a performance-based review of those organizations for which the department holds accreditation responsibility, as set forth in Iowa Code chapters 225C and 230A. The mission of accreditation is to assure individuals using the services and the general public of organizational accountability for meeting best practices performance levels, for efficient and effective management, and for the provision of quality services that result in quality outcomes for individuals using the services.

The department’s intent is to establish standards that are based on the principles of quality improvement and are designed to facilitate the provision of excellent quality services that lead to positive outcomes. The intent of these standards is to make organizations providing services responsible for effecting efficient and effective management and operational systems that enhance the involvement of individuals using the services and to establish a best practices level of performance by which to measure provider organizations.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

DIVISION I
SERVICES FOR INDIVIDUALS WITH DISABILITIES

PREAMBLE

This set of standards in this division has been established to be met by all providers of case management, day treatment, intensive psychiatric rehabilitation, supported community living, partial hospitalization, outpatient counseling and emergency services.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

441—24.1(225C) Definitions.

“Accreditation” means the decision made by the commission that the organization has met the applicable standards.

“Advanced registered nurse practitioner” means a nurse who has current licensure as a registered nurse in Iowa, or licensure in another state that is recognized in Iowa pursuant to Iowa Code chapter 152E, and who is also registered as certified in psychiatric mental health specialties pursuant to board of nursing rules in 655—Chapter 7.

“Advisory board” means the board that reviews and makes recommendations to the organization on the program being accredited. The advisory board shall meet at least three times a year and shall have at least three members, at least 51 percent of whom are not providers. The advisory board shall include representatives who have disabilities or family members of persons with disabilities. The advisory board’s duties include review and recommendation of policies, development and review of the organizational plan for the program being accredited, review and recommendation of the budget for the program being accredited, and review and recommendation of the performance improvement program of the program being accredited.
"Anticipated discharge plan" means the statement of the condition or circumstances by which the individual using the service would no longer need each of the specific services accredited under this chapter.

"Appropriate" means the degree to which the services or supports or activities provided or undertaken by the organization are suitable and desirable for the needs, situation, or problems of the individual using the service.

"Assessment" means the review of the current functioning of the individual using the service in regard to the individual’s situation, needs, strengths, abilities, desires and goals.

"Benchmarks" means the processes of an organization that lead to implementation of the indicators.

"Chronic mental illness" means the condition present in people aged 18 and over who have a persistent mental or emotional disorder that seriously impairs their functioning relative to such primary aspects of daily living as personal relations, living arrangements, or employment. People with chronic mental illness typically meet at least one of the following criteria:

1. They have undergone psychiatric treatment more intensive than outpatient care more than once in a lifetime (e.g., emergency services, alternative home care, partial hospitalization or inpatient hospitalization).
2. They have experienced at least one episode of continuous, structured, supportive residential care other than hospitalization.

In addition, people with chronic mental illness typically meet at least two of the following criteria on a continuing or intermittent basis for at least two years:

1. They are unemployed, employed in a sheltered setting, or have markedly limited skills and a poor work history.
2. They require financial assistance for out-of-hospital maintenance and may be unable to procure this assistance without help.
3. They show severe inability to establish or maintain a personal social support system.
4. They require help in basic living skills.
5. They exhibit inappropriate social behavior that results in demand for intervention by the mental health or judicial system.

In atypical instances, a person who varies from these criteria could still be considered to be a person with chronic mental illness.

"Commission" means the mental health and disability services commission (MH/DS commission) as established and defined in Iowa Code section 225C.5.

"Community" means a natural setting where people live, learn, work, and socialize.

"Community mental health center" means an organization providing mental health services that is established pursuant to Iowa Code chapters 225C and 230A.

"Crisis intervention plan" means a personalized, individualized plan developed with the individual using the service that identifies potential personal psychiatric, environmental, and medical emergencies. This plan shall also include those life situations identified as problematic and the identified strategies and natural supports developed with the individual using the service to enable the individual to self-manage, alleviate, or end the crisis. This plan shall also include how the individual can access emergency services that may be needed.

"Deemed status" means acceptance by the commission of accreditation or licensure of a program or service by another accrediting body in lieu of accreditation based on review and evaluation by the division.

"Department" means the Iowa department of human services.

"Developmental disability" means a severe, chronic disability that:

1. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
2. Is manifested before the age of 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and
5. Reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

A person from birth to the age of nine, inclusive, who has a substantial developmental delay or specific congenital or acquired condition may be considered to have a developmental disability without meeting three or more of the criteria described above if the person, without services and supports, has a high probability of meeting those criteria later in life.

“Direct services” means services providing therapy, habilitation, or rehabilitation activities or support services such as transportation.

“Division” means the division of behavioral, developmental, and protective services for families, adults, and children of the department of human services.

“Doctor of medicine or osteopathic medicine” means a person who is licensed in the state of Iowa under Iowa Code chapter 148 as a physician and surgeon or under Iowa Code chapter 150A as an osteopathic physician and surgeon.

“Functional assessment” means the analysis of daily living skills. The functional assessment also takes into consideration the strengths, stated needs, and level and kind of disability of the individual using the service.

“Goal achieving” means to gain the required skills and supports to obtain the goal of choice. For purposes of this chapter, the definition and explanation are taken from the Psychiatric Rehabilitation Practitioner Tools, as developed by the Boston Center for Psychiatric Rehabilitation.

“Goal keeping” means assisting the individual using the service in maintaining successful and satisfying role performance to prevent the emergence of symptoms associated with role deterioration. For purposes of this chapter, the definition and explanation are taken from the Psychiatric Rehabilitation Practitioner Tools, as developed by the Boston Center for Psychiatric Rehabilitation.

“Incident,” for the purposes of this chapter, means an occurrence involving the individual using the service that:
1. Results in a physical injury to or by the individual that requires a physician’s treatment or admission to a hospital, or
2. Results in someone’s death, or
3. Requires emergency mental health treatment for the individual, or
4. Requires the intervention of law enforcement, or
5. Results from any prescription medication error, or
6. Is reportable to protective services.

“Indicators” means conditions that will exist when the activity is done competently and benchmarks are achieved. Indicators also provide a means to assess the activity’s effect on outcomes of services.

“Informed consent” refers to time-limited, voluntary consent. The individual using the service or the individual’s legal guardian may withdraw consent at any time without risk of punitive action. “Informed consent” includes a description of the treatment and specific procedures to be followed, the intended outcome or anticipated benefits, the rationale for use, the risks of use and nonuse, and the less restrictive alternatives considered. The individual using the service or the legal guardian has the opportunity to ask questions and have them satisfactorily answered.

“Intensive psychiatric rehabilitation practitioner” means a person who has at least 60 contact hours of training in intensive psychiatric rehabilitation and either:
1. Is certified as a psychiatric rehabilitation practitioner by the United States Psychiatric Rehabilitation Association; or
2. Holds a bachelor’s degree with 30 semester hours or equivalent quarter hours in a human services field (including, but not limited to, psychology, social work, mental health counseling, marriage and family therapy, nursing, education, occupational therapy, and recreational therapy) and has at least
one year of experience in the delivery of services to the population groups that the person is hired to serve.

“Leadership” means the governing board, the chief administrative officer or executive director, managers, supervisors, and clinical leaders who participate in developing and implementing organizational policies, plans and systems.

“Marital and family therapist” means a person who is licensed under Iowa Code chapter 154D in the application of counseling techniques in the assessment and resolution of emotional conditions. This includes the alteration and establishment of attitudes and patterns of interaction relative to marriage, family life, and interpersonal relationships.

“Mental health counselor” means a person who is licensed under Iowa Code chapter 154D in counseling services involving assessment, referral, consultation, and the application of counseling, human development principles, learning theory, group dynamics, and the etiology of maladjustment and dysfunctional behavior to individuals, families, and groups.

“Mental health professional” means a person who meets all of the following conditions:

1. Holds at least a master’s degree in a mental health field including, but not limited to, psychology, counseling and guidance, psychiatric nursing and social work; or is a doctor of medicine or osteopathic medicine; and
2. Holds a current Iowa license when required by the Iowa professional licensure laws (such as a psychologist, a psychologist, a marital and family therapist, a mental health counselor, an advanced registered nurse practitioner, a psychiatric nurse, or a social worker); and
3. Has at least two years of postdegree experience supervised by a mental health professional in assessing mental health problems, mental illness, and service needs and in providing mental health services.

“Mental health service provider” means an organization whose services are established to specifically address mental health services to individuals or the administration of facilities in which these services are provided. Organizations included are:

1. Those contracting with a county board of supervisors to provide mental health services in lieu of that county’s affiliation with a community mental health center (Iowa Code chapter 230A).
2. Those that may contract with a county board of supervisors for special services to the general public or special segments of the general public and that are not accredited by any other accrediting body.

These standards do not apply to individual practitioners or partnerships of practitioners covered under Iowa’s professional licensure laws.

“Mental retardation” means a diagnosis of mental retardation under these rules which shall be made only when the onset of the person’s condition was before the age of 18 years and shall be based on an assessment of the person’s intellectual functioning and level of adaptive skills. A psychologist or psychiatrist who is professionally trained to administer the tests required to assess intellectual functioning and to evaluate a person’s adaptive skills shall make the diagnosis. A diagnosis of mental retardation shall be made in accordance with the criteria provided in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association.

“Natural supports” means those services and supports an individual using the service identifies as wanted or needed that are provided at no cost by family, friends, neighbors, and others in the community, or by organizations or entities that serve the general public.

“New organization” means an entity that has never been accredited under 441—Chapter 24 or an accredited entity under 441—Chapter 24 that makes a significant change in its ownership, structure, management, or service delivery.

“Organization” means:

1. A governmental entity or an entity that meets Iowa Code requirements for a business organization as a for-profit or not-for-profit business. These entities include, but are not limited to, a business corporation under Iowa Code chapter 490 or a nonprofit corporation under Iowa Code chapter 504 that provides a service accredited pursuant to the rules in this chapter.
2. A county, consortium of counties, or the department of human services that provides or subcontracts for the provision of case management.
3. A division or unit of a larger entity, such as a unit within a hospital or parent organization.  
“Organization” does not include: an individual for whom a license to engage in a profession is required under Iowa Code section 147.2, any person providing a service if the person is not organized as a corporation or other business entity recognized under the Iowa Code, or an entity that provides only financial, administrative, or employment services and that does not directly provide the services accredited under this chapter.

“Outcome” means the result of the performance or nonperformance of a function or process or activity.

“Policies” means the principles and statements of intent of the organization.

“Procedures” means the steps taken to implement the policies of the organization.

“Program” means a set of related resources and services directed to the accomplishment of a fixed set of goals for the population of a specified geographic area or for special target populations.

“Psychiatric crisis intervention plan” means a personalized, individualized plan developed with the individual using the service that identifies potential personal psychiatric emergencies. This plan shall also include those life situations identified as problematic and the identified strategies and natural supports developed with the individual using the service to enable the individual to self-manage, alleviate, or end the crisis. This plan shall also include how the individual can access emergency services that may be needed.

“Psychiatric nurse” means a person who meets the requirements of a certified psychiatric nurse, is eligible for certification by the American Nursing Association, and is licensed by the state of Iowa to practice nursing as defined in Iowa Code chapter 152.

“Psychiatrist” means a doctor of medicine or osteopathic medicine who is certified by the American Board of Psychiatry and Neurology or who is eligible for certification and who is fully licensed to practice medicine in the state of Iowa.

“Psychologist” means a person who:
1. Is licensed to practice psychology in the state of Iowa or meets the requirements of eligibility for a license to practice psychology in the state of Iowa as defined in Iowa Code chapter 154B; or
2. Is certified by the Iowa department of education as a school psychologist or is eligible for certification by the Iowa department of education.

“Qualified case managers and supervisors” means people who have the following qualifications:
1. A bachelor’s degree with 30 semester hours or equivalent quarter hours in a human services field (including, but not limited to, psychology, social work, mental health counseling, marriage and family therapy, nursing, education, occupational therapy, and recreational therapy) and at least one year of experience in the delivery of services to the population groups that the person is hired as a case manager or case management supervisor to serve; or
2. An Iowa license to practice as a registered nurse and at least three years of experience in the delivery of services to the population group the person is hired as a case manager or case management supervisor to serve.

People employed as case management supervisors on or before August 1, 1993, who do not meet these requirements shall be considered to meet these requirements as long as they are continuously employed by the same case management provider.

“Readiness assessment” means a process of involving the individual using the service in clarifying motivational readiness to participate in the recovery process. For purposes of this chapter, the definition and explanation are taken from the Psychiatric Rehabilitation Practitioner Tools, as developed by the Boston Center for Psychiatric Rehabilitation.

“Readiness development” means services designed to develop or increase an individual’s interest, motivation, and resolve to engage in the rehabilitation services process, as a means of enhancing independent functioning and quality of life. For purposes of this chapter, the definition and explanation are taken from the Psychiatric Rehabilitation Practitioner Tools, as developed by the Boston Center for Psychiatric Rehabilitation.

“Registered nurse” means a person who is licensed to practice nursing in the state of Iowa as defined in Iowa Code chapter 152.
“Rehabilitation services” means services designed to restore, improve, or maximize the individual’s optimal level of functioning, self-care, self-responsibility, independence and quality of life and to minimize impairments, disabilities and dysfunction caused by a serious and persistent mental or emotional disability.

“Rights restriction” means limitations not imposed on the general public in the areas of communication, mobility, finances, medical or mental health treatment, intimacy, privacy, type of work, religion, place of residence, and people with whom the individual using the service may share a residence.

“Serious emotional disturbance” means a diagnosable mental, behavioral, or emotional disorder that (1) is of sufficient duration to meet diagnostic criteria for the disorder specified by the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV-TR), published by the American Psychiatric Association; and (2) has resulted in a functional impairment that substantially interferes with or limits a consumer’s role or functioning in family, school, or community activities. “Serious emotional disturbance” shall not include developmental disorders, substance-related disorders, or conditions or problems classified in DSM-IV-TR as “other conditions that may be a focus of clinical attention” (V codes), unless those conditions co-occur with another diagnosable serious emotional disturbance.

“Service plan” means an individualized goal-oriented plan of services written in language understandable by the individual using the service and developed collaboratively by the individual and the organization.

“Staff” means people paid by the organization to perform duties and responsibilities defined in the organization’s policies and procedures.

[AIRC 166OC, IAB 10/15/14, effective 12/1/14]

441—24.2(225C) Standards for policy and procedures.

24.2(1) Performance benchmark. The organization has written policy direction for the organization and each service being accredited.

24.2(2) Performance indicators.

a. The organization has a policies and procedures manual with policy guidelines and administrative procedures for all organizational activities and services specific to its organization that addresses the standards in effect at the time of review.

b. The policies and procedures cover each benchmark and indicator in this chapter.

c. The policies and procedures manual is made available to all staff.

441—24.3(225C) Standards for organizational activities.

24.3(1) Performance improvement system.

a. Performance benchmark. The organization has a systematic, organizationwide, planned approach to designing, measuring, evaluating, and improving the level of its performance.

b. Performance indicators. The organization:

(1) Annually measures and assesses organizational activities and services accredited in this chapter.

(2) Gathers information from individuals using the services, from staff, and from family members.

(3) Implements an internal review of individual records for those services accredited under this chapter. For outpatient psychotherapy and counseling services, the organization:

1. Reviews the individual’s involvement in and with treatment.

2. Ensures that treatment activities are documented and are relevant to the diagnosis or presenting problem.

(4) Reviews the organization’s response to incidents reported under subrule 24.4(5) for necessity, appropriateness, effectiveness and prevention. This review includes analysis of incident data at least annually to identify any patterns of risk to the health and safety of consumers.

(5) Reviews the organization’s response to any situation that poses a danger or threat to staff or to individuals using the services for necessity, appropriateness, effectiveness, and prevention.

(6) Identifies areas in need of improvement.
(7) Has a plan to address the areas in need of improvement. Where applicable, the organization establishes a plan to resolve the problem of patients missing appointments.
(8) Implements the plan and documents the results.

24.3(2) Leadership.
   a. Performance benchmark. Organization leaders provide the framework for the planning, designing, directing, coordination, provision and improvement of services that are responsive to the individuals using the services and the community served by the organization.
   b. Performance indicators.
      (1) There are clearly articulated mission and values statements that are reflected in the long-range organizational plans and in organization policies.
      (2) The annual and long-range budgeting process involves appropriate governing and managing levels of leadership and reflects the organization’s mission and values. An independent auditor or other person as provided by law performs an annual financial audit.
      (3) Individuals using the services or family members of individuals using the services are represented on the organization’s governing board or on an advisory board.
      (4) The organization’s decision-making process, including policy decisions affecting the organization, reflects involvement of the various levels of leadership and responsiveness to staff.
      (5) Organization leaders solicit input from leaders of the various community groups representing individuals served by the organization in designing responsive service delivery systems.
      (6) Organization leaders develop and implement a service system appropriate to the needs of the individuals served by the organization.
      (7) Organization leaders make educational information, resources, and service consultation available to community groups.

24.3(3) Management information system.
   a. Performance benchmark. Information is obtained, managed, and used in an efficient and effective method to document, enhance, and improve organizational performance and service delivery.
   b. Performance indicators.
      (1) The organization has a system in place to maintain current individual-specific information documenting the provision and outcomes of services and treatments provided.
      (2) The organization has a system in place to maintain the confidentiality and security of information that identifies specific individuals using the services, including mail, correspondence, and electronic files.

24.3(4) Human resources.
   a. Performance benchmark. The organization provides qualified staff to support the organization’s mission and facilitate the provision of quality services.
   b. Performance indicators. The organization:
      (1) Has a job description in the personnel file of each staff member that clearly defines responsibilities and qualifications.
      (2) Has a process to verify qualifications of staff, including degrees, licenses, medication management training, and certification as required by the position, within 90 days of the staff person’s employment. For staff hired after July 1, 2006, personnel files contain evidence that verification of professional licenses and college degrees at the bachelor’s level or higher, as required by the position, was obtained from the primary source.
      (3) Evaluates staff annually.
      (4) Includes a plan for staff development for each staff member in the annual evaluation.
      (5) Provides training and education to all staff relevant to their positions.
      (6) Provides for approved training on child and dependent adult abuse reporter requirements to all organization staff who are mandatory abuse reporters. The organization documents in personnel records training on child and dependent adult abuse reporter requirements.
      (7) Has staff members sign a document indicating that they are aware of the organization’s policy on confidentiality and maintains these documents in the personnel files.
(8) Provides an initial orientation to new staff and documents this orientation in the employee’s personnel file.
(9) Has mechanisms in place that afford staff the right to express concerns about a particular care issue or to file a grievance concerning a specific employment situation.
(10) Completes criminal and abuse record checks and evaluations as required in Iowa Code section 135C.33(5) before employment for any employee who meets with individuals using the services in the individuals’ homes.
(11) Establishes and implements a code of ethics for all staff addressing confidentiality, individual rights, and professional and legal issues in providing services and documents in the personnel records that the code of ethics in effect at the time of review has been reviewed with each staff member.

24.3(5) Organizational environment.
   a. Performance benchmark. The organization provides services in an organizational environment that is safe and supportive for the individuals being served and the staff providing services.
   b. Performance indicators.
      (1) The environment enhances the self-image of the individual using the service and preserves the individual’s dignity, privacy, and self-development.
      (2) The environment is safe and accessible and meets all applicable local, state, and federal regulations.
      (3) The processes that service and maintain the environment and the effectiveness of the environment are reviewed within the organization’s monitoring and improvement system.
      (4) The organization establishes intervention procedures for behavior that presents significant risk of harm to the individual using the service or others. The interventions also ensure that the individual’s rights are protected and that due process is afforded.
      (5) The organization meets state and federal regulations in the way it implements the safe storage, provision, administration, and disposal of medication when used within the service.
      (6) All toys and other materials used by children are clean and safe.

441—24.4(225C) Standards for services. Providers for the services set forth in subrules 24.4(9) through 24.4(13) shall meet the standards in subrules 24.4(1) through 24.4(8) in addition to the standards for the specific service. Providers of outpatient psychotherapy and counseling services shall also meet standards in subrules 24.4(1), 24.4(2), 24.4(4), 24.4(6), 24.4(7), and 24.4(8). Providers of emergency services or evaluation services shall meet the benchmark for the services they provide.

24.4(1) Social history.
   a. Performance benchmark. The organization completes a social history for each individual served.
   b. Performance indicators.
      (1) The organization collects and documents relevant historical information and organizes the information in one distinct document in a narrative format.
      (2) The social history includes:
         1. Relevant information regarding the onset of disability.
         2. Family, physical, psychosocial, behavioral, cultural, environmental, and legal history.
         3. Developmental history for children.
         4. Any history of substance abuse, domestic violence, or physical, emotional, or sexual abuse.
      (3) Staff review and update the social history at least annually.

24.4(2) Assessment.
   a. Performance benchmark. The organization develops a written assessment for each individual served. The assessment is the basis for the services provided to the individuals.
   b. Performance indicators.
      (1) The assessment includes information about the individual’s current situation, diagnosis, needs, problems, wants, abilities and desired results, gathered with the individual’s involvement.
      (2) Staff solicit collateral provider information as appropriate to the individual situation in order to compile a comprehensive and full assessment.
(3) Staff develop and complete the assessment in a narrative format.

(4) Staff base decisions regarding the level, type and immediacy of services to be provided, or the need for further assessment or evaluation, upon the analysis of the information gathered in the assessment.

(5) Staff complete an annual reassessment for each individual using the service and document the reassessment in a written format.

(6) Documentation supporting the diagnosis is contained in the individual’s record. A diagnosis of mental retardation is supported by a psychological evaluation conducted by a qualified professional. A diagnosis of developmental disability is supported by professional documentation. A determination of chronic mental illness is supported by a psychiatric or psychological evaluation conducted by a qualified professional.

24.4(3) Individual service plan.

a. Performance benchmark. Individualized, planned, and appropriate services are guided by an individual-specific service plan developed in collaboration with the individual using the service, staff, and significantly involved others as appropriate. Services are planned for and directed to where the individuals live, learn, work, and socialize.

b. Performance indicators.

1. The service plan is based on the current assessment.

2. The service plan identifies observable or measurable individual goals and action steps to meet the goals.

3. The service plan includes interventions and supports needed to meet those goals with incremental action steps, as appropriate.

4. The service plan includes the staff, people, or organizations responsible for carrying out the interventions or supports.

5. Services defined in the service plan are appropriate to the severity level of problems and specific needs or disabilities.

6. The plan reflects desired individual outcomes.

7. Activities identified in the service plan encourage the ability and right of the individual using the service to make choices, to experience a sense of achievement, and to modify or continue participation in the treatment process.

8. Staff monitor the service plan with review occurring regularly. At least annually, staff assess and revise the service plan to determine achievement, continued need, or change in goals or intervention methods. The review includes the individual using the service, with the involvement of significant others as appropriate.

9. Staff develop a separate, individualized, anticipated discharge plan as part of the service plan that is specific to each service the individual receives.

10. The service plan includes documentation of any rights restrictions, why there is a need for the restriction, and a plan to restore those rights or a reason why a plan is not necessary or appropriate.

24.4(4) Documentation of service provision.

a. Performance benchmark. Individualized and appropriate intervention services and treatments are provided in ways that support the needs, desires, and goals identified in the service plan, and that respect the rights and choices of the individual using the service.

b. Performance indicators.

1. Staff document in the narrative the individual’s participation in the treatment process.

2. Responsible staff document the individual’s progress toward goals, the provision of staff intervention, and the individual’s response to those interventions.

3. Documentation of service provision is in a written, legible, narrative format in accordance with organizational policies and procedures.

24.4(5) Incident reports.

a. Performance benchmark. The organization completes an incident report when organization staff first become aware that an incident has occurred.

b. Performance indicators.
(1) The organization documents the following information:
1. The name of the individual served who was involved in the incident.
2. The date and time the incident occurred.
3. A description of the incident.
4. The names of all organization staff and others who were present or responded at the time of the incident. (For confidentiality reasons, other individuals who receive services should be identified by initials or some other accepted means.)
5. The action the organization staff took to handle the situation.
6. The resolution of or follow-up to the incident.
(2) The staff who were directly involved at the time of the incident or who first became aware of the incident prepare and sign the incident report before forwarding it to the supervisor.
(3) Staff file a copy of the completed incident report in a centralized location and make a notation in the individual’s file.
(4) Staff send a copy of the incident report to the individual’s Medicaid targeted case manager or county case worker who is involved in funding the service and notify the individual’s legal guardian within 72 hours of the incident.

24.4(6) Confidentiality and legal status.
   a. Performance benchmark. Staff release medical and mental health information only when properly authorized.
   b. Performance indicators.
      (1) The organization obtains voluntary written authorization from the individual using the service, the individual’s legal guardian, or other people authorized by law before releasing personal identifying information, medical records, mental health records, or any other confidential information.
      (2) Staff complete voluntary written authorization forms in accordance with existing federal and state laws, rules, and regulations and maintain them in each individual file.
      (3) Documentation regarding restrictions on the individual, such as guardianship, power of attorney, conservatorship, mental health commitments, or other court orders, is placed in the individual’s record, if applicable.

24.4(7) Service systems.
   a. Performance benchmark. The organization develops a clear description of each of the services offered. The organization develops an admission and discharge system of services. Staff coordinate services with other settings and providers.
   b. Performance indicators.
      (1) The organization has established and documented the necessary admission information to determine each individual’s eligibility for participation in the service.
      (2) Staff include verification in each individual’s file that a service description was provided to the individual using the service and, when appropriate, to family or significant others.
      (3) Continuity of services occurs through coordination among the staff and professionals providing services. Coordination of services through linkages with other settings and providers has occurred, as appropriate.
      (4) Staff include a written discharge summary in each individual record at the time of discharge.

24.4(8) Respect for individual rights.
   a. Performance benchmark. Each individual using the service is recognized and respected in the provision of services, in accordance with basic human, civil, and statutory rights.
   b. Performance indicators.
      (1) Staff provide services in ways that respect and enhance the individual’s sense of autonomy, privacy, dignity, self-esteem, and involvement in the individual’s own treatment. Staff take language barriers, cultural differences, and cognitive deficits into consideration and make provisions to facilitate meaningful individual participation.
      (2) Staff inform individuals using the service and, when appropriate, family and significant others of their rights, choices, and responsibilities.
(3) The organization has a procedure established to protect the individuals using the service during any activities, procedure or research that requires informed consent.

(4) The organization verifies that individuals using the service and their guardians are informed of the process to express questions, concerns, complaints, or grievances about any aspect of the individual’s service, including the appeal process.

(5) The organization provides the individuals and their guardians the right to appeal the application of policies, procedures, or any staff action that affects the individual using the service. The organization has established written appeal procedures and a method to ensure that the procedures and appeal process are available to individuals using the service.

(6) All individuals using the service, their legal representatives, and other people authorized by law have access to the records of the individual using the service in accordance with state and federal laws and regulations.

24.4(9) Case management services. “Case management services” means those services established pursuant to Iowa Code section 225C.20.

a. Performance benchmark. Case management services link individuals using the service to service agencies and support systems responsible for providing the necessary direct service activities and coordinate and monitor those services.

b. Performance indicators.

(1) Staff clearly define the need for case management and document it annually.

(2) At a minimum, the team is composed of the individual using the service, the case manager, and providers or natural supports relevant to the individual’s service needs. The team may also include family members, at the discretion of the individual using the service.

(3) The team works with the individual using the service to establish the service plan that guides and coordinates the delivery of the services.

(4) The case manager advocates for the individual using the service.

(5) The case manager coordinates and monitors the services provided to the individual using the service.

(6) Documentation of contacts includes the date, the name of the individual using the service, the name of the case manager, and the place of service.

(7) The case manager holds individual face-to-face meetings at least quarterly with the individual using the service.

(8) Case managers do not provide direct services. Individuals using the service are linked to appropriate resources, which provide necessary direct services and natural supports.

(9) Individuals using the service participate in developing an individualized crisis intervention plan that includes natural supports and self-help methods.

(10) Documentation shows that individuals using the service are informed about their choice of providers as provided in the county management plan.

(11) Within an accredited case management program, the average caseload is no more than 45 individuals per each full-time case manager. The average caseload of children with serious emotional disturbance is no more than 15 children per full-time case manager.

(12) The case manager communicates with the team and then documents in the individual’s file a quarterly review of the individual’s progress toward achieving the goals.

24.4(10) Day treatment services. “Day treatment” means an individualized service emphasizing mental health treatment and intensive psychosocial rehabilitation activities designed to increase the individual’s ability to function independently or facilitate transition from residential placement. Staff use individual and group treatment and rehabilitation services based on individual needs and identified behavioral or mental health issues.

a. Performance benchmark. Individuals using the service who are experiencing a significantly reduced ability to function in the community are stabilized and improved by the receipt of psychosocial rehabilitation, mental health treatment services, and in-home support services, and the need for residential or inpatient placement is alleviated.

b. Performance indicators.
(1) Individuals using the service participate with the organizational staff in identifying the problem areas to be addressed and the goals to be achieved that are based on the individual’s need for services.

(2) Individuals using the service receive individualized services designed to focus on those identified mental health or behavioral issues that are causing significant impairment in their day-to-day functioning.

(3) Individuals who receive intensive outpatient and day treatment services receive a comprehensive and integrated schedule of recognized individual and group treatment and rehabilitation services.

(4) Individuals using the service and staff review their progress in resolving problems and achieving goals on a frequent and regular basis.

(5) Individuals using the service receive services appropriate to defined needs and current risk factors.

(6) Individuals using the service receive services from staff who are appropriately qualified and trained to provide the range and intensity of services required by the individual’s specific problems or disabilities. A mental health professional provides or directly supervises the provision of treatment services.

(7) Individuals using the service participate in discharge planning that focuses on coordinating and integrating individual, family, and community and organization resources.

(8) Family members of individuals using the service are involved in the planning and provision of services, as appropriate and as desired by the individual.

(9) Individuals using the service participate in developing a detailed psychiatric crisis intervention plan that includes natural supports and self-help methods.

24.4(11) Intensive psychiatric rehabilitation services. “Intensive psychiatric rehabilitation services” means services designed to restore, improve, or maximize level of functioning, self-care, responsibility, independence, and quality of life; to minimize impairments, disabilities, and disadvantages of people who have a disabling mental illness; and to prevent or reduce the need for services in a hospital or residential setting. Services focus on improving personal capabilities while reducing the harmful effects of psychiatric disability, resulting in an individual’s recovering the ability to perform a valued role in society.

a. Performance benchmark. Individuals using the service who are experiencing a significantly reduced ability to function in the community due to a disability are stabilized and experience role recovery by the receipt of intensive psychiatric rehabilitation services.

b. Performance indicators.

(1) Individuals using the service receive services from staff who meet the definition of intensive psychiatric rehabilitation practitioner. The intensive psychiatric rehabilitation supervisor has at least a bachelor’s degree in a human services field and 60 hours of training in intensive psychiatric rehabilitation.

(2) Individuals using the service receive four to ten hours per week of recognized psychiatric rehabilitation services. All services are provided for an identified period.

(3) Whenever possible, intensive psychiatric rehabilitative services are provided in natural settings where individuals using the service live, learn, work, and socialize.

(4) Significantly involved others participate in the planning and provision of services as appropriate and as desired by the individual using the service.

(5) Individuals using the service participate in developing a detailed psychiatric crisis intervention plan that includes natural supports and self-help methods.

(6) A readiness assessment is initially completed with staff to assist the individual in choosing a valued role and environment. The readiness assessment culminates in a score that documents the individual’s motivational readiness.

(7) During the readiness development phase, staff document monthly in the individual’s file changes in the individual’s motivational readiness to choose valued roles and environments.

(8) During the goal-choosing phase, staff and the individual identify personal criteria, describe alternative environments, and choose the goal. These activities are documented in the individual’s file.
(9) During the goal-achieving phase, the functional assessment and resource assessment are completed. Skill programming or skill teaching takes place. These activities are documented in the individual's file.

(10) During goal keeping, individuals using the service participate in discharge planning that focuses on coordinating and integrating individual, family, community, and organization resources for successful community tenure and the anticipated end of psychiatric rehabilitation services. Staff document increases in skill acquisition and skill competency.

(11) Staff document any positive changes in environmental status, such as moving to a more independent living arrangement, enrolling in an education program, getting a job, or joining a community group.

(12) On an ongoing basis and at discharge, staff or the individual using the service documents the level of individual satisfaction with intensive psychiatric rehabilitation services in each individual’s file.

24.4(12) Supported community living services. “Supported community living services” means those services provided to individuals with a mental illness, mental retardation, or developmental disability to enable them to develop supports and learn skills that will allow them to live, learn, work and socialize in the community. Services are individualized, need- and abilities-focused, and organized according to the following components: outreach to appropriate support or treatment services; assistance and referral in meeting basic human needs; assistance in housing and living arrangements; crisis intervention and assistance; social and vocational assistance; the provision of or arrangement for personal, environmental, family, and community supports; facilitation of the individual’s identification and development of natural support systems; support, assistance, and education to the individual’s family and to the community; protection and advocacy; and service coordination.

These services are to be provided by organizational staff or through linkages with other resources and are intended to be provided in the individual's home or other natural community environment where the skills are learned or used. Supported community living is not part of an organized mental health support or treatment group, drop-in center, or clubhouse. Skill training groups may be one of the activities in the service plan and part of supported community living. Skill training groups cannot stand alone as a supported community living service.

a. Performance benchmark. Individuals using the service live, learn, work, and socialize in the community.

b. Performance indicators.

(1) Individuals receive services within their home and community setting where the skills are learned or used.

(2) At intake, the individuals using the service participate in a functional assessment to assist in defining areas of service need and establishing a service plan. Staff summarize the findings of the functional assessment in a narrative that describes the individual’s current level of functioning in the areas of living, learning, working, and socialization. Staff review functional assessments on a regular basis to determine progress.

(3) Individuals using the service receive skill training and support services directed to enabling them to regain or attain higher levels of functioning or to maximize functioning in the current goal areas.

(4) Services are delivered on an individualized basis in the place where the individual using the service lives or works.

(5) Documentation that steps have been taken to encourage the use of natural supports and develop new ones is in the individual file.

(6) Individuals using the service participate in developing a detailed individualized crisis intervention plan that includes natural supports and self-help methods.

24.4(13) Partial hospitalization services. “Partial hospitalization services” means an active treatment program providing intensive group and individual clinical services within a structured therapeutic environment for individuals who are exhibiting psychiatric symptoms of sufficient severity to cause significant impairment in day-to-day functioning. Short-term outpatient crisis stabilization and rehabilitation services are provided to avert hospitalization or to transition from an acute care setting.
Services are supervised and managed by a mental health professional, and psychiatric consultation is routinely available. Clinical services are provided by a mental health professional.

a. **Performance benchmark.** Individuals who are experiencing serious impairment in day-to-day functioning due to severe psychiatric distress are enabled to remain in their community living situation through the receipt of therapeutically intensive milieu services.

b. **Performance indicators.**

(1) Individuals using the service and staff mutually develop an individualized service plan that focuses on the behavioral and mental health issues and problems identified at admission. Goals are based on the individual’s need for services.

(2) Individuals using the service receive clinical services that are provided and supervised by mental health professionals. A licensed and qualified psychiatrist provides psychiatric consultation and medication services.

(3) Individuals using the service receive a comprehensive schedule of active, planned, and integrated psychotherapeutic and rehabilitation services provided by qualified professional staff.

(4) Individuals using the service receive group and individual treatment services that are designed to increase their ability to function independently.

(5) Individuals using the service are involved in the development of an anticipated discharge plan that includes linkages to family, provider, and community resources and services.

(6) Individuals using the service have sufficient staff available to ensure their safety, to be responsive to crisis or individual need, and to provide active treatment services.

(7) Individuals using the service receive services commensurate with current identified risk and need factors.

(8) Support systems identified by individuals using the service are involved in the planning and provision of services and treatments as appropriate and desired by the individual using the service.

(9) Individuals using the service participate in developing a detailed psychiatric crisis intervention plan that includes natural supports and self-help methods.

**24.4(14) Outpatient psychotherapy and counseling services.** “Outpatient psychotherapy and counseling services” means a dynamic process in which the therapist uses professional skills, knowledge and training to enable individuals using the service to realize and mobilize their strengths and abilities, take charge of their lives, and resolve their issues and problems. Psychotherapy services may be individual, group, or family, and are provided by a person meeting the criteria of a mental health professional or by a person with a master’s degree or an intern working on a master’s degree in a mental health field who is directly supervised by a mental health professional.

a. **Performance benchmark.** Individuals using the service realize and mobilize their own strengths and abilities to take control of their lives in the areas where they live, learn, work, and socialize.

b. **Performance indicators.**

(1) Individuals using the service are prepared for their role as partners in the therapeutic process at intake where they define their situations and evaluate those factors that affect their situations.

(2) Individuals using the service establish desired problem resolution at intake during the initial assessment.

(3) Psychiatric services other than psychopharmacological services are available from the organization as needed by the individual using the service.

(4) Psychopharmacological services are available from the organization as needed.

(5) Staff document mutually agreed-upon treatment goals during or after each session. A distinct service plan document is not required.

(6) Staff document mutually agreed-upon supports and interventions during or after each session. A distinct service plan document is not required.

(7) Staff document in the progress notes the individual’s status at each visit and the reasons for continuing or discontinuing services. A distinct discharge summary document is not required.

(8) Any assignment of activities to occur between sessions is documented in the following session’s documentation.
(9) Individuals using the service who have a chronic mental illness participate in developing a detailed psychiatric crisis intervention plan that includes natural supports and self-help methods.

(10) The record documents that the organization follows up on individuals who miss appointments.

24.4(15) Emergency services. “Emergency services” means crisis services that provide a focused assessment and rapid stabilization of acute symptoms of mental illness or emotional distress and are available and accessible, by telephone or face-to-face, on a 24-hour basis. The clinical assessment and psychotherapeutic services are provided by a person who has training in emergency services and who is a mental health professional or has access to a mental health professional, at least by telephone.

Services may be provided by a person who holds a master’s degree in a mental health field including, but not limited to, psychology, counseling and guidance, psychiatric nursing, psychiatric rehabilitation, or social work; or a person who holds a bachelor’s degree in a human service discipline with five years’ experience providing mental health services or human services; or a psychiatric nurse who has three years of clinical experience in mental health. A comprehensive social history is not required for this treatment.

a. Performance benchmark. Individuals using the service receive emergency services when needed that provide a focused assessment and rapid stabilization of acute symptoms of mental illness or emotional distress.

b. Performance indicators.

(1) Individuals using the service can access 24-hour emergency services by telephone or in person.

(2) Information about how to access emergency services is publicized to facilitate availability of services to individuals using the service, family members, and the public.

(3) Individuals using the service receive assessments and services from either a mental health professional or from personnel who meet the requirements above and are supervised by a mental health professional. Psychiatric consultation is available, if needed.

(4) Individuals using the service receive intervention commensurate with current identified risk factors.

(5) Significantly involved others are involved as necessary and appropriate to the situation and as desired by the individual using the service.

(6) Individuals using the service are involved in the development of postemergency service planning and resource identification and coordination.

(7) Staff document contacts in a narrative format and maintain them in a central location that will allow timely response to the problems presented by the individual using the service.

(8) Timely coordination of contacts with relevant professionals is made.

24.4(16) Evaluation services. “Evaluation services” means screening, diagnosis and assessment of individual and family functioning needs, abilities, and disabilities, and determining current status and functioning in the areas of living, learning, working, and socializing.

a. Performance benchmark. Individuals using the service receive comprehensive evaluation services that include screening, diagnosis, and assessment of individual or family functioning, needs and disabilities.

b. Performance indicators.

(1) Evaluations include screening, diagnosis, and assessment of individual or family functioning, needs, abilities, and disabilities.

(2) Evaluations consider the emotional, behavioral, cognitive, psychosocial, and physical information as appropriate and necessary.

(3) Evaluations includes recommendations for services and need for further evaluations.

(4) Mental health evaluations are completed by a person who meets the criteria of a mental health professional, or a person with a master’s degree who is license-eligible and supervised by a mental health professional, or an intern of a master’s or doctorate program who is supervised by a mental health professional.

441—24.5(225C) Accreditation. The commission shall make all decisions involving issuance, denial, or revocation of accreditation. This accreditation shall delineate all categories of service the organization
is accredited to provide. Although an organization may have more than one facility or service site, the commission shall issue only one accreditation notice to the organization, except as provided in paragraph 24.5(5) “f.”

24.5(1) Organizations eligible for accreditation. The commission accredits the following organizations:

- a. Case management providers.
- b. Community mental health centers.
- c. Supported community living providers.
- d. Mental health service providers.

24.5(2) Application and renewal procedures. An applicant for accreditation shall submit Form 470-3005, Application for Accreditation, to the Division of Behavioral, Developmental, and Protective Services, Department of Human Services, Fifth Floor, Hoover State Office Building, 1305 East Walnut, Des Moines, Iowa 50319-0114.

a. The application shall be signed by the organization’s chief executive officer and the chairperson of the governing body and shall include the following information:

1. The name and address of the applicant organization.
2. The name and address of the chief executive officer of the applicant organization.
3. The type of organization and specific services for which the organization is applying for accreditation.
4. The targeted population groups for which services are to be provided, as applicable.
5. The number of individuals in each of the targeted population groups to be served, as applicable.
6. Other information related to the standards as requested by division staff.

b. Organizations that have received an initial 270-day accreditation and have not provided services by the end of the 270 days shall have their accreditation lapse for that specific service. This lapse of accreditation shall not be considered a denial. New applications may be submitted that include the waiting list of individuals to be served along with specific timelines of when the services will begin.

c. An organization in good standing may apply for an add-on service.

24.5(3) Application review. Upon receipt of an application, Form 470-3005, the division shall review the materials submitted to determine whether the application is complete and request any additional material as needed. Survey reviews shall commence only after the organization has submitted all application material.

a. For a new organization, staff may initially conduct a desk audit or on-site visit to review the organization’s mission, policies, procedures, staff credentials, and program descriptions.

b. The division shall review organizational services and activities as determined by the accreditation category. This review may include audits of case records, administrative procedures, clinical practices, personnel records, performance improvement systems and documentation, and interviews with staff, individuals, boards of directors, or others deemed appropriate, consistent with the confidentiality safeguards of state and federal laws.

c. A team shall make an on-site visit to the organization. The division shall not be required to provide advance notice to the provider of the on-site visit for accreditation.

d. The on-site team shall consist of designated members of the division staff. At the division’s discretion, the team may include provider staff of other providers, individuals, and others deemed appropriate.

e. The team shall survey the organization and the services indicated on the accreditation application in order to verify information contained in the application and ensure compliance with all applicable laws, rules, and regulations. At the time of a one-year recertification visit, the team shall review the services that did not receive three-year accreditation.

f. The team shall review case records and personnel records to see how the organization implements each of the indicators in the standards. If the documentation is not found in the records, the organization shall show, at the time the division staff is on site, documentation of how the indicator was accomplished.
g. When an organization subcontracts with agencies to provide services, on-site reviews shall be done at each subcontracting agency to determine if each agency meets all the requirements in this chapter. The accreditation is issued to the organization.

h. At the end of the survey, the team leader shall lend an exit review. Before the close of the on-site review, the organization must provide the team leader any documentation that demonstrates how the organization has met these standards for services.

i. The accreditation team leader shall send a written report of the findings to the organization within 30 working days after completion of the accreditation survey.

j. Organizations required to develop a corrective action and improvement plan pursuant to subrule 24.5(4)“a” shall submit the plan to the division within 30 working days after the receipt of a report issued as a result of the division’s survey review. The action plan shall include specific problem areas cited, corrective actions to be implemented by the organization, dates by which each corrective measure shall be completed, and quality assurance and improvement activities to measure and ensure continued compliance.

k. Quality assurance staff shall review and approve the corrective action and improvement plan before making an accreditation recommendation to the commission.

l. The division shall offer technical assistance to organizations applying for first-time accreditation. Following accreditation, any organization may request technical assistance from the division to bring into conformity those areas found in noncompliance with this chapter’s requirements. If multiple deficiencies are noted during a survey, the commission may also require that technical assistance be provided to an organization, as staff time permits, to assist in implementation of an organization’s corrective action plan. Renewal applicants may be provided technical assistance as needed, if staff time permits.

24.5(4) Performance outcome determinations. There are three major areas addressed in these standards: policies and procedures, organizational activities, and services, as set forth in rules 441—24.2(225C), 24.3(225C), and 24.4(225C). Each rule contains standards, with a performance benchmark and performance indicators for each standard. Each of the applicable standards for the three areas (policy and procedures, organizational activities, and services) shall be reviewed.

a. Quality assurance staff shall determine a performance compliance level based on the number of indicators found to be in compliance.

(1) For service indicators, if 25 percent or more of the files reviewed do not comply with the requirements for a performance indicator, then that indicator is considered out of compliance and corrective action is required.

(2) Corrective action is required when any indicator under policies and procedures or organizational activities is not met.

b. In the overall rating, the performance rating for policy and procedures shall count as 15 percent of the total, organizational activities as 15 percent of the total, and services as 70 percent of the total.

(1) Each of the three indicators for policy and procedures has a value of 5 out of a possible score of 15.

(2) Each of the 34 indicators for organizational activities has a value of .44 out of a possible score of 15.

(3) Each service has a separate weighting according to the total number of indicators applicable for that service, with a possible score of 70, as follows:
### Table

<table>
<thead>
<tr>
<th>Service</th>
<th>Number of indicators</th>
<th>Value of each indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case management</td>
<td>51</td>
<td>1.37</td>
</tr>
<tr>
<td>Day treatment</td>
<td>48</td>
<td>1.46</td>
</tr>
<tr>
<td>Intensive psychiatric rehabilitation</td>
<td>51</td>
<td>1.37</td>
</tr>
<tr>
<td>Supported community living</td>
<td>45</td>
<td>1.55</td>
</tr>
<tr>
<td>Partial hospitalization</td>
<td>48</td>
<td>1.46</td>
</tr>
<tr>
<td>Outpatient psychotherapy and counseling</td>
<td>35</td>
<td>2.00</td>
</tr>
<tr>
<td>Emergency</td>
<td>8</td>
<td>8.75</td>
</tr>
<tr>
<td>Evaluation</td>
<td>4</td>
<td>17.50</td>
</tr>
</tbody>
</table>

#### c. Quality assurance staff shall determine a separate score for each service to be accredited. When an organization offers more than one service under this chapter, there shall be one accreditation award for all the services based upon the lowest score of the services surveyed.

**24.5(5) Accreditation decisions.** The division shall prepare all documents with a final recommendation regarding accreditation to be presented at the commission meeting. The division shall mail to all commission members summary reports of the on-site service review or desk review and a final recommendation concerning accreditation on each application to be processed at the next commission meeting.

If the commission approves accreditation, Form 470-3006, Notice of Action-Approval, shall be issued which states the duration of the accreditation and the services that the organization is accredited to provide. If the commission denies or revokes accreditation, Form 470-3008, Notice of Action-Denial, shall be issued which states the reasons for the denial.

a. **Initial 270-day accreditation.** This type of accreditation may be granted to a new organization. The commission shall base the accreditation decision on a report by the division that:

1. The organization has an approved policies and procedures manual that includes job descriptions.
2. Staff assigned to the positions meet the qualifications in the standards and the policies and procedures of the organization.

b. **Three-year accreditation.** An organization or service is eligible for this type of accreditation if it has achieved an 80 percent or higher performance compliance level. The organization may be required to develop and submit a plan of corrective action and improvement that may be monitored either by written report or an on-site review.

c. **One-year accreditation.** An organization is eligible for this type of accreditation when multiple and substantial deficiencies exist in specific areas causing compliance levels with performance benchmarks and indicators to fall between 70 percent and 79 percent, or when previously required corrective action plans have not been implemented or completed. The organization must submit a corrective action plan to correct and improve specific deficiencies and overall levels of functioning. Quality assurance staff shall monitor this plan through on-site reviews, written reports and the provision of technical assistance.

d. **Probational 180-day accreditation.** An organization is eligible for probational 180-day accreditation instead of denial when the overall compliance level is from 60 to 69 percent, and pervasive and serious deficiencies exist; or when corrective action plans previously required as a result of a one-year accreditation have not been implemented or completed. The commission may downgrade organizations with a one-year or three-year accreditation to the probational 180-day accreditation when one or more complaints are founded.

All deficiencies must be corrected by the time of the follow-up on-site survey at the conclusion of the provisional period. After this survey, the organization shall meet the standards for accreditation for a one-year accreditation, or the commission shall deny accreditation.

e. **Add-on service accreditation.** When the on-site review of the add-on service results in a score comparable to the overall organization’s score at the time of the most recent accreditation, the organization shall have the add-on accreditation date coincide with the overall accreditation date of the organization. If the add-on service on-site review results in a lower score and lower accreditation
decision, division staff shall conduct another on-site review for that add-on service when the add-on service accreditation expires.

f. Special terms.

(1) When an organization subcontracts with more than one agency, the length of accreditation shall be determined individually.

(2) The accreditation period for services that have deemed status according to rule 24.6(225C) shall coincide with the period awarded by the national accrediting body or the certification for home-and-community-based services.

(3) New or add-on services that meet the requirements for accreditation shall receive an initial 270-day accreditation for that individual service. The term of accreditation shall be determined individually. At the time of recertification of the new add-on service, recommendation may be made to coincide with the term of accreditation for the other services of that organization that are accredited by the commission.

(4) An organization must notify the division when there are changes in its ownership, structure, management, or service delivery.

g. Extensions. The division may grant an extension to the period of accreditation if there has been a delay in the accreditation process that is beyond the control of the organization, the division, or the commission; or the organization has requested an extension to permit the organization to prepare and obtain approval of a corrective action plan. The division shall establish the length of the extension on a case-by-case basis.

h. Denial of accreditation. An emergency commission meeting may be called to consider denial or revocation of accreditation.

(1) Accreditation shall be denied when there are pervasive and serious deficiencies that put individuals at immediate risk or when the overall compliance level falls to 59 percent or below. Under such circumstances no corrective action report shall be required.

(2) When one or more complaints are received, quality assurance staff shall complete an investigation and submit a report to the commission. If any of the complaints are substantiated and the commission determines that there is a pervasive or serious deficiency, the commission may deny accreditation.

(3) An organization whose accreditation has been denied or revoked shall not be approved for any service for at least six months from the notice of decision denying or revoking accreditation.

(4) If the organization disagrees with any action or failure to act in regard to the notice of decision to deny accreditation to the organization, the organization has the right to appeal in accordance with 441—Chapter 7.

24.5(6) Nonassignability. Accreditation shall not be assignable to any other organization or provider. Any person or other legal entity acquiring an accredited facility for the purpose of operating a service shall make an application as provided in subrule 24.5(2) for a new certificate of accreditation. Similarly, any organization having acquired accreditation and desiring to alter the service philosophy or transfer operations to different premises must notify the division in writing 30 calendar days before taking action in order for the division to review the change.

24.5(7) Discontinuation.

a. Discontinued organization. A discontinued organization is one that has terminated all of the services for which it has been accredited. Accreditation is not transferable between organizations.

(1) An organization shall notify the division in writing of any sale, change in business status, closure, or transfer of ownership of the business at least 30 calendar days before the action.

(2) The organization shall be responsible for the referral and placement of individuals using the services, as appropriate, and for the preservation of all records.

b. Discontinued service. An organization shall notify the division in writing of the discontinuation of an accredited or certified service at least 30 calendar days before the service is discontinued.

(1) Notice of discontinuation of a service shall not be initiated during the 30 days before the start of a survey. Once a survey has begun, all services shall be considered in determining the organization’s accreditation score.
(2) The organization shall be responsible for the referral and placement of individuals using the services, as appropriate, and for the preservation of all records.

441—24.6(225C) Deemed status. The commission shall grant deemed status to organizations accredited by a recognized national, not-for-profit, accrediting body when the commission determines the accreditation is for similar services. The commission may also grant deemed status for supported community living services to organizations that are certified under the Medicaid home- and community-based services (HCBS) mental retardation waiver.

24.6(1) National accrediting bodies.
   a. The national accrediting bodies currently recognized as meeting division criteria for possible deeming are:
      1. Joint Commission on Accreditation of Healthcare Organizations (JCAHO).
      2. The Commission on Accreditation of Rehabilitation Facilities (CARF).
   b. The accreditation credentials of these national bodies must specify the type of organization, programs, and services that these bodies accredit and include targeted population groups, if appropriate.
   c. Deemed status means that the division is accepting an outside body’s review, assessment, and accreditation of an organization’s functioning and services. Therefore, the accrediting body doing the review must be assessing categories of organizations and types of programs and services corresponding to those described under this chapter. An organization that has deemed status must adhere to and be accountable for the rules in this chapter.
   d. When an organization that is nationally accredited requests deemed status for services not covered by the national body’s standards but covered under this chapter, the division shall accredit those services. Division staff shall provide technical assistance to organizations with deemed status as time permits.

24.6(2) Application for deemed status.
   a. To apply for deemed status, the organization shall submit Form 470-3332, Application and Letter of Agreement, and copies of the latest survey report and accreditation certificate, documentation of specific programming policies and procedures for populations being served, and credentials for staff providing services to populations served.
   b. The division shall not accept an application for deemed status once the division has begun an on-site visit. The organization shall complete the accreditation process.

24.6(3) Requirements for deemed status. To be eligible for deemed status, the organization shall:
   a. Be currently accredited by a recognized national accrediting body for services as defined in subrule 24.6(1); or
   b. Be currently accredited for supported community living under the Medicaid HCBS mental retardation waiver pursuant to 441—subrule 77.37(14). If individuals with mental illness are served, the organization must submit verification of the training and credentials of the staff to show that its staff can meet the needs of the individuals served.
   c. Require the supported community living staff to have the same supervisor as the HCBS/MR program.
   d. Require staff for the program being deemed to have the training and credentials needed to meet the needs of the person served.
   e. Require staff to meet the incident reporting requirements in subrule 24.4(5).

24.6(4) Granting of deemed status. When the commission grants deemed status, the accreditation period shall coincide with the period awarded by the national accrediting body or the certification for home- and community-based services. However, under no circumstances shall the commission award accreditation for longer than three years.

24.6(5) Reservations. When deemed status is granted, the commission and the division reserve rights to the following:
a. To have division staff conduct on-site reviews for those organizations applying for deemed status which the division has not previously accredited.

b. To have division staff do joint site visits with the accrediting body, attend exit conferences, or conduct focused follow-visit visits as determined to be appropriate in consultation with the national accrediting organization and the provider organization.

c. To be informed of and to investigate all complaints that fall under this chapter’s jurisdiction according to the process in rule 441—24.7(225C). The division shall report findings to the national accrediting body.

d. To review and act upon deemed status when:
   (1) Complaints have been founded, or
   (2) The organization’s national accreditation status expires without renewal, or
   (3) The national accrediting body downgrades or withdraws the organization’s status.

24.6(6) Continuation of deemed status.

a. The organization shall send a copy of Form 470-3332, Application and Letter of Agreement, along with a copy of the application for renewal to the national accrediting body at the same time as application is made to a national accrediting body.

b. HCBS staff shall furnish to the division copies of the letter notifying a provider of a forthcoming recertification for organizations deemed for supported community living under the HCBS mental retardation waiver.

c. Following the on-site review by a national accrediting body, the organization shall send the division a copy of the cover sheet and the national accrediting body report within 30 calendar days from the date that the organization receives the documents. If a corrective action plan is required, the organization shall send the division a copy of all correspondence and documentation related to the corrective action.

d. HCBS staff shall furnish the division with copies of HCBS certification reports and any corrective action required by HCBS within 30 calendar days after HCBS staff complete the report or the organization completes required corrective action.

441—24.7(225C) Complaint process. The division shall receive and record complaints by individuals using the services, employees, any interested people, and the public relating to or alleging violations of applicable requirements of the Iowa Code or administrative rules.

24.7(1) Submission of complaint. The complaint may be delivered personally or by mail to the Division of Behavioral, Developmental, and Protective Services, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut, Des Moines, Iowa 50319-0114, or by telephone (515)281-5874.

a. The division shall assist individuals in making a complaint as needed or requested.

b. The information received should specifically state the basis of the complaint. The division shall keep the name of the complainant confidential to the extent allowed by law.

24.7(2) Review of complaint. Upon receipt of a complaint, the division shall make a preliminary desk review of the complaint to determine an appropriate response. That response may include notifying the person who submitted the complaint that there is no basis for a review, referring the complaint to another investigative body, or making a determination to do a full investigation.

24.7(3) Investigation of complaint. If the division concludes that the complaint is reasonable, has merit, and is based on a violation of rules in this chapter, it may make an investigation of the organization. The division may investigate complaints by an office audit or by an on-site investigation. The division shall give priority for on-site investigations to instances when individuals using the service are in immediate jeopardy.

a. If a decision is made to conduct an on-site investigation, the on-site review does not require advance notice to the organization. The division shall notify the chief executive officer and board chairperson of the organization involved before or at the commencement of the on-site investigation that the division has received a complaint.
b. The division shall give the organization an opportunity to informally present a position regarding allegations in the complaint. The organization may submit the position in writing within five working days following the on-site visit or present it in a personal conference with division staff.

c. The division shall submit a written report by certified mail to the chief administrative officer of the organization and the chairperson of the board of directors within 20 working days after completion of the investigation.

d. The report shall indicate whether the complaint was or was not substantiated, the basis for the substantiation or nonsubstantiation, the specific rules violated, and a recommendation for corrective action with time lines specified in the report.

e. The date of delivery shown by the certified mail stub shall constitute the date of official notice.

24.7(4) Review by commission. When individuals receiving services are in immediate jeopardy, the commission may call an emergency meeting to make a decision on possible revocation or denial of accreditation.

a. To the extent allowed by Iowa Code section 21.5, the commission may review the complaint and investigation report in a closed meeting. The action taken by the commission shall be voted upon in the reconvened public meeting and entered into the official record of commission minutes.

b. If the complaint is substantiated, the commission make take actions deemed appropriate, which may include shortening the term of accreditation, requiring a corrective action plan, or suspending or revoking an organization’s accreditation, depending on the severity of the substantiated complaint.

c. The division shall inform the complainant and the organization by certified mail of the findings and actions taken by the commission. The date of delivery shown by the certified mail stub shall constitute the date of official notice.

24.7(5) Corrective action plan. When the commission acts to suspend or revoke accreditation, there will be no corrective action plan. In other instances, if the complaint is substantiated, the organization shall submit a corrective action plan to the division within 20 calendar days after receiving the commission’s decision. This plan must respond to violations cited and commission requirements and include time lines, internal monitoring systems, and performance improvement planning.

Failure of the organization to respond within 20 calendar days with an acceptable corrective action plan that addresses the organization’s plan of correction following a substantiated investigation or complaint may of itself constitute the basis for revocation or suspension of accreditation. The commission shall determine the appropriate action based on the information submitted. The division shall notify the organization of any action the commission takes.

441—24.8(225C) Appeal procedure. An appeal may be filed using the procedure identified in 441—Chapter 7. Notice of an appeal shall be sent to Appeals Section, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut, Des Moines, Iowa 50319-0114, within 30 calendar days of the written decision from the commission.

441—24.9(225C) Exceptions to policy. Requests for exceptions to the policies in this chapter shall follow the policies and procedures in the department’s general rule on exceptions to policy at 441—1.8(17A,217).

These rules are intended to implement Iowa Code chapter 225C.

441—24.10 to 24.19 Reserved.

DIVISION II
CRISIS RESPONSE SERVICES

PREAMBLE

The department of human services in consultation with the mental health and disability services commission has established this set of standards to be met by all providers of crisis response services.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]
441—24.20(225C) Definitions.

“Action plan” means a written plan developed for discharge in collaboration with the individual receiving crisis response services to identify the problem, prevention strategies, and management tools for future crises.

“Crisis assessment” means a face-to-face clinical interview to ascertain an individual’s current and previous level of functioning, potential for dangerousness, physical health, and psychiatric and medical condition. The crisis assessment becomes part of the individual’s action plan.

“Crisis incident” means an occurrence leading to physical injury or death, or an occurrence resulting from a prescription medication error, or an occurrence triggering a report of child or dependent adult abuse.

“Crisis response services” means short-term individualized crisis stabilization services which follow a crisis screening or assessment and which are designed to restore the individual to a prior functional level.

“Crisis response staff” means a person trained to provide crisis response services in accordance with rule 441—24.24(225C).

“Crisis screening” means a process to determine what crisis response service is appropriate to effectively resolve the presenting crisis.

“Crisis stabilization community-based services” or “CSCBS” means short-term services designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis and provided where the individual lives, works or recreates.

“Crisis stabilization residential services” or “CSRS” means a short-term alternative living arrangement designed to de-escalate a crisis situation and stabilize an individual following a mental health crisis and is provided in organization-arranged settings of no more than 16 beds.

“Department” means the department of human services.

“Dispatch” means the function within crisis line operations to coordinate access to crisis care.

“Face-to-face” means services provided in person or utilizing telehealth in conformance with the federal Health Insurance Portability and Accountability Act (HIPAA) privacy rules.

“Family support peer specialist” means the same as defined in rule 441—25.1(331).

“Informed consent” means the same as defined in rule 441—24.1(225C).

“Mental health crisis” means a behavioral, emotional, or psychiatric situation which results in a high level of stress or anxiety for the individual or persons providing care for the individual and which cannot be resolved without intervention.

“Mental health professional” means the same as defined in Iowa Code section 228.1.

“Mobile response” means a mental health service which provides on-site, face-to-face mental health crisis services for an individual experiencing a mental health crisis. Crisis response staff providing mobile response have the capacity to intervene wherever the crisis is occurring, including but not limited to the individual’s place of residence, an emergency room, police station, outpatient mental health setting, school, recovery center or any other location where the individual lives, works, attends school, or socializes.

“Peer support services” means a service provided by a peer support specialist, including but not limited to education and information, individual advocacy, family support groups, crisis response, and respite to assist individuals in achieving stability in the community.

“Peer support specialist” means the same as defined in rule 441—25.1(331).

“Physical health” means any chronic or acute health factors that need to be addressed during crisis delivery services.

“Qualified prescriber” means a practitioner or other staff following the instruction of a practitioner as defined in Iowa Code section 155A.3 and a physician assistant or advanced registered nurse practitioner operating under the prescribing authority granted in Iowa Code section 147.107.

“Restraint” means the application of physical force or the use of a chemical agent or mechanical device for the purpose of restraining the free movement of an individual’s body to protect the individual, or others, from immediate harm.
“Rights restriction” means limitations not imposed on the general public in the areas of communications, mobility, finances, medical or mental health treatment, intimacy, privacy, type of work, religion, and place of residence.

“Self-administered medication” means the process where a trained staff member observes an individual inject, inhale, ingest or, by any other means, take medication following the instructions of a qualified prescriber.

“Stabilization plan” means a written short-term strategy used to stabilize a crisis and developed by a mental health professional, in collaboration with the crisis response staff and with the involvement and consent of the individual or the individual’s representative.

“Staff-administered medication” means the direct application of a prescription drug, whether by injection, inhalation, ingestion, or any other means, to the body of an individual by a qualified prescriber or authorized staff following instructions of a qualified prescriber.

“Telehealth” is the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health and health administration. Technologies include videoconferencing, the Internet, store-and-forward imaging, streaming media, and terrestrial and wireless communications.

“Treatment summary” means a written summarization of the treatment and action plan at the point of an individual’s discharge or transition to another service.

“Twenty-four-hour crisis line” means a crisis line providing information and referral, counseling, crisis service coordination, and linkages to crisis screening and mental health services 24 hours a day.

“Twenty-four-hour crisis response” means services are available 24 hours a day, 365 days a year, providing access to crisis screening and assessment and linkage to mental health services.

“Twenty-three-hour observation and holding” means a level of care provided for up to 23 hours in a secure and protected, medically staffed, psychiatrically supervised treatment environment.

“Warm line” means a telephone line staffed by individuals with lived experience who provide nonjudgmental, nondirective support to an individual who is experiencing a personal crisis.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

441—24.21(225C) Standards for crisis response services. An organization may be accredited to provide any one or all of the identified crisis response services. An organization seeking crisis response service accreditation shall comply with the general standards within this division and additional standards for each specific service.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

441—24.22(225C) Standards for policies and procedures. Policies and procedures manuals contain policy guidelines and administrative procedures for all activities and services and address the standards in rule 441—24.2(225C).

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

441—24.23(225C) Standards for organizational activities. The organization shall meet the standards in subrules 24.3(1) through 24.3(5).

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

441—24.24(225C) Standards for crisis response staff. All crisis response staff shall meet the qualifications described in this rule. Additional staff requirements are described in each service.

24.24(1) Performance benchmark. Qualified crisis response staff provide crisis response services.

24.24(2) Performance indicators.

a. One or more of the following qualifications are met:

(1) A mental health professional as defined in Iowa Code section 228.1.

(2) A bachelor’s degree with 30 semester hours or equivalent in a human services field (including, but not limited to, psychology, social work, mental health counseling, marriage and family therapy, nursing, education) and at least one year of experience in behavioral or mental health services.
(3) A law enforcement officer trained in crisis intervention including, but not limited to, mental health first aid and mental health in-service training.

(4) An emergency medical technician (EMT) trained in crisis intervention including, but not limited to, mental health first aid.

(5) A peer support specialist with a minimum certification of mental health first aid.

(6) A family support peer specialist with a minimum certification of mental health first aid.

(7) A registered nurse with two years of mental or behavioral health experience.

b. Documentation in staff records to verify satisfactory completion of department-approved training including:

(1) A minimum of 30 hours of department-approved crisis intervention and training.

(2) A posttraining assessment of competency is completed.

[ARC 1660C; IAB 10/15/14, effective 12/1/14]

441—24.25(225C) Standards for services.

24.25(1) Standard for eligibility. An eligible recipient is an individual experiencing a mental health crisis or emergency where a mental health crisis screening is needed to determine the appropriate level of care.

24.25(2) Confidentiality and legal status. Standards in subrule 24.4(6) are met.

24.25(3) Service systems. Standards in subparagraphs 24.4(7) “b”(1) to (3) are met.

24.25(4) Respect for individual rights. Standards in subrule 24.4(8) are met.

[ARC 1660C; IAB 10/15/14, effective 12/1/14]

441—24.26(225C) Accreditation. The administrator for the division of mental health and disability services shall determine whether to grant, deny or revoke the accreditation of the centers and services as determined in Iowa Code section 225C.6(1)”c.”

24.26(1) The organization shall meet the standards of subrule 24.5(1), with the addition of crisis response service organizations.

24.26(2) The organization shall meet the standards in subrules 24.5(2) and 24.5(3).

24.26(3) Performance outcome determinations are as follows:

a. Quality assurance staff shall determine a performance compliance level based on the number of indicators found to be in compliance.

(1) For service indicators, if 25 percent or more of the files reviewed do not comply with the requirements for a performance indicator, that indicator is considered out of compliance and corrective action is required.

(2) Corrective action is required when any indicator under policies and procedures or activities is not met.

b. In the overall rating, the performance rating for policies and procedures shall count as 15 percent of the total, activities as 15 percent of the total, and services as 70 percent of the total.

(1) Each of the three indicators for policies and procedures has a value of 5.0 out of a possible score of 15.

(2) Each of the 34 indicators for activities has a value of .44 out of a possible score of 15.

(3) Each service has a separate weighting according to the total number of indicators applicable for that service, with a possible score of 70, as follows:

c. Quality assurance staff shall determine a separate score for each service to be accredited. When an organization offers more than one service under this chapter, there shall be one accreditation award for all the services based upon the lowest score of the services surveyed.
<table>
<thead>
<tr>
<th>Service</th>
<th>Number of Indicators</th>
<th>Value of Each Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>24-hour crisis response</td>
<td>19</td>
<td>3.9</td>
</tr>
<tr>
<td>Crisis evaluation</td>
<td>20</td>
<td>3.5</td>
</tr>
<tr>
<td>24-hour crisis line</td>
<td>23</td>
<td>3.0</td>
</tr>
<tr>
<td>Warm line</td>
<td>20</td>
<td>3.5</td>
</tr>
<tr>
<td>Mobile response</td>
<td>18</td>
<td>3.9</td>
</tr>
<tr>
<td>23-hour observation and holding</td>
<td>44</td>
<td>1.6</td>
</tr>
<tr>
<td>Crisis stabilization, community-based</td>
<td>39</td>
<td>1.8</td>
</tr>
<tr>
<td>Crisis stabilization, residential</td>
<td>50</td>
<td>1.4</td>
</tr>
</tbody>
</table>

**24.26(4)** The organization shall meet the standards in subrules 24.5(5) to 24.5(7).

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

**441—24.27(225C) Deemed status.** The department shall grant deemed status to organizations accredited by a recognized national, not-for-profit, accrediting body when the department determines the accreditation is for similar services. The organization shall fulfill the standards described in subrules 24.6(1) to 24.6(6). The national accrediting bodies currently recognized as meeting division criteria for possible deeming are:

1. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO).
2. The Commission on Accreditation of Rehabilitation Facilities (CARF).
4. The Council on Accreditation of Services for Families and Children (COA).
5. The American Association of Suicidology (AAS).
6. Contact USA.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

**441—24.28(225C) Complaint process.** The department shall receive and record complaints by individuals using services, employees, any interested people, and the public relating to or alleging violations of applicable requirements of the Iowa Code or administrative rules in accordance with the standards described in rule 441—24.7(225C).

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

**441—24.29(225C) Appeal procedure.** The department shall receive appeals according to the process in rule 441—24.8(225C).

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

**441—24.30(225C) Exceptions to policy.** The department shall receive exceptions to policy meeting the standards in rule 441—24.9(225C).

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

**441—24.31(225C) Standards for individual crisis response services.** Crisis response services provided to children and youth include coordination with parents, guardians, family members, natural supports, and service providers and with other systems such as education, juvenile justice and child welfare.

Crisis response services for individuals who have co-occurring or multi-occurring diagnoses focus on the integration and coordination of treatment services, and supports necessary to stabilize the individual, without regard to which condition is primary. Crisis response services are not to be denied due to the presence of a co-occurring substance abuse condition or developmental or neurodevelopmental disability.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

**441—24.32(225C) Crisis evaluation.** Crisis evaluation consists of two components: crisis screening and crisis assessment.
24.32(1) Crisis screening. The purpose of crisis screening is to determine the presenting problem and appropriate level of care.
   a. Performance benchmark. Crisis screening includes a brief assessment of suicide lethality, substance use, alcohol use and safety needs. Crisis screening can be provided through contact with crisis response staff and through communication with the individual.
   b. Performance indicators.
      (1) Crisis response staff are trained in crisis screening.
      (2) A uniform process for crisis screening and referrals is outlined in policies and procedures.
      (3) Crisis screening records are kept in individual files.

24.32(2) Crisis assessment. The purpose of crisis assessment is to determine the precipitating factors of the crisis, the individual and family functioning needs, and the diagnosis if present and to initiate a stabilization plan and discharge plan. A licensed mental health professional conducts a crisis assessment within 24 hours of an individual’s admission to a crisis response service.
   a. Assessment requirements. The crisis assessment includes:
      (1) Action plan.
      (2) Active symptoms of psychosis.
      (3) Alcohol use.
      (4) Coping ability.
      (5) History of trauma.
      (6) Impulsivity or absence of protective factors.
      (7) Intensity and duration of depression.
      (8) Lethality assessment.
      (9) Level of external support available to the individual.
      (10) Medical history.
      (11) Physical health.
      (12) Prescription medication.
      (13) Crisis details.
      (14) Stress indicators and level of stress.
      (15) Substance use.
   b. Performance benchmark. Individuals receive comprehensive assessment by a mental health professional to determine the appropriate level of care.
   c. Performance indicators.
      (1) Written policies and procedures describe a uniform process for assessment, referrals and record documentation.
      (2) Mental health professionals as defined in Iowa Code section 228.1(6) will complete assessments.
      (3) Information collected is sufficient to determine the appropriate level of care.
      (4) Assessment results are explained to the individual and family or guardian when appropriate.
      (5) The individual’s strengths, preferences and needs are included in an action plan. The family or guardian may receive a copy of an action plan with a signed release.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

441—24.33(225C) Twenty-four-hour crisis response. The purpose of 24-hour crisis response is to provide access to crisis screening and assessment to de-escalate and stabilize the crisis. When the assessment indicates, a stabilization plan is developed to support the individual’s return to a prior level of functioning. Twenty-four-hour crisis response staff link the individual to appropriate services. Crisis response staff provide service to individuals of any age.

24.33(1) Performance benchmark. Individuals in crisis have the ability to access crisis response services, including, but not limited to, crisis screening, crisis assessment and stabilization in the least restrictive level of care appropriate.
24.33(2) Performance indicators.
   a. Information on how to access 24-hour crisis response is publicized to facilitate availability of services to individuals using the service, family members and the public.
   b. Individuals accessing the service receive crisis screening and crisis response services from appropriate crisis response staff.
   c. Crisis screening is available and accessible face-to-face, using telephone or Web-based options, 24 hours a day, 365 days a year.
   d. A mental health professional is available for crisis assessment and consultation 24 hours a day, 365 days a year. The mental health professional has access to a qualified prescriber for consultation.
   e. The staffing pattern and schedule is documented.
   f. The integration and coordination of care is documented in the individual’s record.
   g. The discharge, action and follow-up plans are documented in the individual’s record, and copies of the plans are provided to the individual. The family or guardian may receive a copy with a signed release.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

441—24.34(225C) Twenty-four-hour crisis line. A 24-hour crisis line provides counseling, crisis service coordination, information and referral, linkage to services and crisis screening. Crisis line staff are qualified to provide crisis stabilization services pursuant to subrule 24.24(2).

24.34(1) Performance benchmark. Crisis screening, counseling, crisis service coordination and referrals are provided to individuals in crisis.

24.34(2) Performance indicators.
   a. The crisis line service is available 24 hours a day, 365 days a year.
   b. Policies are in place regarding how the crisis line is answered live, when to utilize the hold feature, the use of queue systems and triage of calls.
   c. Policies and procedures govern the use of technology, including telephonic and Internet capability in the service delivery structure, quality assurance, data integrity and confidentiality.
   d. Procedures are in place for ensuring the quality of the crisis line, including monitoring calls and corrective action plans.
   e. The crisis line is an integrated component of the crisis response service system; the crisis line is answered in an organization setting by trained crisis response staff.
   f. Policies define collaborative efforts and triage procedure between the mobile outreach teams, law enforcement and emergency services.
   g. Policies are in place to ensure follow-up contacts are provided within 24 hours of a crisis call for all risk cases. The crisis line integrates follow-up into all crisis service contacts.
   h. The crisis line utilizes standardized call center software with the capability to track:
      (1) Date and time of answered call, topic of call, crisis screening provided, referral made, hold time, and demographics of call.
      (2) Number of contacts, including terminated and lost calls.
   i. Policies and procedures describe a uniform process of crisis screening and training for crisis line staff.
   j. Training includes crisis screening tools, lethality assessment, crisis counseling, cultural competence, crisis service coordination, and information and referral.
   k. Twenty-four-hour access to a mental health professional is required.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

441—24.35(225C) Warm line. A peer-operated warm line is a service individuals can access to talk with someone with lived experience with mental, behavioral health and trauma issues. The line provides a resource for individuals experiencing emotional distress.

24.35(1) Performance benchmark. A warm line provides nonjudgmental listening, nondirective assistance, information, referral, and triage when appropriate.
24.35(2) Performance indicators.
   a. Policies are in place regarding how the warm line is answered live, placing callers on hold and when appropriate to use a queue system.
   b. Policies and procedures are in place for standard collection of demographics, the presented reason for calling and outcome of call.
   c. Policies and procedures are in place for crisis screening and when to triage a caller to a higher level of service.
   d. Data collection includes call answer times, duration of calls, and number of calls dropped, lost or terminated.
   e. Policies and procedures describe the staffing pattern and schedule.
   f. Warm-line staff can receive calls remotely through telephones or computers or within an organization.
   g. Staff qualifications and training for peer support specialists and family support peer specialists are required.
   h. Twenty-four-hour access to a mental health professional is required.
[ARC 1660C, IAB 10/15/14, effective 12/1/14]

441—24.36(225C) Mobile response. Crisis response staff provide on-site, in-person intervention for individuals experiencing a mental health crisis. The mobile response staff provide crisis response services in the individual’s home or at locations in the community. Staff work in pairs to ensure staff safety and the safety of the individual served. A single staff member may respond if another person who meets one of the criteria listed in paragraph 24.24(2)”a” will be available on site. Twenty-four-hour access to a mental health professional is required.

24.36(1) Performance benchmark. Mobile response services are delivered to individuals in crisis in a timely manner.

24.36(2) Performance indicators.
   a. Mobile response staff are dispatched immediately after crisis screening has determined the appropriate level of care. If the mobile response staff already are responding to another call, staff explain to the caller that there may be a delay in receiving a mobile response and offer an alternative response.
   b. Mobile response staff have face-to-face contact with the individual in crisis within 60 minutes from dispatch. If the mobile response staff are responding to another request, there may be a delay in receiving mobile response and an alternative response should be provided.
   c. Data is collected to track and trend response time from initial dispatch, the time to respond to dispatch when a team is already in response; diversion from or admission to hospitals, correctional facilities and other crisis response services. The data for each fiscal year is reported to the department within 60 days of the close of the fiscal year.
   d. When an action plan is developed, a copy is sent within 24 hours, with the individual’s signed consent, to service providers, the individual and others as appropriate.
   e. The following information is documented in the individual’s service record:
      (1) Triage and referral information.
      (2) Reduction in the level of risk present in the crisis situation.
      (3) Coordination with other mental health resources.
      (4) Names and affiliation of all individuals participating in the mobile response.
   f. A follow-up appointment with the individual’s preferred provider will be made, and mobile response staff will follow up with the individual and document contact or attempt to contact on a periodic basis until the appointment takes place.
[ARC 1660C, IAB 10/15/14, effective 12/1/14]

441—24.37(225C) Twenty-three-hour crisis observation and holding. Twenty-three-hour crisis observation and holding services may be a stand-alone service or embedded within a crisis stabilization residential service. Twenty-three-hour crisis observation and holding services are designed for individuals who need short-term crisis intervention in a safe environment less restrictive than hospitalization. This level of service is appropriate for individuals who require protection or when an
individual’s ability to cope in the community is severely compromised and it is expected the crisis can be resolved in 23 hours. Twenty-three-hour crisis observation and holding services include, but are not limited to, treatment, medication administration, meeting with extended family or significant others, and referral to appropriate services. Twenty-three-hour crisis observation and holding chairs can be utilized.

24.37(1) Admission criteria. The services may be provided if any of the following admission criteria are met:
   a. There are indications the symptoms can be stabilized and an alternative treatment can be initiated within a 23-hour period.
   b. The presenting crisis cannot be safely evaluated or managed in a less restrictive setting, or no such setting is available.
   c. The individual does not meet inpatient criteria, and it is determined a period of observation assists in the stabilization and prevention of symptom exacerbation.
   d. Further evaluation is necessary to determine the individual’s service needs.
   e. There is an indication of actual or potential danger to self or others as evidenced by a current threat or ideation.
   f. There is a loss of impulse control leading to life-threatening behavior and other psychiatric symptoms requiring stabilization in a structured, monitored setting.
   g. The individual is experiencing a crisis demonstrated by an abrupt or substantial change in normal life functioning brought on by a specific cause, sudden event or severe stressor.

24.37(2) Staffing requirements.
   a. A designated medical director or administrator is responsible for the management and operation of the organization or facility.
   b. Registered nurse practitioners and physician assistants have at least two years of mental health experience.
   c. At least one mental health professional is available for consultation 24 hours a day, 365 days a year.
   d. A mental health professional as defined in Iowa Code section 228.1(6) provides mental health services appropriate to the individual’s needs.
   e. Crisis response staff are on duty 24 hours a day.
   f. A registered nurse is available on site 24 hours a day.

24.37(3) Twenty-three-hour observation and holding safety.
   a. Performance benchmark. An incident report is created when staff are notified an incident has occurred.
   b. Performance indicators.
      (1) The incident report documents:
         1. The name of the individual or individuals who were involved in the incident.
         2. Date and time of occurrence of the incident.
         3. A description of the incident.
         4. Names and signatures of all staff present at the time of the incident.
         5. The action taken by the staff.
         6. The resolution or follow-up to the incident.
      (2) A copy of the incident report is kept in a centralized file and a copy is given to the individual, the mental health and disability services region, and the individual’s parent or guardian when appropriate.

24.37(4) Service requirements.
   a. Performance benchmark. A treatment summary is provided to the individual and the individual’s treatment team when applicable.
   b. Performance indicators. The minimum treatment summary requirements include:
      (1) Action plan.
      (2) Crisis assessment, including challenges and strengths.
      (3) Course and progress of the individual with regard to each identified challenge.
      (4) Evaluation of the individual’s mental status to inform ongoing placement and support decisions.
      (5) Recommendations and arrangements for further service needs.
(6) Signature of the mental health professional.

(7) Treatment interventions.

   c. **Performance benchmark.** The individual using this service is provided a safe, secure observation and holding service in a location meeting the needs of the individual and in the least restrictive setting.

      d. **Performance indicators.**

        (1) Individuals give informed consent.

        (2) Treatment providers, family members and other natural supports as appropriate are contacted within 23 hours of the individual’s admission.

        (3) Written policies and procedures cover medication administration, storage and documentation.

        (4) Individual records include, but are not limited to, a treatment summary and verification of individual choice.

(5) The 23-hour crisis observation and holding facility is a welcoming and comfortable environment conducive to recovery.

(6) The 23-hour crisis observation and holding is primarily used as a diversion from hospital level of care.

(7) Communication attempts and contact with the individual’s team will be documented.

(8) A follow-up appointment with the individual’s preferred provider will be made, and crisis response staff will follow up with the individual and document contact or attempt to contact on a periodic basis until the appointment takes place.

(9) There are written policies and procedures of how to document and track discharge locations.

(10) The actual number of individuals served within the 23-hour period is documented. Individual treatment records contain reasons why individuals stay beyond the 23-hour period.

(11) Readmission data and length of time between admissions are tracked for data trend reports.

   e. **Performance benchmark.** Policies and procedures address the additional safety standards for 23-hour crisis and observation services.

   f. **Performance indicators.**

      (1) Service compliance is documented regarding state fire marshal rules and fire ordinances and applicable local health, fire, occupancy code, and safety regulations.

      (2) Based on standards used for public facilities, all food and drink is clean, wholesome, free from spoilage, and stored and served in a manner safe for human consumption.

      (3) Doors must not be locked from the inside. The use of door locks is as approved by the fire marshal and professional staff.

      (4) Twenty-three-hour observation and holding services have an emergency preparedness plan to describe the process for an individual to continue receiving services during a disaster including, but not limited to, cases of severe weather or fire.

   g. **Performance benchmark.** Policies and procedures address the cleanliness of the 23-hour observation and holding service.

   h. **Performance indicators.**

      (1) Services provide a safe, clean, well-ventilated, properly heated environment in good repair and free from vermin.

      (2) An individual’s resting or sleeping area includes:

         1. A sturdily constructed bed or comfortable chair.

         2. A sanitized mattress protected with a clean mattress pad, or sanitized chair.

         3. Curtains or blinds are on bedroom windows.


         5. Doors or partitions for privacy.

         6. Right to privacy is respected.

      (3) Bathrooms include items necessary for personal hygiene and personal privacy.

         1. A safe supply of hot and cold running water which is potable.

         2. Clean towels, electric hand dryers or paper towel dispensers, and an available supply of toilet paper and soap.
3. Natural or mechanical ventilation capable of removing odors.
4. Tubs or showers have slip-proof surfaces.
5. Partitions with doors which provide privacy if a bathroom has multiple toilet stalls.
6. Toilets, wash basins, and other plumbing or sanitary facilities are maintained in good operating condition.
7. Privacy in bathrooms for male and female individuals.
   i. Performance benchmark. Personal rights are acknowledged.
   j. Performance indicator. The following are allowed:
      (1) Areas in which an individual may be alone when appropriate.
      (2) Areas for private conversations with others.
      (3) Secure space for personal belongings.
      (4) Personal clothing is allowed in accordance with organization policy.
   l. Performance indicators.
      (1) An emergency preparedness plan is designed to provide effective utilization of available resources during a disaster event including, but not limited to, cases of severe weather or fire.
      (2) Services comply with rule 441—24.39(225C).
      (3) There are written policies on safety.
      (4) Seclusion is not used.
      (5) Mechanical or chemical restraints are not used at any time.
      (6) The smokefree air Act, Iowa Code chapter 142D, is followed.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]

441—24.38(225C) Crisis stabilization community-based services (CSCBS). The goal of CSCBS is to stabilize the individual within the community. CSCBS is designed as a voluntary service for individuals in need of a safe, secure location that is less intensive and restrictive than an inpatient hospital. Individuals receive CSCBS services including, but not limited to, psychiatric services, medication, counseling, referrals, peer support and linkage to ongoing services. The duration for CSCBS is expected to be less than five days.

24.38(1) Eligibility. To be eligible, an individual must:
   a. Be determined appropriate for the service by mental health assessment; and
   b. Be determined not to need inpatient acute hospital psychiatric services.

24.38(2) Staffing requirements.
   a. A designated director or administrator is responsible for the management and operation of the CSCBS.
   b. At least one licensed nurse practitioner, physician assistant, or psychiatrist is available for consultation 24 hours a day, 365 days a year.
   c. Mental health professionals with expertise appropriate to the individual’s needs provide services.
   d. Contact between the individual and a mental health professional occurs at least one time a day.
   e. Additional services are provided by crisis response staff at a minimum of one hour per day, including, but not limited to, skill building, peer support or family support peer services. The goal of CSCBS is to stabilize the individual within the community. CSCBS is designed for voluntary services for individuals in need of a safe, secure location that is less intensive and restrictive than an inpatient hospital.
   f. Crisis response staff must be awake and attentive 24 hours a day.

24.38(3) Performance benchmark. The individual using CSCBS is provided safe, secure and structured crisis stabilization services in the least restrictive location meeting the needs of the individual. The CSCBS can be for youth aged 18 and under or adults aged 18 and older.

24.38(4) Performance indicators.
   a. The individual can provide consent for treatment providers, family members and other natural supports to be contacted within 24 hours of admission.
b. Daily crisis stabilization services include, at minimum, daily contact with a mental health professional and one hour of additional crisis stabilization services from crisis response staff.

c. The numbers of days an individual receives crisis stabilization services are documented. The documentation records specific reasons for the delivery of services beyond five days.

d. Individual records are maintained to document the following:

1. Daily contact with a mental health professional.
2. Additional services provided including, but not limited to, skill building, peer support or family support peer services.
4. Individual choice is verified including, but not limited to, treatment participation and discharge plan options.
5. Readmission data is tracked, including an analysis of data trends looking at effectiveness, and appropriate corrective action taken. The information is documented in the performance improvement system files.

24.38(5) Crisis stabilization incident reporting

a. Performance benchmark. An incident report is filed when staff are notified an incident has occurred.

b. Performance indicators.

1. The incident report documents:

1. The name of the individual involved in the incident.
2. Date and time the incident occurred.
3. A description of the incident.
4. Names and signatures of all staff present at the time of the incident.
5. The action the staff took to handle the situation.
6. The resolution or follow-up to the incident.

2. A copy of the incident report is kept in a centralized file and a copy given to the individual, the mental health and disability services region, and the parent or guardian when appropriate.

24.38(6) Service requirements.

a. Stabilization plan. The individual in crisis is involved collaboratively in all aspects of crisis stabilization services including, but not limited to, admission, treatment planning, intervention, and discharge. The involvement of family members and others is encouraged.

Within 24 hours of an individual’s admission to crisis stabilization services, a written short-term stabilization plan is developed, with the involvement and consent of the individual, and is reviewed frequently to assess the need for the individual’s continued placement in CSCBS. At a minimum, this plan includes:

1. Criteria for discharge, including referrals and linkages to appropriate services and coordination with other systems.
2. Description of any physical disability and any accommodations necessary to provide the same or equal services and benefits as those afforded nondisabled individuals.
3. Evidence of input by the individual, including the individual’s signature.
4. Goal statement. Goals are consistent with the individual’s needs and projected duration of service delivery and include objectives which build on strengths and are stated in terms allowing measurement of progress.
5. Rights restrictions.
6. Names of all other persons participating in the development of the plan.
7. Specification of treatment responsibilities and methods.

b. Performance benchmark. A stabilization plan is completed within 24 hours of the individual’s admittance.

c. Performance indicators.

1. Individual records include a written short-term stabilization plan developed with the involvement and consent of the individual within 24 hours of admittance and reviewed frequently to assess the need for continued placement in CSCBS.
(2) Individual records indicate a crisis stabilization plan is completed within the 24-hour time frame.
(3) Reasons for crisis stabilization plans not meeting the criteria are documented.
(4) A follow-up appointment with the individual’s preferred provider will be made, and crisis response staff will follow up with the individual and document contact or attempt to contact on a periodic basis until the appointment takes place.

24.38(7) Treatment summary. Prior to the individual’s discharge from CSCBS, a treatment summary is completed. A copy of the summary is provided to the individual and shared with the individual’s treatment team of providers, if applicable.

a. Contents. At a minimum, the treatment summary includes:
(1) Course and progress of the individual with regard to each identified problem.
(2) Documented note of a mental health professional contact one time daily.
(3) Evolution of the mental status to inform ongoing placement and support decisions.
(4) Final assessment, including general observations and significant findings of the individual’s condition initially while services were being provided and at discharge.
(5) Recommendations and arrangements for further service needs.
(6) Signature of the mental health professional.
(7) Stabilization plan.
(8) Reasons for termination of service.
(9) Treatment interventions.

b. Performance benchmark. A treatment summary is completed during the length of stay in CSCBS.

c. Performance indicators.
(1) Records include a written treatment summary developed with the involvement of the individual.
A copy of the summary is provided upon discharge.
(2) Incidents in which a treatment plan was not completed within the length of stay and any corrective action necessary to alleviate this issue are documented.

24.38(8) Health and safety.

a. Performance benchmark. Emergency preparedness policies and procedures include health and safety measures.

b. Performance indicators.
(1) Emergency preparedness plans are designed to provide effective utilization of available resources for care to continue during a disaster event including, but not limited to, cases of severe weather or fire.
(2) Crisis services comply with rule 441—24.39(225C).

[ARC 1660C, IAC 10/15/14, effective 12/1/14]

441—24.39(225C) Crisis stabilization residential services (CSRS). Crisis stabilization residential services are short-term services provided in facility-based settings of no more than 16 beds. The goal of CSRS is to stabilize and reintegrate the individual back into the community. Crisis stabilization residential services are designed for voluntary individuals who are in need of a safe, secure environment less intensive and restrictive than an inpatient hospital. Crisis stabilization residential services have the capacity to serve more than two individuals at a time. Crisis stabilization residential services can be for youth aged 18 and younger or adults aged 18 and older. Youth and adults cannot be housed in the same facility setting. Facilities licensed by the department of inspections and appeals for other services would have to comply with the provisions of Iowa Administrative Code rule 481—57.50(135C) for operating another business or activity in the facility.

24.39(1) Eligibility. To be eligible, an individual must:

a. Be an adult aged 18 or older or a youth aged 18 or under.

b. Be determined appropriate for the service by a mental health assessment; and

c. Be determined to not need inpatient acute hospital psychiatric services.
24.39(2) Staffing requirements.
   a. A designated director or administrator is responsible for the management and operation of the CSRS of no more than 16 beds.
   b. At least one licensed mental health professional is available for consultation 24 hours a day, 365 days a year.
   c. Crisis stabilization residential services are provided by a mental health professional with expertise appropriate to the individual’s needs.
   d. Each individual has contact with a mental health professional at least one time a day.
   e. Each individual has a minimum of one hour per day of additional services provided by crisis response staff including, but not limited to, skill building, peer support or family support peer services; or other therapeutic programming.
   f. Awake and attentive staffing 24 hours a day, 365 days a year is provided.

24.39(3) Performance benchmark. The individual is provided safe, secure and structured crisis stabilization services in the least restrictive location meeting the individual’s needs.

   a. Individual’s consent is documented, and treatment providers, family members and other natural supports are contacted within 24 hours of admission.
   b. A comprehensive mental health assessment is completed within 24 hours of admission.
   c. Daily crisis stabilization includes, at minimum, daily contact with a mental health professional and one hour of additional crisis stabilization service.
   d. The length of stay is expected to be less than five days.
   e. The number of days an individual receives crisis stabilization services is documented. The documentation records specific reasons for lengths of stay beyond five days.
   f. Records include:
      (1) Stabilization plan.
      (2) Medication record.
      (3) Treatment summary.
      (4) Daily contact with a mental health professional.
   g. Additional services provided include, but are not limited to, skill building, peer support or family support peer services.
   h. Individual choice is verified including, but not limited to, treatment participation and discharge plan options.
      i. Data of readmission is tracked including an analysis of data trends, looking at effectiveness, and appropriate corrective action. The information is documented in the performance improvement system.
   j. Documentation tracks that the youth’s education needs are met with educational services received in the CSRS, and an action plan is in place to return the youth to school upon discharge.

   a. Performance benchmark. An incident report is completed when staff are notified an incident has occurred.
   b. Performance indicators.
      (1) The incident report documents:
         1. The name of the individual who was involved in the incident.
         2. Date and time of occurrence of the incident.
         3. A description of the incident.
         4. Names and signatures of all staff present at the time of the incident.
         5. The action staff took to handle the situation.
         6. The resolution or follow-up to the incident.
      (2) A copy of the incident report is maintained in a centralized file and a copy given to the individual, the mental health and disability services region, and the parent or guardian when appropriate.
24.39(6) Service requirements.

a. Stabilization plan. The individual is involved collaboratively in all aspects of crisis stabilization services including, but not limited to, admission, treatment planning, intervention, and discharge. The involvement of family members and others is encouraged.

Within 24 hours of admission to CSRS, a written short-term stabilization plan is developed, with the involvement and consent of the individual, and reviewed frequently to assess the need for continued placement in CSRS. At a minimum, this plan includes:
   1. Criteria for discharge, including referrals and linkages to appropriate services and coordination with other systems.
   2. Description of any physical disability and accommodations necessary to provide the same or equal services and benefits as those afforded nondisabled individuals.
   3. Evidence of input by the individual, including the individual’s signature.
   5. Goals consistent with needs and projected length of stay.
   6. Objectives that are built on strengths and allow measurement of progress.
   7. Rights restrictions.
   8. Signatures of all participating in the development of the plan.

b. Performance benchmark. A stabilization plan is completed within 24 hours of admittance.

c. Performance indicators.
   1. Records include a written short-term stabilization plan developed with the involvement and consent of the individual within 24 hours of admission and is reviewed frequently to assess the need for continued placement in CSRS.
   2. Records indicating a stabilization plan has been completed within the 24-hour time frame are maintained.
   3. Reasons the stabilization plan does not meet the criteria is documented.
   4. A follow-up appointment with the individual’s preferred provider will be made, and crisis response staff will follow up with the individual and document contact or attempt to contact on a periodic basis until the appointment takes place.

24.39(7) Treatment summary. Prior to discharge, a treatment summary is provided and a copy shared with the individual and treatment team as appropriate.

a. Contents. At a minimum, this treatment summary includes:
   1. Course and progress regarding each identified problem.
   2. Documentation of daily contact with a mental health professional.
   3. Impact on placement and support decisions.
   4. Assessment.
   5. Action plan.
   7. Treatment interventions.
   8. Reasons for termination of service.
   9. Signature of the mental health professional.

b. Performance benchmark. A treatment summary is completed during the individual’s length of stay in CSRS.

c. Performance indicators.
   1. Records include a written treatment summary developed with the involvement and consent of the individual.
   2. An individual receives a copy of the treatment summary upon discharge.
   3. Corrective action steps are documented when treatment plans are not completed within the length of stay.


a. Performance benchmarks.

   1. Emergency preparedness policies and procedures include health and safety measures.
(2) Crisis stabilization services meet all applicable local, state and federal regulations.
(3) Medication administration and documentation standards in rule 441—24.40(225C) are documented.
   b. Performance indicators.
      (1) Health and fire safety inspections.
         1. Documentation includes Iowa fire marshal rules and fire ordinances, local health, fire, occupancy code, and safety regulations.
         2. Standards for public facilities guide food and beverage safety, nutrition standards, and safe storage of all consumable products.
         3. Crisis stabilization residential services comply with rule 441—24.40(225C).
      (2) Emergency preparedness. Emergency preparedness policies are designed to provide effective utilization of available resources for continuation during a disaster event, including, but not limited to, cases of severe weather or fire.
      (3) The facility is safe, clean, well-ventilated, and a properly heated environment in good repair and free from vermin.
(4) Bedrooms include:
   1. A sturdily constructed bed.
   2. A sanitized mattress protected with a clean mattress pad.
   3. A designated space in proximity to the sleeping area for personal possessions including clothing.
   4. Curtains or window blinds on bedroom windows.
   5. Available clean linens.
(5) Sleeping areas include:
   1. Doors for privacy.
   2. Partitioning and placement of furniture to provide privacy.
   3. Rooms accommodate no more than two per room. Single room dimensions are at least 80 square feet not including closets. Dual occupancy rooms are at least 120 square feet not including closets.
   4. Personal belongings and personal touches in the rooms are defined within CSRS policy.
   5. Respect by staff for an individual’s right to privacy.
(6) Personal hygiene and privacy tools are provided:
   1. A safe supply of hot and cold running water which is potable.
   2. Clean towels, electric hand dryers or paper towel dispensers, and an available supply of toilet paper and soap.
   3. Natural or mechanical ventilation capable of removing odors.
   4. Tubs or showers with slip-proof surfaces.
   5. Partitions with doors which provide privacy if a bathroom has multiple toilet stools.
   6. Toilets, wash basins, and other plumbing or sanitary facilities are in good operating condition.
   7. Privacy in bathrooms for male and female individuals.
(7) Federal laws regarding smoking on property are recognized and followed.
(8) The following is provided:
   1. Areas in which an individual may be alone when appropriate.
   2. Areas for private conversations with others.
   3. A secure space for personal belongings.
   c. Housekeeping. Maintenance of living quarters and day-to-day housekeeping activities are clearly defined in writing and a part of the orientation. Staff assistance and equipment are provided as needed.
      d. Clothing.
         (1) Personal clothing is allowed in accordance with CSRS policy.
         (2) Clothing may be washed with provided laundry mechanisms.
      e. Religion/culture. Rights to religion and culture include:
         (1) The opportunity to participate in religious activities and services in accordance with the individual’s faith or of a minor individual’s parent(s) or guardian.
         (2) Arrange for transportation to religious activities when appropriate per CSRS policy.
441—24.40(225C) Medication—administration, storage and documentation. This rule sets forth medication requirements for 23-hour crisis observation and holding, crisis stabilization community-based services, and crisis stabilization residential services.

24.40(1) Performance benchmark. Policies and procedures ensure prescription and over-the-counter drugs are administered or self-administered safely and properly in accordance with federal, state and local laws and regulations. Medication is administered by a qualified prescriber or an individual following the instructions of a qualified prescriber. Medication storage is maintained in accordance with the security requirements of federal, state and local laws. Case records include written policies and procedures regarding use of medication.

24.40(2) Performance indicators.

a. Administration of medication.

(1) Medication administration dose schedules and standardization of abbreviations are documented.

(2) Throughout the CSRS specific methods for control and accountability of medication products are established.

(3) Prescription and over-the-counter drugs are administered or self-administered safely and properly in accordance with federal, state and local laws and regulations.

(4) Medications are prescribed by a qualified prescriber under Iowa law.

(5) Prescription drugs are not administered or self-administered without a written order signed by a qualified prescriber.

b. Staff-administered medication.

(1) Only qualified and authorized staff administers medication, and a current, accurate list of staff is maintained.

(2) Qualified prescribers instruct how medications are administered and documented. The type and amount of medication, time and date of medication administered, and the name of staff administering the medication are transcribed in the medication record.

c. Self-administered medication.

(1) Policies and procedures document which staff have completed department-approved training on self-administration of prescription medication.

(2) Self-administration of prescription and over-the-counter medications are permitted only when the medication label is clear and complete.

d. Medication storage. Medication storage policies under the care and control of the administration include:

(1) All medication is maintained in locked storage, and controlled substances are maintained in a locked box within locked storage.

(2) Medications requiring refrigeration are kept in a refrigerator separated from food and other edible items.

(3) Disinfectants and medication for external use are stored separately from internal and injectable medications.

(4) Each medication is stored in original containers and labeled with the name.

(5) All potent poisonous or caustic medications are clearly labeled; stored separately from other medication, in a specific well-illuminated cabinet, closet, or storeroom; and made accessible only to authorized staff.

(6) Medication provided is dispensed from a licensed pharmacy in the state of Iowa in accordance with the Iowa Code. It can also be provided by a qualified prescriber from a licensed pharmacy in another state according to the laws of the state.

(7) Prescription medications prescribed for one individual are not administered or allowed in the possession of another.
e. **Medication labeling.** All prescribed medications are clearly labeled with the full name; prescriber’s name; prescription number; name and strength of the medication; dosage; directions for use; date of issue; and name, address and telephone number of the pharmacy or prescriber issuing the medication. Medications are packaged and labeled according to state and federal guidelines.

f. **Monthly inspection.** The staff member in charge of medication provides monthly inspection of all storage units.

g. **Damaged labels.** Medication containers having soiled, damaged, illegible, or makeshift labels are returned to the issuing pharmacist, pharmacy, or qualified prescriber for relabeling or disposal.

h. **Unused medications.** Unused prescription drugs are destroyed by staff with a witness present, when an individual leaves the crisis service without medication. A notation is documented in the record. When an individual is discharged or leaves the crisis service, medications currently being administered are sent in their original containers with the individual or with a designated person, with the approval of the qualified prescriber.

i. **Medication brought by individual.** If the prescribed and over-the-counter medication the individual brings to the CSRS is not used, the medication is packaged, sealed and stored. The sealed packages of medications are returned to the individual or family at the time of discharge.

j. **Medication documentation.**
   
   (1) Written policies and procedures are in place for the review, approval, and implementation of ethical, safe, human and efficient behavioral intervention procedures.
   
   (2) Written policies and procedures are in place to inform the individual and the individual’s legal guardian, when appropriate, about prohibitions on the use of medication as a restraint.
   
   (3) Documentation is required in case records on adverse drug reactions when medications are administered and self-administered.

(4) All medication orders are documented in the case records and document the name of the medication, dose, route of administration, frequency of administration, name of the qualified prescriber prescribing the medication, and name of the staff administering or dispensing the medication.

(5) Medication records are documented by authorized staff administering the medication.

k. **Medication rights and responsibilities.**
   
   (1) Medication is not used as a restraint. The use of psychopharmacological medication in excess of the standard plan of care is prohibited. Using medication as a restraint includes:
   
   1. Drugs or medications used to control behavior or restrict freedom of movement.
   2. Drugs or medications used in excessive amounts or in excessive frequency.
   3. Neuroleptics, anxiolytics, antihistamines, and atypical neuroleptics, or other medication used for calming, rather than for the medication’s indicated treatment.

   (2) Drugs or medications used for standard treatment of the individual’s medical or psychiatric condition are not considered to be used as a restraint.

These rules are intended to implement Iowa Code section 331.397 and 2014 Iowa Acts, House File 2379.

[ARC 1660C, IAB 10/15/14, effective 12/1/14]
[Filed 4/5/00, Notice 2/9/00—published 5/3/00, effective 7/1/00]
[Filed 5/10/02, Notice 12/26/01—published 5/29/02, effective 9/1/02]
[Filed emergency 9/22/05—published 10/12/05, effective 10/1/05]
[Filed 11/22/05, Notice 10/12/05—published 12/21/05, effective 1/25/06]
[Filed 4/21/06, Notice 12/21/05—published 5/10/06, effective 7/1/06]
[Filed ARC 1660C (Notice ARC 1554C, IAB 7/23/14), IAB 10/15/14, effective 12/1/14]

1 Effective date of definitions of “Administrator,” “Division” and “Persons with mental retardation” delayed 70 days by the Administrative Rules Review Committee at its meeting held April 10, 1995.
CHAPTER 25
DISABILITY SERVICES MANAGEMENT

PREAMBLE

This chapter provides for definitions of regional core services, access and practice standards, reporting of regional expenditures, development and submission of regional management plans, data collection, applications for funding as they relate to regional service systems for individuals with mental illness, intellectual disabilities, developmental disabilities, or brain injury, and submission of data for Medicaid offset calculations.

[ARC 0576C, IAB 2/6/13, effective 1/8/13; ARC 0735C, IAB 5/15/13, effective 8/1/13; ARC 1096C, IAB 10/16/13, effective 11/20/13; ARC 1173C, IAB 11/13/13, effective 1/1/14; ARC 1671C, IAB 10/15/14, effective 9/25/14]

DIVISION I
REGIONAL CORE SERVICES

441—25.1(331) Definitions.

“Assertive community treatment” means a program of comprehensive outpatient services provided in the community directed toward the amelioration of symptoms and the rehabilitation of behavioral, functional, and social deficits of individuals with severe and persistent mental disorders and individuals with complex symptomatology who require multiple mental health and supportive services to live in the community consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Assessment and evaluation” means the clinical review by a mental health professional of the current functioning of the individual using the service in regard to the individual’s situation, needs, strengths, abilities, desires and goals to determine the appropriate level of care.

“Case management” means service provided by a case manager who assists individuals in gaining access to needed medical, social, educational, and other services through assessment, development of a care plan, referral, monitoring and follow-up using a strengths-based service approach that helps individuals achieve specific desired outcomes leading to a healthy self-reliance and interdependence with their community.

“Case manager” means a person who has completed specified and required training to provide case management through the medical assistance program or the Iowa Behavioral Health Care Plan.

“Community-based crisis intervention service” means a program designed to stabilize an acute crisis episode and to restore an individual and family to their pre-crisis level of functioning. Crisis services are available 24 hours a day, 365 days a year, including telephone and walk-in crisis service and crisis care coordination.

“Crisis care coordination” means a service provided during an acute crisis episode that facilitates working together to organize a plan and service transition programing, including working agreements with inpatient behavioral health units and other community programs. The service shall include referrals to mental health services and other supports necessary to maintain community-based living capacity, including case management as defined herein.

“Crisis evaluation” means the process used with an individual to collect information related to the individual’s history and needs, strengths, and abilities in order to determine appropriate services or referral during an acute crisis episode.

“Day habilitation” means services that assist or support the individual in developing or maintaining life skills and community integration. Services shall enable or enhance the individual’s functioning, physical and emotional health and development, language and communication development, cognitive functioning, socialization and community integration, functional skill development, behavior management, responsibility and self-direction, daily living activities, self-advocacy skills, or mobility.

“Emergency care” means the same as defined in rule 441—88.21(249A).

“Evidence-based services” means using interventions that have been rigorously tested, have yielded consistent, replicable results, and have proven safe, beneficial and effective and have established standards for fidelity of the practice.
“Family psychoeducation” means services including the provision of emotional support, education, resources during periods of crisis, and problem-solving skills consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Family support” means services provided by a family support peer specialist that assist the family of an individual to live successfully in the family or community including, but not limited to, education and information, individual advocacy, family support groups, and crisis response.

“Family support peer specialist” means a parent, primary caregiver, foster parent or family member of an individual who has successfully completed standardized training to provide family support through the medical assistance program or the Iowa Behavioral Health Care Plan.

“Group supported employment” means the job and training activities in business and industry settings for groups of no more than eight workers with disabilities. Group settings include enclaves, mobile crews, and other business-based workgroups employing small groups of workers with disabilities in integrated, sustained, paid employment.

“Health homes” means a service model that facilitates access to an interdisciplinary array of medical care, behavioral health care, and community-based social services and supports for both children and adults with chronic conditions. Services may include comprehensive care management; care coordination and health promotion; comprehensive transitional care from inpatient to other settings, including appropriate follow-up; individual and family support, which includes authorized representatives; referral to community and social support services, if relevant; and the use of health information technology to link services, as feasible and appropriate.

“Home and vehicle modification” means a service that provides physical modifications to the home or vehicle that directly address the medical health or remedial needs of the individual that are necessary to provide for the health, welfare, and safety of the member and to increase or maintain independence.

“Home health aide services” means unskilled medical services which provide direct personal care. This service may include assistance with activities of daily living, such as helping the recipient to bathe, get in and out of bed, care for hair and teeth, exercise, and take medications specifically ordered by the physician.

“Illness management and recovery” means a broad set of strategies designed to help individuals with serious mental illness collaborate with professionals, reduce the individuals’ susceptibility to the illness, and cope effectively with the individuals’ symptoms consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Individual” means any person seeking or receiving services in a regional service system.

“Individual supported employment” means services including ongoing supports needed by an individual to acquire and maintain a job in the integrated workforce at or above the state’s minimum wage. The outcome of this service is sustained paid employment that meets personal and career goals.

“Integrated treatment for co-occurring substance abuse and mental health disorders” means effective dual diagnosis programs that combine mental health and substance abuse interventions tailored for the complex needs of individuals with co-morbid disorders. Critical components of effective programs include a comprehensive, long-term, staged approach to recovery; assertive outreach; motivational interviews; provision of help to individuals in acquiring skills and supports to manage both illnesses and pursue functional goals with cultural sensitivity and competence consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Job development” means services that assist individuals in preparing for, securing and maintaining gainful, competitive employment. Employment shall be integrated into normalized work settings, shall provide pay of at least minimum wage, and shall be based on the individual’s skills, preferences, abilities, and talents. Services assist individuals seeking employment to develop or re-establish skills, attitudes, personal characteristics, interpersonal skills, work behaviors, and functional capacities to achieve positive employment outcomes.

“Medication management” means services provided directly to or on behalf of the individual by a licensed professional as authorized by Iowa law including, but not limited to, monitoring effectiveness of and compliance with a medication regimen; coordination with care providers; investigating potentially
negative or unintended psychopharmacologic or medical interactions; reviewing laboratory reports; and activities pursuant to licensed prescriber orders.

“Medication prescribing” means services with the individual present provided by an appropriately licensed professional as authorized by Iowa law including, but not limited to, determining how the medication is affecting the individual; determining any drug interactions or adverse drug effects on the individual; determining the proper dosage level; and prescribing medication for the individual for the period of time before the individual is seen again.

“Mental health outpatient therapy” means the same as defined in Iowa Code section 230A.106(2)“a.”

“Mental health professional” means the same as defined in Iowa Code section 228.1(6).

“Peer support services” means a program provided by a peer support specialist including but not limited to education and information, individual advocacy, family support groups, crisis response, and respite to assist individuals in achieving stability in the community.

“Peer support specialist” means an individual who has experienced a severe and persistent mental illness and who has successfully completed standardized training to provide peer support services through the medical assistance program or the Iowa Behavioral Health Care Plan.

“Permanent supportive housing” means voluntary, flexible supports to help individuals with psychiatric disabilities choose, get, and keep housing that is decent, safe, affordable, and integrated into the community. Tenants have access to an array of services that help them keep their housing, such as case management, assistance with daily activities, conflict resolution, and crisis response consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Personal emergency response system” means an electronic device connected to a 24-hour staffed system which allows the individual to access assistance in the event of an emergency.

“Prevocational services” means services that focus on developing generalized skills that prepare an individual for employment. Prevocational training topics include but are not limited to attendance, safety skills, following directions, and staying on task.

“Reasonably close proximity” means a distance of 100 miles or less or a driving distance of two hours or less from the county seat or county seats of the region.

“Respite services” means a temporary period of relief and support for individuals and their families provided in a variety of settings. The intent is to provide a safe environment with staff assistance for individuals who lack an adequate support system to address current issues related to a disability. Respite may be provided for a defined period of time; respite is either planned or provided in response to a crisis.

“Routine care” means the same as defined in rule 441—88.21(249A).

“Rural” means any area that is not defined as urban.

“Strengths-based case management” means a service that focuses on possibilities rather than problems and strives to identify and develop strengths to assist individuals reach their goals leading to a healthy self-reliance and interdependence with their community. Identifiable strengths and resources include family, cultural, spiritual, and other types of social and community-based assets and networks.

“Supported community living services” means services as defined in Iowa Code section 225C.21(1).

“Supported employment” means an approach to helping individuals participate as much as possible in competitive work in integrated work settings that are consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals. Services are targeted for individuals with significant disabilities for whom competitive employment has not traditionally occurred; or for whom competitive employment has been interrupted or intermittent as a result of a significant disability including either individual or group supported employment, or both, consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Telephone crisis service” means a program that operates a crisis hotline either directly or through a contract. The service shall be available 24 hours a day and seven days a week including, but not limited to, relief of distress in pre-crisis and crisis situations, reduction of the risk of escalation, arrangements for emergency on-site responses when necessary, and referral of callers to appropriate services.
“Trauma-focused services” means services provided by caregivers and professionals that recognize when an individual who has been exposed to violence is in need of help to recover from adverse impacts; recognize and understand the impact that exposure to violence has on victims’ physical, psychological, and psychosocial development and well-being; and respond by helping in ways that reflect awareness of adverse impacts and consistently support the individual’s recovery.

“Trauma-informed care” means services that are based on an understanding of the vulnerabilities or triggers of those who have experienced violence, that recognize the role violence has played in the lives of those individuals, that are supportive of recovery, and that avoid retraumatization including trauma-focused services and trauma-specific treatment.

“Trauma-specific treatment” means services provided by a mental health professional using therapies that are free from the use of coercion, restraints, seclusion and isolation; and designed specifically to promote recovery from the adverse impacts of violence exposure on physical, psychological, psychosocial development, health and well-being.

“Urban” means a county that has a total population of 50,000 or more residents or includes a city with a population of 20,000 or more.

“Urgent nonemergency need” means the same as defined in rule 441—88.21(249A).

“Walk-in crisis service” means a program that provides unscheduled face-to-face support and intervention at an identified location or locations. The service may be provided directly by the program or through a contract with another mental health provider.

[ARC 1096C, IAB 10/16/13, effective 11/20/13]

441—25.2(331) Core service domains.

25.2(1) The region shall ensure that core service domains are available in regions as determined in Iowa Code section 331.397.

25.2(2) The region shall include and respect the recommendation of the individual and the individual’s care team in the process of transition to new services.

25.2(3) The region shall ensure that the following services are available in the region:

a. Assessment and evaluation.
b. Case management.
c. Crisis evaluation.
d. Day habilitation.
e. Family support.
f. Health homes.
g. Home and vehicle modification.
h. Home health aide.
i. Job development.
j. Medication prescribing and management.
k. Mental health inpatient treatment.
l. Mental health outpatient treatment.
m. Peer support.
n. Personal emergency response system.
o. Prevocational services.
p. Respite.
q. Supported employment.
r. Supportive community living.
s. Twenty-four-hour access to crisis response.

Regions may fund or provide other services in addition to the required core services consistent with requirements set forth in subrules 25.2(4) and 25.2(5).

25.2(4) A regional service system shall consider the scope of services included in addition to the required core services. Each service included shall be described and projection of need and the funding necessary to meet the need shall be included.
25.2(5) A regional service system may provide funding for other appropriate services or other support. In considering whether to provide such funding, a region may consider the following criteria:
   a. Applying a person-centered planning process to identify the need for the services or other support.
   b. The efficacy of the services or other support is recognized as an evidence-based practice, is deemed to be an emerging and promising practice, or providing the services is part of a demonstration and will supply evidence as to the effectiveness of the services.
   c. A determination that the services or other support provides an effective alternative to existing services that have been shown by the evidence base to be ineffective, to not yield the desired outcome, or to not support the principles outlined in Olmstead v. L.C., 527 U.S. 581.

[ARC 1096C, IAB 10/16/13, effective 11/20/13]

441—25.3(331) Access standards. The region shall include:
   25.3(1) A sufficient provider network which shall include:
      a. A community mental health center or federally qualified health center that provides psychiatric and outpatient mental health services in the region.
      b. A hospital with an inpatient psychiatric unit or state mental health institute located in or within reasonably close proximity that has the capacity to provide inpatient services to the applicant.
   25.3(2) Crisis services shall be available 24 hours per day, seven days per week, 365 days per year for mental health and disability-related emergencies.
   25.3(3) The region shall provide the following treatment services:
      a. Outpatient.
         (1) Emergency: During an emergency, outpatient services shall be initiated to an individual within 15 minutes of telephone contact.
         (2) Urgent: Outpatient services shall be provided to an individual within one hour of presentation or 24 hours of telephone contact.
         (3) Routine: Outpatient services shall be provided to an individual within four weeks of request for appointment.
         (4) Distance: Outpatient services shall be offered within 30 miles for an individual residing in an urban community and 45 miles for an individual residing in a rural community.
      b. Inpatient.
         (1) An individual in need of emergency inpatient services shall receive treatment within 24 hours.
         (2) Inpatient services shall be available within reasonably close proximity to the region.
      c. Assessment and evaluation. An individual who has received inpatient services shall be assessed and evaluated within four weeks.
   25.3(4) A region shall provide the following basic crisis response:
      a. Twenty-four-hour access to crisis response, 24 hours per day, seven days per week, 365 days per year.
      b. Crisis evaluation within 24 hours.
   25.3(5) Support for community living. The first appointment shall occur within four weeks of the individual’s request of support for community living.
   25.3(6) Support for employment. The initial referral shall take place within 60 days of the individual’s request of support for employment.
   25.3(7) Recovery services. An individual receiving recovery services shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.
   25.3(8) Service coordination:
      a. An individual receiving service coordination shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.
      b. An individual shall receive service coordination within 10 days of the initial request for such service or being discharged from an inpatient facility.
   25.3(9) The following limitations apply to home and vehicle modification for an individual receiving mental health and disability services:
a. A lifetime limit equal to that established for the home- and community-based services waiver for individuals with intellectual disabilities in the medical assistance program.

b. A provider reimbursement payment will be no lower than that provided through the home- and community-based services waiver for individuals with intellectual disabilities in the medical assistance program.

[ARC 1096C, IAB 10/16/13, effective 11/20/13]

441—25.4(331) Practices. A region shall ensure that access is available to providers of core services that demonstrate the following competencies:

25.4(1) Regions shall have service providers that are trained to provide effective services to individuals with two or more of the following co-occurring conditions:

a. Mental illness.
b. Intellectual disability.
c. Developmental disability.
d. Brain injury.
e. Substance use disorder.

Training for serving individuals with co-occurring conditions provided by the region shall be training identified by the Substance Abuse and Mental Health Services Administration, the Dartmouth Psychiatric Research Center or other generally recognized professional organization specified in the regional service system management plan.

25.4(2) Regions shall have service providers that are trained to provide effective trauma-informed care. Trauma-informed care training provided by the region shall be recognized by the National Center for Trauma-Informed Care or other generally recognized professional organization specified in the regional service system management plan.

25.4(3) Regions must have evidence-based practices that the region has independently verified as meeting established fidelity to evidence-based service models including, but not limited to, assertive community treatment or strengths-based case management; integrated treatment of co-occurring substance abuse and mental health disorders; supported employment; family psychoeducation; illness management and recovery; and permanent supportive housing.

[ARC 1096C, IAB 10/16/13, effective 11/20/13]

These rules are intended to implement Iowa Code chapter 331 and 2012 Iowa Acts, chapter 1120, section 15.

441—25.5 to 25.10 Reserved.

DIVISION II
REGIONAL SERVICE SYSTEM

PREAMBLE

These rules define the standards for a regional service system. The mental health and disability services provided by counties operating as a region shall be delivered in accordance with a regional service system management plan approved by the region’s governing board and implemented by the regional administrator (Iowa Code section 331.393). Iowa counties are encouraged to enter into a regional system when the regional approach is likely to increase the availability of services to residents of the state who need the services. It is the intent of the Iowa general assembly that the adult residents of this state should have access to needed mental health and disability services regardless of the location of their residence.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.11(331) Definitions.

“Access point” means a provider, public or private institution, advocacy organization, legal representative, or educational institution with staff trained to complete applications and guide individuals with a disability to needed services.
“Applicant” means an individual who applies to receive services and supports from the service system.

“Assessment and evaluation” means the same as defined in rule 441—25.1(331).

“Assistive technology account” means funds in contracts, savings, trust or other financial accounts, financial instruments, or other arrangements with a definite cash value that are set aside and designated for the purchase, lease, or acquisition of assistive technology, assistive technology services, or assistive technology devices. Assistive technology accounts must be held separately from other accounts. Funds must be used to purchase, lease, or otherwise acquire assistive technology services or devices for a working individual with a disability. Any withdrawal from an assistive technology account other than for the designated purpose becomes a countable resource.

“Authorized representative” means a person designated by the individual or by Iowa law to act on the individual’s behalf in specified affairs to the extent prescribed by law.

“Chief executive officer” means the person chosen and supervised by the governing board who serves as the single point of accountability for the mental health and disability services region and whose responsibilities include, but are not limited to, planning, budgeting, monitoring county and regional expenditures, and ensuring the delivery of quality services that achieve expected outcomes for the individuals served.

“Choice” means the individual or authorized representative chooses the services, supports, and goods needed to best meet the individual’s goals and accepts the responsibility and consequences of those choices.

“Clear lines of accountability” means the structure of the governing board’s organization makes it evident that the ultimate responsibility for the administration of the non-Medicaid-funded mental health and disability services lies with the governing board and that the governing board directly and solely supervises the organization’s chief executive officer.

“Community” means an integrated setting of an individual’s choice.

“Conflict-free case management” means there is no real or seeming incompatibility between the case manager’s other interests and the case manager’s duties to the individual served and includes case management separate from direct service provision; eligibility determination for services; establishment of funding levels for the individual’s services; and requirements that prohibit the case manager from performing evaluations, assessments, and plans of care if the case manager is related by blood or marriage to the individual or any of the individual’s paid caregivers or persons financially responsible for the individual or empowered to make financial or health-related decisions on behalf of the individual.

“Coordinator of disability services” means the same as defined in Iowa Code section 331.390(3) “b.”

“Countable resource” means real or personal property that has a cash value that is available to the owner upon disposition and is capable of being liquidated.

“Countable value” means the equity value of a resource, which is the current fair market value minus any legal debt on the item.

“County of residence” means the same as defined in Iowa Code section 331.394.

“Department” means the department of human services.

“Director” means the director of human services.

“Disability services” means the same as defined in Iowa Code section 225C.2.

“Emergency service” means the same as defined in rule 441—88.21(249A).

“Empowerment” means that the service system ensures the rights, dignity, and ability of individuals and their families to exercise choices, take risks, provide input, and accept responsibility.

“Exempt resource” means a resource that is disregarded in the determination of eligibility for public funding assistance and in the calculation of client participation amounts.

“Homeless person” means the same as defined in Iowa Code section 48A.2.

“Household” means, for an individual who is 18 years of age or over, the individual, the individual’s spouse or domestic partner, and any children, stepchildren, or wards under the age of 18 who reside with the individual. For an individual under the age of 18, “household” means the individual, the individual’s parents (or parent and domestic partner), stepparents or guardians, and any children, stepchildren, or
wards under the age of 18 of the individual’s parents (or parent and domestic partner), stepparents, or guardians who reside with the individual.

“Income” means all gross income received by the individual’s household, including but not limited to wages, income from self-employment, retirement benefits, disability benefits, dividends, annuities, public assistance, unemployment compensation, alimony, child support, investment income, rental income, and income from trust funds.

“Individual” means any person seeking or receiving services in a regional service system.

“Individualized services” means services and supports that are tailored to meet the personalized needs of the individual.

“Liquid assets” means assets that can be converted to cash in 20 days. Liquid assets include but are not limited to cash on hand, checking accounts, savings accounts, stocks, bonds, cash value of life insurance, individual retirement accounts, certificates of deposit, and other investments.

“Managed care” means a system that provides the coordinated delivery of services and supports that are necessary and appropriate, delivered in the least restrictive settings and in the least intrusive manner. Managed care seeks to balance three factors: achieving high-quality outcomes for participants, coordinating access, and containing costs.

“Managed system” means a system that integrates planning, administration, financing, and service delivery. The system consists of the financing or governing organization, the entity responsible for care management, and the network of service providers.

“Management organization” means an organization contracted to manage part or all of the service system for a region.

“Medical savings account” means an account that is exempt from federal income taxation pursuant to Section 220 of the U.S. Internal Revenue Code (26 U.S.C. §220) as supported by documentation provided by the bank or other financial institution. Any withdrawal from a medical savings account other than for the designated purpose becomes a countable resource.

“Mental health professional” means the same as defined in Iowa Code section 228.1(6).

“Non-liquid assets” means assets that cannot be converted to cash in 20 days. Non-liquid assets include, but are not limited to, real estate, motor vehicles, motor vessels, livestock, tools, machinery, and personal property.

“Population” means the same as defined in Iowa Code section 331.388.

“Provider” means an individual, firm, corporation, association, or institution which is providing or has been approved to provide medical assistance, is accredited under 441—Chapter 24, holds a professional license to provide the service, is accredited by a national insurance panel, or holds other national accreditation or certification.

“Regional administrator” or “regional administrative entity” means the administrative office or organization formed by agreement of the counties participating in a mental health and disability services region to function on behalf of those counties.

“Regional services fund” means the mental health and disability regional services fund created in Iowa Code section 225C.7A.

“Regional service system management plan” means the regional service system plan developed pursuant to Iowa Code section 331.393 for the funding and administration of non-Medicaid-funded mental health and disability services and includes an annual service and budget plan, a policies and procedures manual, and an annual report and how the region will coordinate with the department in the provision of mental health and disability services funded under the medical assistance program.

“Resources” means all liquid and non-liquid assets that are owned in part or in whole by the individual household, that could be converted to cash to use for support and maintenance, and that the individual household is not legally restricted from using for support and maintenance.

“Retirement account” means any retirement or pension fund or account listed in Iowa Code section 627.6(8) “f.”

“Retirement account in the accumulation stage” means a retirement account into which a deposit was made in the previous tax year. Any withdrawal from a retirement account becomes a countable resource.
“Service system” refers to the mental health and disability services and supports administered by the regional administrative entity and paid from the regional services fund.

“State case status” means the standing of an individual who has no county of residence.

“State commission” means the same as defined in Iowa Code section 225C.5.

“System of care” means the coordination of a system of services and supports to individuals and their families that ensures they optimally live, work, and recreate in integrated communities of their choice.

“System principles” means practices that include individual choice, community and empowerment.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.12(331) Regional governance structure. The counties comprising a mental health and disability services region shall enter into an agreement to form a regional administrator under the control of a governing board to function on behalf of those counties as defined in Iowa Code chapter 28E and sections 331.388, 331.390 and 331.392 and 2013 Iowa Acts, House File 648, section 14.

25.12(1) Governing board. The governing board shall comply with the following requirements:

a. The governing board shall comply with the membership requirements as outlined in Iowa Code section 331.390 and follow the requirements in Iowa Code chapter 69 and other applicable laws relating to boards and commissions.

b. A regional advisory committee shall be created and shall designate members to the governing board as defined in Iowa Code section 331.390(2).

c. The governing board shall appoint and evaluate the performance of the chief executive officer of the regional administrative entity who will serve as the single point of accountability for the region.

25.12(2) Regional administrator. The formation of the regional administrator shall be as defined in Iowa Code sections 331.388 and 331.390.

a. The regional administrative entity is under the control of the governing board.

b. The regional administrative entity shall enter into and manage performance-based contracts in accordance with Iowa Code section 225C.4(1) “u. ”

c. The regional administrative entity structure shall have clear lines of accountability.

d. The regional administrative entity functions as a lead agency utilizing shared county or regional staff or other means of limiting administrative costs.

e. The regional administrative entity staff shall include one or more coordinators of disability services.

25.12(3) Regional service system management. The region may either directly implement a system of service management and contract with service providers, or contract with a private entity to manage the regional service system, provided all requirements of Iowa Code section 331.393 are met by the private entity.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.13(331) Regional finances.

25.13(1) Funding. Non-Medicaid mental health and disability services funding is under the control of the governing board and shall:

a. Be maintained to limit administrative burden and provide public transparency regarding financial processes.

b. Be maintained in one of three ways:

(1) In a combined account.

(2) In separate county accounts that are under the control of the governing board.

(3) In other arrangements authorized by law.

25.13(2) Accounting system and financial reporting. The accounting system and financial reporting to the department shall conform to Iowa Code section 331.391 and include all non-Medicaid mental health and disability expenditures. Information shall be separated and identified in a uniform chart of accounts, including but not limited to the following: expenses for administration; purchase of services; and enterprise costs for which the region is a service provider or is directly billing and collecting payments.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]
441—25.14(331) Regional governance agreement. The expectations for regional governance agreements entered into by the counties comprising a mental health and disability services region are defined in Iowa Code sections 28E.1, 331.388, 331.390 and 331.392.

25.14(1) Organizational provisions. The organizational provisions of the regional governance agreement shall include the following:

a. A statement of purpose, goals, and objective of entering into the agreement.
b. Identification of the governing board membership and the terms, methods of appointment, and voting procedures, including whether or not voting will be weighted.
c. The identification of the process for selecting the executive staff, including but not limited to the chief executive officer of the regional administrative entity.
d. Identification of the counties participating in the agreement.
e. The time period of the agreement and terms for termination or renewal of the agreement.
f. Provisions for joining a region. Additional counties may join the region. The agreement shall not prohibit a county from being assigned by the department to a region according to Iowa Code section 331.389(4) “c.”
g. Methods for dispute resolution and mediation.
h. Methods for termination of a county’s participation in the region.
i. Provision for formation and assigned responsibilities for one or more advisory committees consisting of:
   (1) Individuals who utilize services or the actively involved relatives of such individuals.
   (2) Service providers.
   (3) Governing board members.
   (4) Other interests identified in the agreement.

25.14(2) Administrative provisions. The administrative provisions of the regional governance agreement shall include all of the following:

a. Identification of whether the region will either directly implement a system of service management or contract with a private entity to manage the regional service system as defined in Iowa Code section 331.393(7).
b. Responsibility of the governing board in appointing and evaluating the performance of the chief executive officer of the regional administrative entity.
c. A general list of the functions and responsibilities of the regional administrative entity’s chief executive officer and other staff including but not limited to coordinators of disability services.
d. Specification of the functions to be carried out by each party to the agreement and by any subcontractor of a party to the agreement.

25.14(3) Financial provisions. The financial provisions of the regional governance agreement shall include all of the following:

a. Methods for pooling, managing and expending funds under control of the regional administrative entity. If the agreement does not provide for pooling of the participating county moneys in a single fund, the agreement shall specify how the participating county moneys will be subject to the control of the regional administrative entity.
b. Methods for allocating administrative funding and resources.
c. Methods for contributing initial funds to the region.
d. Methods for acquiring or disposing of real property.
e. The process for how to use savings achieved for reinvestment.
f. A process for performance of an annual independent audit of the regional administrator.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]


25.15(1) Eligibility for mental health services. An individual must comply with all of the following requirements to be eligible for mental health services under the regional service system:

a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
b. The individual is at least 18 years of age.
c. The individual is a resident of this state.

d. The individual has had at any time during the preceding 12-month period a mental health, behavioral, or emotional disorder or, in the opinion of a mental health professional, may now have such a diagnosable disorder. The diagnosis shall be made in accordance with the criteria provided in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and shall not include the manual’s “V” codes identifying conditions other than a disease or injury. The diagnosis shall also not include substance-related disorders, dementia, antisocial personality, or developmental disabilities, unless co-occurring with another diagnosable mental illness.

e. The results of a standardized functional assessment support the need for mental health services of the type and frequency identified in the individual’s case plan. The standardized functional assessment methodology shall be designated for mental health services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(2) Other conditions of eligibility for mental health services.

a. An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children’s services may be considered eligible for services through the regional service system during the three-month period preceding the individual’s eighteenth birthday in order to provide a smooth transition from children’s to adult services.

b. An individual less than 18 years of age and a resident of the state may be considered eligible for those mental health services made available to all or a portion of the residents of the region of the same age and eligibility class under the county management plan of one or more counties of the region applicable prior to formation of the region. Eligibility for services under this paragraph is limited to availability of regional service system funds without limiting or reducing core services, and if part of the approved regional service system management plan.

25.15(3) Eligibility for intellectual disability services. An individual must comply with all of the following requirements to be eligible for intellectual disability services under the regional service system:

a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).

b. The individual is at least 18 years of age.

c. The individual is a resident of this state.

d. The individual has a diagnosis of intellectual disability as defined by Iowa Code section 4.1(9A).

e. The results of a standardized functional assessment support the need for intellectual disability services of the type and frequency identified in the individual’s case plan. The standardized functional assessment methodology shall be designated for intellectual services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(4) Other conditions of eligibility for intellectual disability services.

a. An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children’s services may be considered eligible for services through the regional service system during the three-month period preceding the individual’s eighteenth birthday in order to provide a smooth transition from children’s to adult services.

b. An individual less than 18 years of age and a resident of the state may be considered eligible for those intellectual disability services made available to all or a portion of the residents of the region of the same age and eligibility class under the county management plan of one or more counties of the region applicable prior to formation of the region. Eligibility for services under this paragraph is limited to availability of regional service system funds without limiting or reducing core services, and if part of the approved regional service system management plan.

25.15(5) Eligibility for brain injury services. An individual must comply with all of the following requirements to be eligible for brain injury services under the regional service system, if such services were provided to the same class of individuals by a county in the region prior to regional formation and if funds are available to continue such services without limiting or reducing core services.

a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).

b. The individual is at least 18 years of age.
c. The individual is a resident of this state.

d. The individual has a diagnosis of brain injury as defined in Iowa Code section 83.81.

e. The results of a standardized functional assessment support the need for brain injury services of the type and frequency identified in the individual’s case plan. The standardized functional assessment methodology used is the methodology approved for brain injury services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(6) Other conditions of eligibility for brain injury services. An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children’s services may be considered eligible for services through the regional service system during the three-month period preceding the individual’s eighteenth birthday in order to provide a smooth transition from children’s to adult services.

25.15(7) Eligibility for developmental disability services.

a. Until funding is designated for other service populations, eligibility for the core service domains shall be as identified in Iowa Code section 331.397(1)”b.”

b. If a county in a region was providing services to an eligibility class of individuals with a developmental disability other than intellectual disability prior to formation of the region, the class of individuals shall remain eligible for the services provided when the region is formed, provided that funds are available to continue such services without limiting or reducing core services. The individual must also meet the requirements in paragraphs 25.15(7)”c,””d,””e” and ”f.”

c. The individual complies with the financial eligibility requirements in rule 441—25.16(331).

d. The individual is at least 18 years of age.

e. The individual is a resident of this state.

f. The individual has a diagnosis of a developmental disability other than an intellectual disability as defined in rule 441—24.1(225C).

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.16(331) Financial eligibility requirements. The regional service system management plan shall identify basic financial eligibility standards for disability services as defined in Iowa Code section 331.395.

25.16(1) Income requirements. Income requirements shall be as defined in Iowa Code section 331.395(1).

25.16(2) Resource requirements. An individual must have resources that are equal to or less than $2,000 in countable value for a single-person household or $3,000 in countable value for a multiperson household or follow the most recent federal supplemental security income guidelines.

a. The countable value of all countable resources, both liquid and non-liquid, shall be included in the eligibility determination except as exempted in this subrule.

b. A transfer of property or other assets within five years of the time of application with the result of, or intent to, qualify for assistance may result in denial or discontinuation of funding.

c. The following resources shall be exempt:

(1) The homestead, including equity in a family home or farm that is used as the individual household’s principal place of residence. The homestead shall include all land that is contiguous to the home and the buildings located on the land.

(2) One automobile used for transportation.

(3) Tools of an actively pursued trade.

(4) General household furnishings and personal items.

(5) Burial account or trust limited in value as to that allowed in the medical assistance program.

(6) Cash surrender value of life insurance with a face value of less than $1,500 on any one person.

(7) Any resource determined excludable by the Social Security Administration as a result of an approved Social Security Administration work incentive.

d. If an individual does not qualify for federally funded or state-funded services or other support but meets all income, resource, and functional eligibility requirements of this chapter, the following types of resources shall additionally be considered exempt from consideration in eligibility determination:
(1) A retirement account that is in the accumulation stage.
(2) A medical savings account.
(3) An assistive technology account.
(4) A burial account or trust limited in value as to that allowed in the medical assistance program.

   e. An individual who is eligible for federally funded services and other support must apply for and accept such funding and support.

25.16(3) Copayment standards. A regional administrative entity must comply with copayment standards as defined in Iowa Code section 331.395.

   a. Copayments are allowed for individuals with income above 150 percent of the federal poverty level.

   b. Copayments in this rule are related to core services as defined in Iowa Code section 331.397.

25.16(4) Copayment standards required by any federal, state, regional, or municipal program. Any copayments or other client participation required by any federal, state, regional or municipal program in which the individual participates shall be required by the regional administrative entity. Such copayments include, but are not limited to:

   a. Client participation for maintenance in a residential care facility through the state supplementary assistance program.

   b. The financial liability for institutional services paid by counties as provided in Iowa Code section 230.15.

   c. The financial liability for attorney fees related to commitment as provided by Iowa Code section 229.8.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.17(331) Exempted counties. If a county has been exempted pursuant to Iowa Code section 331.389 from the requirement to enter into a regional service system, the county and the county’s board of supervisors shall fulfill all the requirements of this chapter for a regional service system management plan.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.18(331) Annual service and budget plan. The annual service and budget plan shall describe the services to be provided and the cost of those services for the ensuing year.

25.18(1) The annual service and budget plan is due on April 1 prior to the July 1 implementation of the annual plan and shall be approved by the region’s governing board prior to submittal to the department. The initial plan is due on April 1, 2014.

25.18(2) The annual service and budget plan shall include but not be limited to:

   a. The locations of the local access points for services. This shall include the name of the access points including the physical locations and contact information.

   b. Targeted case management. The targeted case management agencies for the region, including the physical location and contact information for those agencies, shall be included.

   c. Crisis planning. The plan for ensuring effective crisis prevention, response and resolution, including contact information for the agencies responsible, shall be included.

   d. Scope of services. A description of the scope of services to be provided, a projection of need for the service, and the funding necessary to meet the need shall be included.

      (1) The scope shall include the regional core services as defined in rule 441—25.1(331).

      (2) The scope shall also include services in addition to the required core services.

   e. Budget and financing provisions for the next year. The provisions shall address how county, regional, state and other funding sources will be used to meet the service needs within the region.

   f. Financial forecasting measures. The plan shall describe the financial forecasting measures used in the identification of service need and funding necessary for services.

   g. The provider reimbursement provisions. The plan shall describe the types of reimbursement methods that will be used, including fee for service, compensating providers for a “system of care” approach, and use of nontraditional providers. A region also shall provide funding approaches that
identify and incorporate all services and sources of funding used by the individuals receiving services, including the medical assistance program.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.19(331) Annual service and budget plan approval. The annual service and budget plan shall be submitted by April 1, 2014, as a part of the region’s management plan for the fiscal year beginning July 1, 2014. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the regional annual service and budget plan in compliance with these rules and state and federal laws, the director may approve the plan. A plan approved by the director for the fiscal year beginning July 1, 2014, shall remain in effect until June 30, 2015, subject to amendment.

25.19(1) Criteria for acceptance. The director shall determine a plan is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the plan contains all the required information and meets criteria described in this division.

25.19(2) Notification. Except as specified in subrule 25.19(3), the director shall notify the region in writing of the decision on the plan by June 1, 2014. The decision shall specify that either:

a. The annual service and budget plan is approved as it was submitted, either with or without supplemental information already requested and received.

b. The annual service and budget plan will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission.

25.19(3) Review of late submittals. The director may review plans not submitted by April 1, 2014, after all plans submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.

25.19(4) Amendments. An amendment to the annual service and budget plan shall be approved by the regional governance board and submitted to the department at least 45 days before the date of implementation. Before implementation of any amendment to the plan, the director must approve the amendment.

a. Criteria for acceptance. The director shall determine an amendment is acceptable when it contains all the required information and meets the criteria described in this division for the applicable part of the annual service and budget plan and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the amendment contains all the required information and meets criteria described in this division.

b. Notification. The director shall notify the region, in writing, of the decision on the amendment within 45 days of receipt of the amendment. The decision shall specify either that:

(1) The amendment is approved as it was submitted, either with or without supplemental information already requested and received.

(2) The amendment is not approved. The notification will include why the amendment is not approved.

25.19(5) Reconsideration. Regions dissatisfied with the director’s decision on a plan or an amendment may file a letter with the director requesting reconsideration. The letter requesting reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director will review both the reconsideration request and evidence provided. The director shall issue a final decision in writing.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.20(331) Annual report. The annual report shall describe the services provided, the cost of those services, the number of individuals served, and the outcomes achieved for the previous fiscal year. The annual report is due on December 1 following a completed fiscal year of implementing the annual service and budget plan. The initial report is due on December 1, 2015. The annual report shall include but not be limited to:

1. Services actually provided.

2. Actual numbers of individuals served.
3. Moneys expended.
4. Outcomes achieved.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.21(331) Policies and procedures manual for the regional service system. The policies and procedures manual shall describe the policies and process developed to direct the management and administration of the regional service system. The initial manual is due on April 1, 2014, and will remain in effect subject to amendment.

25.21(1) Content. The manual shall include but not be limited to:

a. Financing and delivery of services and supports. A description of the region’s process used to develop and ensure the ongoing financial accountability and delivery of services outlined in the region’s annual service and budget plan shall be included.

b. Enrollment. The application and enrollment process that is readily accessible to applicants and their families or authorized representatives shall be included. This procedure shall identify regional access points and where applicants can apply for services and how and when the applications will reach the regional administrative entity’s designated staff for processing.

c. Eligibility. The process utilized to determine eligibility shall be included in the manual and shall include but not be limited to:

1. The criteria used to authorize or deny funding for services and supports. This shall include guidelines for who is eligible to receive services and supports by eligibility group, and type of service or support.

2. Financial eligibility and copayment criteria, which shall meet the requirements of rule 441—25.16(331).

3. The time frames for conducting eligibility determinations that provide for timely access to services, including necessary and immediate services not to exceed ten days.

4. The process for development of a written notice of decision. The time frame for sending a written notice of decision to the individual and guardian (if applicable) and the service providers identified in the notice shall be included. The notice of decision shall:

   1. Explain the action taken on the application and the reason for that action.
   2. State what services are approved and name the service providers.
   3. Outline the applicant’s right to appeal.
   4. Describe the appeal process.

   d. Utilization of and access to services. The process for managing utilization of and access to services and other assistance shall be included. The process shall describe how coordination between the services included in the annual service and budget plan and the disability services administered by the state and others will be managed.

   e. Quality management and improvement process. The quality management and improvement process shall at a minimum meet the requirements of the department’s outcome and performance measures process as outlined in Iowa Code sections 225C.4(1) “f”” and 225C.6A.

   f. Risk management and fiscal viability. If the region contracts with a private entity, the manual must include risk management provisions and fiscal viability of the annual services and budget plan.

   g. Targeted case management.

   (1) Designation of targeted case management providers. The process used to identify and designate targeted case management providers for the region shall be described. This process shall include the requirements for the implementation of evidence-based practice models of case management within the region. Requirements of this practice include:

   1. Providing the individual receiving the case management with a choice of providers.

   2. Allowing a service provider to be the case manager but prohibiting the provider from referring that individual only to services administered by the provider.

   3. Provisions to ensure compliance with, but not exceed, federal requirements for conflict-free case management.
(2) Qualifications of targeted case managers. A region’s manual shall require that any targeted case managers or other persons providing service coordination while working for the designated provider meet the qualifications of qualified case managers and supervisors as defined in rule 441—24.1(225C).

(3) Targeted case management and service coordination services. Targeted case management and service coordination services utilized in a regional service system shall include but are not limited to the following as defined in Iowa Code section 331.393(4) “g”:

1. Performance and outcome measures relating to the health, safety, work performance, and community residency of the individuals receiving the services.

2. Standards for delivery of the services, including but not limited to the social history, assessment, service planning, incident reporting, crisis planning, coordination, and monitoring for individuals receiving the services.

3. Methodologies for complying with the requirements of paragraph 25.21(1) “g.” Methodologies may include the use of electronic record keeping and remote or Internet-based training.
   
   h. System of care approach plan.
   
   i. Decentralized service provision. Measures to provide services in a dispersed manner that meet the minimum access standards of core services and that utilize the strengths and assets of the service providers within and available to the region shall be included.
   
   j. Provider network formation and management. The manual shall require that providers that are subject to license, accreditation or approval meet established standards. The manual shall detail the approval process, including criteria, developed to select providers that are not currently subject to license, accreditation or approval standards. The manual shall identify the process the regional administrative entity will use to contract with providers and manage the provider network to ensure it meets the needs of the individuals in the region. The provider network will include but is not limited to the following:

   (1) A contract with a community mental health center that provides services in the individual’s region or with a federally qualified health center that provides psychiatric and outpatient mental health services in the individual’s region.

   (2) Contracts with licensed and accredited providers to provide each service in the required core service domains.

   (3) Adequate numbers of licensed and accredited providers to ensure availability of core services so that there is no waiting list for services due to lack of available providers.

   (4) A contract with an inpatient psychiatric hospital unit or state mental health institute within reasonably close proximity.

   k. Service provider payment provisions. A policy for payment of service providers which describes the method and process of paying for services and supports delivered to the region shall be included.

   l. Grievance processes. The manual shall develop and implement processes for appealing the decisions of the regional administrative entity in the following circumstances:

   (1) Nonexpedited appeal process. The appeal process shall be based on objective criteria, specify time frames, provide for notification in accessible formats of the decisions to all parties, and provide some assistance to individuals with disabilities using the process. Responsibility for the final step in the appeal process shall be a state administrative law judge in nonexpedited appeals.

   (2) Expedited appeal process. This appeal process is to be used when the decision of the regional administrative entity concerning an individual varies from the type and amount of service identified to be necessary for the individual in a clinical determination made by a mental health professional and the mental health professional believes that the failure to provide the type and amount of service identified could cause an immediate danger to an individual’s health or safety. This appeal process shall be performed by a mental health professional who is either the administrator of the division of mental health and disability services of the department of human services or the administrator’s designee.

   1. The appeal shall be filed within five days of receipt of the notice of decision by the regional administrative entity.
2. The expedited review by the division administrator or designee shall take place within two days of receipt of the request, unless more information is needed. There is an extension of two days from the time the new information is received.

3. The administrator shall issue an order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the order, to justify the decision made concerning the expedited review. If the decision concurs with the contention that there is an immediate danger to the individual’s health or safety, the order shall identify the type and amount of service which shall be provided for the individual. The administrator or designee shall give such notice as is practicable to individuals who are required to comply with the order. The order is effective when issued.

4. The decision of the administrator or designee shall be considered a final agency action and is subject to judicial review in accordance with Iowa Code section 17A.19.

m. Implementation of interagency and multisystem collaboration and care coordination. The policies and procedures manual shall describe how the region will collaborate with other funders, other regional service systems, service providers, case management, individuals and their families or authorized representatives, and advocates to ensure that authorized services and supports are responsive to individuals’ needs, consistent with system principles, and cost-efficient. The manual shall describe the process for collaboration with the court to ensure alternatives to commitment and to coordinate funding for services to individuals who are under court-ordered commitment services pursuant to Iowa Code chapter 229.

n. Addressing multioccurring needs. The policies and procedures manual shall include criteria and measures to be used to address the needs of individuals who have two or more co-occurring mental health, intellectual or other developmental disability, brain injury, or substance-related disorders. The manual shall also include criteria and measures to be used to address the needs of individuals with specialized needs.

o. Service management and functional assessment. The policies and procedures manual shall describe how functional assessments and service management will be incorporated in accordance with applicable requirements.

p. Service system management. The policies and procedures manual shall identify whether the region will be directly implementing a system of service management or will contract with a private entity to manage the regional service system. If the region contracts with a private entity, the region will ensure that all requirements of Iowa Code section 331.393 and these administrative rules are fulfilled.

q. Assistance to other than core service populations. The policies and procedures manual shall specify the services populations, other than core service populations, to whom the region will provide assistance if funding is available.

r. Waiting list criteria. The policies and procedures manual shall specify whether the region will use waiting lists. If the policy and procedures manual specifies the use of waiting lists for funding services and supports, it shall specify criteria for the use and review of each waiting list, including the criteria to be used to determine how and when an individual will be placed on a waiting list. The criteria will include how core services and additional core services will be impacted the least by budgetary limitations. The manual shall specify how waiting list data will be used in future planning.

25.21(2) Approval. The manual shall be submitted by April 1, 2014, as a part of the region’s management plan for the fiscal year beginning July 1, 2014. The manual shall be approved by the region’s governing board and is subject to approval by the director of human services. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the manual in compliance with these rules and state and federal laws, the director may approve the plan. A plan approved by the director for the fiscal year beginning July 1, 2014, shall remain in effect subject to amendment.

a. Criteria for acceptance. The director shall determine a plan is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the plan contains all the required information and meets criteria described in this division.

b. Notification.
(1) Except as specified in subparagraph 25.21(2)“b”(2), the director shall notify the region in writing of the decision on the plan by June 1, 2014. The decision shall specify that either:
   1. The policies and procedures manual is approved as it was submitted, either with or without supplemental information already requested and received.
   2. The policies and procedures manual will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission.

(2) Review of late submittals. The director may review manuals not submitted by April 1, 2014, after all manuals submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.

25.21(3) Amendments. An amendment to the policy and procedures manual shall be approved by the regional governance board and submitted to the department at least 45 days before the date of implementation. Before implementation of any amendment to the manual, the director must approve the amendment.

   a. Criteria for acceptance. The director, in consultation with the state commission, shall determine an amendment is acceptable when it contains all the required information and meets the criteria described in this division for the applicable part of the policy and procedures manual and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the amendment contains all the required information and meets criteria described in this division.

   b. Notification. The director shall notify the region, in writing, of the decision on the amendment within 45 days of receipt of the amendment. The decision shall specify either that:

      (1) The amendment is approved as it was submitted, either with or without supplemental information already requested and received.

      (2) The amendment is not approved. The notification will explain why the amendment is not approved.

25.21(4) Reconsideration. Regions dissatisfied with the director’s decision on a manual or an amendment may file a letter with the director requesting reconsideration. The letter of reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director will review both the reconsideration request and evidence provided. The director shall issue a final decision in writing.

These rules are intended to implement Iowa Code sections 331.388 to 331.398.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.22 to 25.40 Reserved.

DIVISION III
MINIMUM DATA SET

441—25.41(331) Minimum data set. Each county shall maintain data on all clients served through the MH/DD services fund.

25.41(1) Submission of data. Each county shall submit to DHS a copy of the data regarding each individual that the county serves through the central point of coordination process.

   a. DHS state payment program, state supplementary assistance program, mental health institutes, state resource centers, Medicaid program, and Medicaid managed care contractors shall provide the equivalent data in a compatible format on the same schedule as the required submission from the counties.

   b. DHS shall maintain the data in the data analysis unit for research and analysis purposes only. Only summary data shall be reported to policymakers or the public.

25.41(2) Data required. The data to be submitted are as follows:

   a. Basic client information including a unique identifier, name, address, county of residence and county of legal settlement.

   b. The state I.D. number for state payment cases.
c. Demographic information including date of birth, sex, ethnicity, marital status, education, residential living arrangement, current employment status, monthly income, income sources, type of insurance, insurance carrier, veterans’ status, guardianship status, legal status in the system, source of referral, DSM IV diagnosis, ICD-9 diagnosis, disability group (i.e., mental retardation, developmental disability, chronic mental illness, mental illness), central point of coordination (county number preceded by A 1), and central point of coordination (CPC) name.

d. Service information including the decision on services, date of decision, date client terminated from CPC services and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, unit rate for service, expenditure data, and provider data.

e. Counties shall not be penalized in any fashion for failing to collect data elements in situations of crisis or in outreach efforts to identify or engage people in needed mental health services. For the purposes of this rule:

(1) Situations of crisis include but are not limited to voluntary and involuntary hospitalizations, legal and transportation services associated with involuntary hospitalizations, emergency outpatient services, mobile crisis team services, jail diversion services, mental health services provided in a county jail, and other services for which the county is required to pay but does not have access to the client to collect the required information.

(2) Outreach efforts to identify or engage people in needed mental health services include but are not limited to mental health advocate services; services for homeless persons, refugees, or other legal immigrants; services for state cases who do not have documentation with them and are unable to help the county locate appropriate records; consultation; education to raise public awareness; 12-step or other support groups for persons with dual disorders; and drop-in centers.

f. Although all of the data in the minimum data set are important to provide support for program analysis, a county shall be penalized for noncompliance with this rule if the county does not provide 100 percent reporting of the data elements listed in this paragraph. Beginning with the data reported for state fiscal year 2008, less than 100 percent reporting for the following items shall be viewed as noncompliance unless the data are exempted by paragraph “e”:

(1) Client identifiers:
  1. Lname3 (the first three letters of the client’s last name).
  2. Last4SSN (the last four digits of the client’s social security number).
  3. SEX (the client’s sex).
  4. BDATE (the client’s birth date).
(2) CPC (central point of coordination).
(3) Payment information:
  1. PYMTDATE (CoMIS payment date).
  2. FUND CODE (CoMIS fund code).
  3. DG (CoMIS diagnosis).
  4. COACODE (CoMIS chart of accounts code).
  5. BEGDATE (CoMIS service beginning date).
  6. ENDDATE (CoMIS service ending date).
  7. UNITS (CoMIS units of service).
  8. COPD (CoMIS county paid).
(4) ValidSSN (valid social security number indicator).
(5) IsPerson (IsPerson indicator).

g. Although all of the data in the minimum data set are important to provide support for program analysis, a county shall be penalized for noncompliance with this rule if the county does not provide 90 percent reporting of the data elements listed in this paragraph beginning with the data reported for fiscal year 2008. Less than 90 percent reporting for the following items shall be viewed as noncompliance unless the data are exempted by paragraph “e”:

(1) Application Date (application date).
(2) RESCO (residence county).
(3) LEGCO (legal county).
(4) Provider ID (vendor number).

h. The department shall analyze the data received on or before December 1 each year by December 15 or by the next business day if December 15 falls on a weekend or holiday.

(1) When a county’s data submission does not meet the specifications in paragraph “f” or “g,” the department will notify the county by E-mail.

(2) The county shall have 30 days from the date of the E-mail notice to submit the missing data or to provide an explanation of why the data cannot be reported.

(3) If the county does not report the data or provide an adequate explanation within 30 days, the department shall find the county in noncompliance.

i. The department shall post the aggregate reports received by December 1 on the department’s Web site within 90 days.

25.41(3) Method of data collection. A county may choose to collect this information using the county management information system (CoMIS) that was designed by the department or may collect the information through some other means. If a county chooses to use another system, the county must be capable of supplying the information in the same format as CoMIS.

a. Except as provided in subparagraph (3), each county shall submit the following files in Microsoft Excel format (version 97 to 2000) or comma-delimited text file (CSV) format using data from the associated CoMIS table or from the county’s chosen management information system:

<table>
<thead>
<tr>
<th>Files to submit</th>
<th>Associated CoMIS Table</th>
</tr>
</thead>
<tbody>
<tr>
<td>WarehouseClient.xls or WarehouseClient.csv</td>
<td>Client Data</td>
</tr>
<tr>
<td>WarehouseIncome.xls or WarehouseIncome.csv</td>
<td>Income Review</td>
</tr>
<tr>
<td>WarehousePayment.xls or WarehousePayment.csv</td>
<td>Payment</td>
</tr>
<tr>
<td>WarehouseProvider.xls or WarehouseProvider.csv</td>
<td>Provider</td>
</tr>
<tr>
<td>WarehouseProviderServices.xls or WarehouseProviderServices.csv</td>
<td>tblProviderServices</td>
</tr>
<tr>
<td>WarehouseService.xls or WarehouseService.csv</td>
<td>Service Authorizations</td>
</tr>
</tbody>
</table>

(1) Paragraphs “b” through “g” list the data required in each file and specify the structure or description for each data item to be reported.

(2) The field names used in the report files must be exactly the same as indicated in the corresponding paragraph, including spaces, and must be entered in the first row for each sheet.

(3) The file labeled WarehouseService.xls or WarehouseService.csv or service authorization (described in paragraph “g” of this subrule) shall be removed from this requirement on June 30, 2011, if data from this file have not been used by that date.

b. File name: WarehouseClient.xls or WarehouseClient.csv.
   Sheet name: Warehouse_Client_Transfer_Query.

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Data Type</th>
<th>Field Size</th>
<th>Format</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CPC</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>Central point of coordination number: county number preceded by a 1</td>
</tr>
<tr>
<td>RESCO</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute</td>
</tr>
<tr>
<td>LEGCO</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute</td>
</tr>
<tr>
<td>Field Name</td>
<td>Data Type</td>
<td>Field Size</td>
<td>Format</td>
<td>Description</td>
</tr>
<tr>
<td>----------------</td>
<td>-----------</td>
<td>------------</td>
<td>-----------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Lname3</td>
<td>Text</td>
<td>3</td>
<td></td>
<td>The first 3 characters of the last name</td>
</tr>
<tr>
<td>Last4SSN</td>
<td>Text</td>
<td>4</td>
<td></td>
<td>The last 4 digits of the client’s social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column “ValidSSN” with the value “No.”</td>
</tr>
<tr>
<td>BDATE</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Date of client’s birth</td>
</tr>
<tr>
<td>SEX</td>
<td>Text</td>
<td>1</td>
<td></td>
<td>Sex of client: M = Male, F = Female</td>
</tr>
<tr>
<td>Last Update</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Date of last update to client record</td>
</tr>
<tr>
<td>SID</td>
<td>Text</td>
<td>8</td>
<td>9999999u</td>
<td>State identification number of client, if applicable (format of a valid number is 7 digits plus 1 alphabetical character).</td>
</tr>
<tr>
<td>ADD1</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>First address line</td>
</tr>
<tr>
<td>ADD2</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Second address line (if applicable)</td>
</tr>
<tr>
<td>CITY</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>City address line</td>
</tr>
<tr>
<td>STATE</td>
<td>Text</td>
<td>2</td>
<td></td>
<td>State code</td>
</tr>
<tr>
<td>ZIP</td>
<td>Number</td>
<td>5</td>
<td>0 decimal places</td>
<td>5-digit ZIP code</td>
</tr>
<tr>
<td>ETHN</td>
<td>Number</td>
<td>1</td>
<td>0 decimal places</td>
<td>Ethnicity of client: 0 = Unknown, 1 = White, not Hispanic, 2 = African-American, not Hispanic, 3 = American Indian or Alaskan native, 4 = Asian or Pacific Islander, 5 = Hispanic, 6 = Other (biracial; Sudanese; etc.)</td>
</tr>
<tr>
<td>MARITAL</td>
<td>Number</td>
<td>1</td>
<td>0 decimal places</td>
<td>Marital status of client: 1 = Single, never married, 2 = Married (includes common-law marriage), 3 = Divorced, 4 = Separated, 5 = Widowed</td>
</tr>
<tr>
<td>EDUC</td>
<td>Number</td>
<td>2</td>
<td>0 decimal places</td>
<td>Education level of the client</td>
</tr>
<tr>
<td>RARG</td>
<td>Number</td>
<td>2</td>
<td>0 decimal places</td>
<td>Residential arrangement of client: 1 = Private residence/household, 2 = State MHI, 3 = State resource center, 4 = Community supervised living, 5 = Foster care or family life home, 6 = Residential care facility, 7 = RCF/MR, 8 = RCF/PMI, 9 = Intermediate care facility, 10 = ICF/MR, 11 = ICF/PMI, 12 = Correctional facility, 13 = Homeless shelter or street, 14 = Other</td>
</tr>
<tr>
<td>LARG</td>
<td>Number</td>
<td>1</td>
<td>0 decimal places</td>
<td>Living arrangement of client: 1 = Lives alone, 2 = Lives with relatives, 3 = Lives with persons unrelated to client</td>
</tr>
<tr>
<td>INS</td>
<td>Number</td>
<td>1</td>
<td>0 decimal places</td>
<td>Health insurance owned by client: 1 = Client pays, 3 = Medicaid, 4 = Medicare, 5 = Private third party, 6 = Not insured, 7 = Medically Needy</td>
</tr>
<tr>
<td>Field Name</td>
<td>Data Type</td>
<td>Field Size</td>
<td>Format</td>
<td>Description</td>
</tr>
<tr>
<td>-------------</td>
<td>-----------</td>
<td>------------</td>
<td>-----------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>INSCAR</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>First insurance company name, if applicable</td>
</tr>
<tr>
<td>INSCAR1</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Second insurance company name, if applicable</td>
</tr>
<tr>
<td>INSCAR2</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Third insurance company name, if applicable</td>
</tr>
<tr>
<td>VET</td>
<td>Text</td>
<td>1</td>
<td></td>
<td>Veteran status of client:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Y = Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>N = No</td>
</tr>
<tr>
<td>CONSERVATOR</td>
<td>Number</td>
<td>1</td>
<td>0 decimal places</td>
<td>Conservator status of client:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1 = Self</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2 = Other</td>
</tr>
<tr>
<td>GUARDIAN</td>
<td>Number</td>
<td>1</td>
<td>0 decimal places</td>
<td>Guardian status of client:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1 = Self</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2 = Other</td>
</tr>
<tr>
<td>LEGSTAT</td>
<td>Number</td>
<td>1</td>
<td>0 decimal places</td>
<td>Legal status of client:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1 = Voluntary</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2 = Involuntary, civil commitment</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3 = Involuntary, criminal commitment</td>
</tr>
<tr>
<td>REFSO</td>
<td>Number</td>
<td>1</td>
<td>0 decimal places</td>
<td>Referral source of client:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1 = Self</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2 = Family or friend</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3 = Targeted case management</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4 = Other case management</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5 = Community corrections</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>6 = Social service agency other than case management</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>7 = Other</td>
</tr>
<tr>
<td>DSMIV</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>DSM IV diagnosis code of client</td>
</tr>
<tr>
<td>ICD9</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>ICD-9 diagnosis code (optional for county use; not tied to CoMIS entry)</td>
</tr>
<tr>
<td>DG</td>
<td>Number</td>
<td>2</td>
<td>0 decimal places</td>
<td>Disability group of client:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>40 = Mental illness</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>41 = Chronic mental illness</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>42 = Mental retardation</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>43 = Other developmental disability</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>44 = Other categories</td>
</tr>
<tr>
<td>Application Date</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Date of client’s initial application</td>
</tr>
<tr>
<td>Outcome decision</td>
<td>Number</td>
<td>1</td>
<td>0 decimal places</td>
<td>Decision on client’s application:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1 = Application accepted</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2 = Application denied</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3 = Decision pending</td>
</tr>
<tr>
<td>Decision date</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Date decision was made on client’s application</td>
</tr>
<tr>
<td>Denial reason</td>
<td>Text</td>
<td>2</td>
<td></td>
<td>Denial reason code:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>00 = Not applicable</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>01 = Over income guidelines</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1A = Over resource guidelines</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>02 = Does not meet county plan criteria</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2A = Legal settlement in another county</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2B = State case</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3A = Brain injury</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3B = Alzheimer’s</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3C = Substance abuse</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3D = Other</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>04 = Does not meet service plan criteria</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>05 = Client desires to discontinue process</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5A = Client fails to return requested information</td>
</tr>
<tr>
<td>Field Name</td>
<td>Data Type</td>
<td>Field Size</td>
<td>Format</td>
<td>Description</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-----------</td>
<td>------------</td>
<td>-------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Client exit date from CPC</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Date client was terminated from CPC services</td>
</tr>
</tbody>
</table>
| Exit reason                      | Number    | 1          | 0 decimal places | Reason client left the CPC system:  
0 = Unknown  
1 = Client voluntarily withdrew  
2 = Client deceased  
3 = Unable to locate consumer  
4 = Ineligible due to reasons other than income  
5 = Ineligible, over income guidelines  
6 = Client moved out of state  
7 = Client no longer needs service  
8 = Client has legal settlement in another county |
| Review Date                      | Date      | 10         | mm/dd/yyyy  | Date of last application review                                             |
| PhoneNumber                      | Text      | 50         |             | Phone number of client                                                      |
| ValidSSN                         | Text      | 3          |             | Generated for CoMIS users in the data extract only                         |
| IsPerson                         | Text      | 3          |             | Generated for CoMIS users in the data extract only                         |

**c. File name:** WarehouseIncome.xls or WarehouseIncome.csv  
**Sheet name:** Warehouse_Income_Transfer_Query.

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Data Type</th>
<th>Field Size</th>
<th>Format</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CPC</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>Central point of coordination number: county number preceded by a 1</td>
</tr>
</tbody>
</table>
| RESCO      | Number    | 3          | 0 decimal places | Residence county of client:  
1-99 = County number  
100 = State of Iowa  
900 = Undetermined or in dispute  |
| LEGCO      | Number    | 3          | 0 decimal places | Legal county of client:  
1-99 = County number  
100 = State of Iowa  
900 = Undetermined or in dispute  |
| Lname3     | Text      | 3          |        | The first 3 characters of the last name                                    |
| Last4SSN   | Text      | 4          |        | The last 4 digits of the client’s social security number. If that number is unknown, then use the last 4 digits of the CLIENT_ID field and mark column “ValidSSN” with the value “No.” |
| BDATE      | Date      | 10         | mm/dd/yyyy  | Date of client’s birth                                                      |
| SEX        | Text      | 1          |        | Sex of client:  
M = Male  
F = Female                                                                 |
<table>
<thead>
<tr>
<th>Field Name</th>
<th>Data Type</th>
<th>Field Size</th>
<th>Format</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>EMPL</td>
<td>Number</td>
<td>2</td>
<td>0 decimal</td>
<td>Employment situation of client:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1 = Unemployed, available for work</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2 = Unemployed, unavailable for work</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3 = Employed full-time</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4 = Employed part-time</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5 = Retired</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>6 = Student</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>7 = Work activity employment</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>8 = Sheltered work employment</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>9 = Supported employment</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>10 = Vocational rehabilitation</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>11 = Seasonally employed</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>12 = In the armed forces</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>13 = Homemaker</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>14 = Other or not applicable</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>15 = Volunteer</td>
</tr>
<tr>
<td>House Hold Size</td>
<td>Number</td>
<td>2</td>
<td>0 decimal</td>
<td>Number of people in client’s household</td>
</tr>
<tr>
<td>INC SOUR</td>
<td>Number</td>
<td>2</td>
<td>0 decimal</td>
<td>Primary income source of client:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1 = Family and friends</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2 = Private relief agency</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3 = Social security disability benefits</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4 = Supplemental Security Income</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5 = Social security benefits</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>6 = Pension</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>7 = Food assistance</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>8 = Veterans benefits</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>9 = Workers compensation</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>10 = General assistance</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>11 = Family investment program (FIP)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>12 = Wages</td>
</tr>
<tr>
<td>Public Assistance</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Monthly dollar amount for this income source (where applicable)</td>
</tr>
<tr>
<td>Payments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social Security</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Monthly dollar amount for this income source (where applicable)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social Security</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Monthly dollar amount for this income source (where applicable)</td>
</tr>
<tr>
<td>Disability</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SSI</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Monthly dollar amount for this income source (where applicable)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>VA Benefits</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Monthly dollar amount for this income source (where applicable)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R/R Pension</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Monthly dollar amount for this income source (where applicable)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Child Support</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Monthly dollar amount for this income source (where applicable)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employment Wages</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Monthly dollar amount for this income source (where applicable)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dividend Interest</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Monthly dollar amount for this income source (where applicable)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Income</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Monthly dollar amount for this income source (where applicable)</td>
</tr>
<tr>
<td>Description 1</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Description of “Other Income”</td>
</tr>
<tr>
<td>Cash on hand</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Dollar amount for this resource type (where applicable)</td>
</tr>
<tr>
<td>Checking</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Dollar amount for this resource type (where applicable)</td>
</tr>
<tr>
<td>Savings</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Dollar amount for this resource type (where applicable)</td>
</tr>
<tr>
<td>Stocks/Bonds</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Dollar amount for this resource type (where applicable)</td>
</tr>
<tr>
<td>Time Certificates</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal</td>
<td>Dollar amount for this resource type (where applicable)</td>
</tr>
</tbody>
</table>
d. File name: WarehousePayment.xls or WarehousePayment.csv. Sheet name: Warehouse_Payment_Transfer_Quer.

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Data Type</th>
<th>Field Size</th>
<th>Format</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CPC</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>Central point of coordination number: county number preceded by a 1</td>
</tr>
<tr>
<td>RESCO</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute</td>
</tr>
<tr>
<td>LEGCO</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute</td>
</tr>
<tr>
<td>Lname3</td>
<td>Text</td>
<td>3</td>
<td></td>
<td>The first 3 characters of the last name</td>
</tr>
<tr>
<td>Last4SSN</td>
<td>Text</td>
<td>4</td>
<td></td>
<td>The last 4 digits of the client’s social security number. If that number is unknown, use the last 4 digits of the CLIENT ID field and mark column “ValidSSN” with the value “No.”</td>
</tr>
<tr>
<td>BDATE</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Date of client’s birth</td>
</tr>
<tr>
<td>SEX</td>
<td>Text</td>
<td>1</td>
<td></td>
<td>Sex of client: M = Male F = Female</td>
</tr>
<tr>
<td>PYMMDATE</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Date county approves or makes payment</td>
</tr>
<tr>
<td>VENNAME</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Vendor or provider paid</td>
</tr>
<tr>
<td>COOCODE</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>County where service was provided</td>
</tr>
<tr>
<td>FUND CODE</td>
<td>Text</td>
<td>10</td>
<td></td>
<td>Fund code for payment</td>
</tr>
<tr>
<td>DG</td>
<td>Number</td>
<td>2</td>
<td>0 decimal places</td>
<td>Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories</td>
</tr>
<tr>
<td>COACODE</td>
<td>Number</td>
<td>5</td>
<td>0 decimal places</td>
<td>Chart of accounts code for payment</td>
</tr>
<tr>
<td>BEGDATE</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Beginning date of payment period</td>
</tr>
<tr>
<td>ENDDATE</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Ending date of payment period</td>
</tr>
<tr>
<td>UNITS</td>
<td>Number</td>
<td>4</td>
<td>0 decimal places</td>
<td>Number of service units for payment</td>
</tr>
<tr>
<td>COPD</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal places</td>
<td>Amount paid by the county</td>
</tr>
<tr>
<td>RECEIVED</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal places</td>
<td>Amount received for reimbursement (if applicable)</td>
</tr>
</tbody>
</table>
e. File name: WarehouseProvider.xls or WarehouseProvider.csv. Sheet name: Warehouse_Provider_Transfer_Que. (If the provider has more than one office location, enter information for the headquarters office.)

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Data Type</th>
<th>Field Size</th>
<th>Format</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provider ID</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Provider identifier (tax ID code)</td>
</tr>
<tr>
<td>Provider Name</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Provider name</td>
</tr>
<tr>
<td>Provider Address1</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Provider address line 1</td>
</tr>
<tr>
<td>Provider Address2</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Provider address line 2 (if applicable)</td>
</tr>
<tr>
<td>City</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Provider city</td>
</tr>
<tr>
<td>State</td>
<td>Text</td>
<td>2</td>
<td></td>
<td>Provider state code</td>
</tr>
<tr>
<td>Zip</td>
<td>Text</td>
<td>10</td>
<td></td>
<td>Provider ZIP code</td>
</tr>
<tr>
<td>COCODE</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>Provider county code</td>
</tr>
<tr>
<td>PhoneNumber</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Provider phone number</td>
</tr>
<tr>
<td>Date of Last Update</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Provider last updated date</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Field Name</th>
<th>Data Type</th>
<th>Field Size</th>
<th>Format</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provider ID</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Provider identifier (tax ID code)</td>
</tr>
<tr>
<td>Provider Name</td>
<td>Text</td>
<td>50</td>
<td></td>
<td>Provider name</td>
</tr>
<tr>
<td>FUND CODE</td>
<td>Text</td>
<td>10</td>
<td></td>
<td>Fund code for payment</td>
</tr>
<tr>
<td>DG</td>
<td>Number</td>
<td>2</td>
<td>0 decimal places</td>
<td>Disability group code for payment:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>40 = Mental illness</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>41 = Chronic mental illness</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>42 = Mental retardation</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>43 = Other developmental disability</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>44 = Other categories</td>
</tr>
<tr>
<td>COACODE</td>
<td>Number</td>
<td>5</td>
<td>0 decimal places</td>
<td>Chart of accounts code for service</td>
</tr>
<tr>
<td>RATE</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal places</td>
<td>Payment rate</td>
</tr>
</tbody>
</table>


g. File name: WarehouseService.xls or WarehouseService.csv. Sheet name: Warehouse_Service_Transfer_Quer.

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Data Type</th>
<th>Field Size</th>
<th>Format</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CPC</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>Central point of coordination number:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>county number preceded by a l</td>
</tr>
<tr>
<td>RESCO</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>Residence county of client:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1-99 = County number</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100 = State of Iowa</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>900 = Undetermined or in dispute</td>
</tr>
<tr>
<td>LEGCO</td>
<td>Number</td>
<td>3</td>
<td>0 decimal places</td>
<td>Legal county of client:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1-99 = County number</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100 = State of Iowa</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>200 = Iowa nonresident</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>900 = Undetermined or in dispute</td>
</tr>
<tr>
<td>Lname3</td>
<td>Text</td>
<td>3</td>
<td></td>
<td>The first 3 characters of the last name</td>
</tr>
<tr>
<td>Last4SSN</td>
<td>Text</td>
<td>4</td>
<td></td>
<td>The last 4 digits of the client’s social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column “ValidSSN” with the value “No.”</td>
</tr>
<tr>
<td>BDATE</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Date of client’s birth</td>
</tr>
<tr>
<td>SEX</td>
<td>Text</td>
<td>1</td>
<td></td>
<td>Sex of client:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>M = Male</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>F = Female</td>
</tr>
</tbody>
</table>
This rule is intended to implement Iowa Code sections 331.438 and 331.439.

**441—25.42 to 25.50** Reserved.

**DIVISION IV**

**INCENTIVE AND EFFICIENCY POOL FUNDING**

**PREAMBLE**

These rules establish requirements for counties to receive funding from the incentive and efficiency pool. To be eligible for these funds, a county must select five performance indicators, submit a proposal, collect data, report data, and show improvement over time on the selected performance indicators.

**441—25.51(77GA,HF2545) Desired results areas.** In order to receive funds from the incentive and efficiency pool established in 1998 Iowa Acts, House File 2545, section 8, subsection 2, each county shall collect and report performance measure data in the following areas:

- **25.51(1) Equity of access.** Each county shall measure the extent to which services are available and used. Each county shall:
  - a. Report annually the total number of consumers served, as well as an unduplicated total of the number of consumers served by disability category.
  - b. Calculate and report annually the percentage of service provision by dividing the number of consumers served in a year by the county’s population as defined in 1998 Iowa Acts, House File 2545, section 7.
  - c. Calculate and report annually the percentage of denial of access by dividing the number of new, completed applications denied by the total number of new applications for service that year. A new, completed application shall be defined as an initial application of a consumer or any former consumer who is reapplying for service eligibility after more than 30 days of not being enrolled in the system, for which the consumer has supplied the information required on the application form.
  - d. Report annually the county’s eligibility guidelines, which may include, but are not limited to, the income level below which an individual or family must be in order to be eligible for county-funded services, the maximum amount of resources which an individual or family may have in order to be eligible for county-funded services, covered populations, and service access criteria.

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Data Type</th>
<th>Field Size</th>
<th>Format</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>FUND CODE</td>
<td>Text</td>
<td>10</td>
<td></td>
<td>Fund code for service</td>
</tr>
<tr>
<td>DG</td>
<td>Number</td>
<td>2</td>
<td>0 decimal places</td>
<td>Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other category</td>
</tr>
<tr>
<td>COACODE</td>
<td>Number</td>
<td>5</td>
<td>0 decimal places</td>
<td>Chart of accounts code for service</td>
</tr>
<tr>
<td>Begin Date</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Beginning date of service period</td>
</tr>
<tr>
<td>End Date</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Ending date of service period</td>
</tr>
<tr>
<td>Ending Reason</td>
<td>Number</td>
<td>1</td>
<td>0 decimal places</td>
<td>Reason for terminating approval of service: 0 = NA 1 = Voluntary withdrawal 2 = Client no longer needs service 3 = Ineligible, over income guidelines 4 = Ineligible due to other than income 5 = Client moved out of state 6 = Client deceased 7 = Reauthorization</td>
</tr>
<tr>
<td>Units</td>
<td>Number</td>
<td>4</td>
<td>0 decimal places</td>
<td>Average number of service units approved monthly</td>
</tr>
<tr>
<td>Rate</td>
<td>Currency</td>
<td>14</td>
<td>2 decimal places</td>
<td>Dollar amount per service unit</td>
</tr>
<tr>
<td>Review Date</td>
<td>Date</td>
<td>10</td>
<td>mm/dd/yyyy</td>
<td>Date for next service review</td>
</tr>
</tbody>
</table>
25.51(2) Community-based supports. Each county shall measure the extent to which community-based supports are available and used. Each county shall calculate and report annually:

a. The service setting percentage by dividing the unduplicated number of persons served in each of the following service settings in a fiscal year by the total unduplicated number of consumers served, both in total and by population group: mental health institutes, state hospital schools, intermediate care facilities for the mentally retarded, other living arrangements over five beds as captured by the county chart of accounts, and employment settings which include sheltered workshops, enclaves and supported employment.

b. The home-based percentage by subtracting the number of consumers currently being served in residential placements from the total unduplicated number of consumers served, and dividing the difference by the total number of consumers served. The calculation shall be made both in total and by population group.

c. The inpatient spending percentage by dividing the amount the county spent for inpatient services by the amount the county spent for outpatient services. Each county shall also divide the unduplicated number of consumers who received inpatient services during the fiscal year by the total unduplicated number of consumers who received services during that same fiscal year. Inpatient services shall be defined as any acute care for which the county is wholly or partially financially responsible.

25.51(3) Consumer participation. Each county shall measure the extent to which consumers participate in all aspects of the service system.

a. Each county shall report annually on the number of opportunities during the year for consumers to participate in planning activities, which may include, but are not limited to, open forums, focus groups, consumer advisory committee meetings, and planning council meetings by calculating the total number of consumers participating in these activities and dividing by the unduplicated number of consumers served and also by the total population of the county. In addition, the county shall report duplicated and unduplicated total attendance at all of these meetings. These calculations shall be made for consumers and family members separately.

b. Each county which has a planning group shall calculate and report annually the planning group percentage by dividing the number of consumers who actively serve on the planning group by the total number of people on the planning group. This calculation shall be made for consumers and family members separately. For the purposes of this subrule, a planning group is any group of individuals designated by the board of supervisors, or if no designation has been made, any group acknowledged by the central point of coordination administrator as assisting in the development of the county management plan.

c. Each county shall conduct a consumer satisfaction survey following adoption of more detailed rules for the survey.

25.51(4) Administration. Each county shall measure the extent to which the county services system is administered efficiently and effectively. Each county shall:

a. Calculate and report annually the administrative cost percentage by dividing the amount spent administering the county services system by the total amount spent from the services fund for the fiscal year.

b. Calculate and report annually the service responsiveness average by measuring the number of days between the date a new, completed application was submitted and the date a notice of decision of eligibility was sent to the consumer, adding all of these numbers of days, and dividing by the total number of new, completed applications for the fiscal year. A new, completed application shall be defined as an initial application of a consumer or an application of any former consumer who is reapplying for service eligibility after more than 30 days of not being enrolled in the system, for which the consumer has supplied the information required on the application form.

c. Report annually the number of appeals filed as a percent of the unduplicated total number of consumers served per year.
441—25.52(77GA,HF2545) Methodology for applying for incentive funding. Beginning with the county management plan for the fiscal year which begins July 1, 1999, each county applying for funding under 1998 Iowa Acts, House File 2545, section 8, subsection 2, shall include with its county management plan a performance improvement proposal for improving the county’s performance on at least five performance measures. Three of the measures must be selected from at least two of the desired results areas stated in rule 441—25.51(77GA,HF2545). For the remaining two measures, the county either may propose measures not identified in these rules or may use measures described in these rules. A performance improvement proposal is not a mandatory element of a county management plan.

25.52(1) Performance improvement proposal. Each county shall identify the performance measures which the county has targeted for improvement and shall propose a percentage change for each indicator. The proposal shall include the county’s rationale for selecting the indicators and may include any supporting information the county deems necessary. The proposal shall describe the process the county will use to involve consumers in the evaluation.

25.52(2) Committee responsibility. The state county management committee shall review all county proposals, and may either accept the proposal, request modifications, or reject the proposal. In order to interpret and provide context for each county’s performance improvement proposal, the state county management committee shall, by January 1, 1999, establish the background data to be collected and aggregated for all counties.

25.52(3) County ineligibility. A county which does not have an accepted proposal prior to July 1 will be ineligible to receive incentive funds for that fiscal year. A county may apply for an extension by petitioning the state county management committee prior to July 1. The petition shall describe the circumstances which will cause the proposal to be delayed and identify the date by which the proposal will be submitted. In addition, the state county management committee may grant an extension for the purposes of negotiation.

441—25.53(77GA,HF2545) Methodology for awarding incentive funding. Each county shall report on all performance measures listed in this division, plus any additional performance measures the county has selected, by December 1 of each year.

25.53(1) Reporting. Each county shall report performance measure information on forms, or by electronic means, developed for the purpose by the department in consultation with the state county management committee.

25.53(2) Scoring. The department shall analyze each county’s report to determine the extent to which the county achieved the levels contained in the proposal accepted by the state county management committee. Prior to distribution of incentive funding to counties, results of the analysis shall be shared with the state county management committee.

25.53(3) County ineligibility. A county which does not report performance measure data by December 1 will be ineligible to receive incentive funds for that fiscal year. A county may apply for an extension by petitioning the state county management committee prior to December 1. The petition shall describe the circumstances which will cause the report to be delayed and identify the date by which the report will be submitted.

441—25.54(77GA,HF2545) Subsequent year performance factors. For any fiscal year which begins after July 1, 1999, the state county management committee shall not apply any additional performance measures until the county management information system (CoMIS) developed and maintained by the division of mental health and developmental disabilities has been modified, if necessary, to collect and calculate required data elements and performance measures and each county has been given the opportunity to establish baseline measures for those measures.


25.55(1) State fiscal year 1999. For the fiscal year which begins July 1, 1998, each county shall collect data as required above in order to establish a baseline level on all performance measures. A county
which collects and reports all required data by December 1, 1999, shall be deemed to have received a 100 percent score on the county’s performance indicators.

25.55(2) State fiscal year 2000. A county which submits a proposal with its management plan for the fiscal year which begins July 1, 1999, and reports the levels achieved on the selected performance measures by December 1, 2000, shall be deemed to have received a 100 percent score on the county’s performance indicators, regardless of the actual levels achieved.

These rules are intended to implement 1998 Iowa Acts, House File 2545, section 8, subsection 2.

441—25.56 to 25.60 Reserved.

DIVISION V
RISK POOL FUNDING

PREAMBLE

These rules establish a risk pool board to administer the risk pool fund established by the legislature and set forth the requirements for counties for receiving and repaying funding from the fund.

441—25.61(426B) Definitions.

“Available pool” means those funds remaining in the risk pool less any actuarial and other direct administrative costs.

“Central point of coordination (CPC)” means the administrative entity designated by a county board of supervisors, or the boards of a consortium of counties, to act as the single entry point to the service system as required in Iowa Code section 331.440.

“Commission” means the mental health, mental retardation, developmental disabilities, and brain injury commission.

“Division” means the mental health and disability services division of the department of human services.

“Mandated services” means those services for which a county is required to pay. Mandated services include, but may not be limited to, the following:

1. The costs for commitments for persons with mental illness, chronic mental illness, mental retardation, or developmental disabilities.
2. Inpatient services at the state mental health institutes for persons with mental illness or chronic mental illness.
3. Inpatient services at the state resource centers for persons with mental retardation or developmental disabilities.
5. Medicaid-funded partial hospitalization and day treatment services for persons with chronic mental illness.
6. Medicaid-funded case management services for persons with mental retardation or developmental disabilities and for anyone not covered under the Iowa Plan.
7. Services provided under the Medicaid home- and community-based services mental retardation waiver.
8. Services provided under the Medicaid home- and community-based services brain injury waiver for which the county is responsible according to rule 441—83.90(249A).
9. Medicaid habilitation services for persons with chronic mental illness.

“Services fund” means a county’s mental health, mental retardation, and developmental disabilities services fund created in Iowa Code section 331.424A.

441—25.62(426B) Risk pool board. This ten-member board consists of two county supervisors, two county auditors, a member of the commission who is not a member of a county board of supervisors, a member of the county finance committee created in Iowa Code chapter 333A who is not an elected official, a representative of a provider of mental health or developmental disabilities services selected
from nominees submitted by the Iowa Association of Community Providers, and two central point of coordination administrators, all appointed by the governor, subject to confirmation by two-thirds of the members of the senate, and one member appointed by the director of the department of human services.

25.62(1) Organization.
   a. The members of the board shall annually elect from the board’s voting membership a chairperson and vice-chairperson of the board.
   b. Members appointed by the governor shall serve three-year terms.

25.62(2) Duties and powers of the board. The board’s powers and duties are to make policy and to provide direction for the administration of the risk pool established by Iowa Code section 426B.5, subsection 2. In carrying out these duties, the board shall do all of the following:
   a. Recommend to the commission for adoption rules governing the risk pool fund.
   b. Determine application requirements to ensure prudent use of risk pool assistance.
   c. Accept or reject applications for assistance in whole or in part.
   d. Review the fiscal year-end financial records for all counties that are granted risk pool assistance and determine if repayment is required.
   e. Approve actuarial and other direct administrative costs to be paid from the pool.
   f. Compile a list of requests for risk pool assistance that are beyond the amount available in the risk pool fund for a fiscal year and the supporting information for those requests and submit the list and supporting information to the commission, the department of human services, and the general assembly.
   g. Perform any other duties as mandated by law.

25.62(3) Board action.
   a. A quorum shall consist of two-thirds of the membership appointed and qualified to vote.
   b. When a quorum is present, an action is carried by a majority of the qualified members of the board.

25.62(4) Board minutes.
   a. Copies of administrative rules and other materials considered are made part of the minutes by reference.
   b. Copies of the minutes are kept on file in the office of the administrator of the division.

25.62(5) Board meetings.
   a. The board shall meet in August of each year and may hold special meetings at the call of the chairperson or at the request of a majority of the voting members.
   b. Any county making application for risk pool funds must be represented at the board meeting for awarding funds when that request is considered.
      (1) The division shall notify the county of the date, time and location of the meeting.
      (2) Any other persons with questions about the date, time or location of the meeting may contact the Administrator, Division of Mental Health and Disability Services, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, telephone (515)281-7277.
   c. The board shall comply with applicable provisions of Iowa’s open meetings law, Iowa Code chapter 21.

25.62(6) Records. Any records maintained by the board or on behalf of the board shall be made available to the public for examination in compliance with Iowa’s open records law, Iowa Code chapter 22. To the extent possible, before submitting applications, records and documents, applicants shall delete any confidential information. These records shall be maintained in the office of the division.

25.62(7) Conflict of interest. A board member cannot be a part of any presentation to the board of that board member’s county’s application for risk pool funds nor can the board member be a part of any action pertaining to that application.


25.62(9) Report. On or before March 1 and September 1 of each fiscal year, the department of human services shall provide the risk pool board with a report of the financial condition of each funding source administered by the board. The report shall include, but is not limited to, an itemization of the
funding source’s balances, types and amount of revenues credited and payees and payment amounts for the expenditures made from the funding source during the reporting period.

[ARC 7879B, IAB 6/17/09, effective 6/1/09]

441—25.63(426B) Application process.

25.63(1) Applicants. A county may be eligible for risk pool assistance when the county demonstrates that it meets the conditions in this subrule.

a. Basic eligibility.

(1) The county complies with the requirements of Iowa Code section 331.439.

(2) The county levied the maximum amount allowed for the county’s services fund under Iowa Code section 331.424A for the fiscal year of application.

(3) In the fiscal year that commenced two years before the fiscal year of distribution, the county’s services fund ending balance under generally accepted accounting principles was equal to or less than 20 percent of the county’s actual gross expenditures for that fiscal year.

b. Circumstances indicating need for assistance. Risk pool assistance is needed for one or more of the following purposes:

(1) To continue support for mandated services.

(2) To avoid the need for reduction or elimination of:

1. Critical services, creating risk to a consumer’s health or safety;

2. Critical emergency or mobile crisis services, creating risk to the public’s health or safety;

3. Services or other support provided to an entire disability category; or

4. Services or other support provided to maintain consumers in a community setting, creating risk of placement in a more restrictive, higher-cost setting.

25.63(2) Application procedures.

a. Format for submission. The county shall submit the application package electronically or send an original plus 15 copies to the division. Facsimiles are not acceptable.

b. Deadline. The division must receive the application no later than 4:30 p.m. on July 1 of each year; or, if July 1 is a holiday, Saturday or Sunday, the division must receive the application no later than 4:30 p.m. on the first working day thereafter.

c. Signature. The application shall be signed and dated by both the chairperson of the county board of supervisors and the central point of coordination administrator.

d. Notice of receipt. Staff of the division shall notify each county of receipt of the county’s application.

e. Content. In addition to Form 470-3723, Risk Pool Application, the application package shall include the following forms for the fiscal year that commenced two years before the fiscal year of distribution:

(1) Form 634C, Service Area 4 Supporting Detail (pages 1 to 8).

(2) Form 638R, Statement of Revenues, Expenditures, and Changes in Fund Balance—Actual and Budget (pages 1 and 2).

(3) If the budget has been amended, Form 653A-R, Record of Hearing and Determination on the Amendment to County Budget (sheet 2), as last amended.

25.63(3) Request for additional information. Staff shall review all applications for completeness. If an application is not complete, staff of the division shall contact the county within four working days after July 1 to request the information needed to complete the application. If July 1 is a holiday, Saturday or Sunday, the division shall make this contact within five working days after July 1. The county shall submit the required information within five working days from the date of the division’s request for the additional information.

[ARC 7879B, IAB 6/17/09, effective 6/1/09]

441—25.64(426B) Methodology for awarding risk pool funding. The risk pool board shall make an eligibility decision on each application within 45 days after receiving the application and shall make a funding decision no later than August 15.
25.64(1) Notice of decision. The risk pool board shall send a notice of decision of the board’s action to the chairperson of the applying county’s board of supervisors. Copies of the notice of decision shall be sent to the county auditor and the central point of coordination administrator.

25.64(2) Distribution of funds. The total amount of the risk pool shall be limited to the available pool for a fiscal year.
   a. If the total dollar amount of the approved applications exceeds the available pool, the board shall prorate the amount paid for an approved application. The funds will be prorated to each county based upon the proportion of each approved county’s request to the total amount of all approved requests.
   b. The division shall authorize the issuance of warrants payable to the county treasurers for the amounts due. The warrants shall be issued on or before September 15.
[ARC 7879B, IAB 6/17/09, effective 6/1/09]

441—25.65(426B) Repayment provisions.

25.65(1) Required repayment. Counties shall be required to repay risk pool funds if the county’s actual need for risk pool assistance was less than the amount of risk pool assistance granted to the county. The county shall refund the lesser of:
   a. The amount of assistance awarded; or
   b. An amount such that the fund balance after refund will not exceed 5 percent of the expenditures for the year as determined on a modified accrual basis.

25.65(2) Year-end report. Each county granted risk pool funds shall complete a year-end financial report as required by Iowa Code section 225C.6A(2)(c)(3). The division shall review the accrual information and notify the mental health risk pool board if any county that was granted assistance in the prior year received more than the county’s actual need based on the submitted financial report.

25.65(3) Notification to county. The chairperson of the mental health risk pool board shall notify each county by January 1 of each fiscal year of the amount to be reimbursed. The county shall reimburse the risk pool within 30 days of receipt of notification by the chairperson of the mental health risk pool board. If a county fails to reimburse the mental health risk pool, the board may request a revenue offset through the department of revenue. Copies of the overpayment and request for reimbursement shall be sent to the county auditor and the central point of coordination administrator of the county.
[ARC 7879B, IAB 6/17/09, effective 6/1/09]

441—25.66(426B) Appeals. The risk pool board may accept or reject an application for assistance from the risk pool fund in whole or in part. The decision of the board is final and is not appealable.

These rules are intended to implement Iowa Code section 426B.5, subsection 2.

441—25.67 to 25.70 Reserved.

DIVISION VI
TOBACCO SETTLEMENT FUND RISK POOL FUNDING

PREAMBLE

These rules provide for use of an appropriation from the tobacco settlement fund to establish a risk pool fund which may be used by counties with limited county mental health, mental retardation and developmental disabilities services funds to pay for increased compensation of the service staff of eligible purchase of service (POS) providers and establish the requirements for counties for receiving and repaying the funding. Implementation of the rate increases contemplated by the tobacco settlement fund in a timely manner will require cooperation among all eligible counties and providers.

441—25.71(78GA,ch1221) Definitions.

“Adjusted actual cost” means a POS provider’s cost as computed using the financial and statistical report for the provider’s fiscal year which ended during the state fiscal year beginning July 1, 1998 (state fiscal year 1999), as adjusted by multiplying those actual costs by 103.4 percent or the percentage
adopted by the risk pool board in accordance with 2000 Iowa Acts, chapter 1221, section 3, subsection 3, paragraph “c.”

“Department” means the Iowa department of human services.

“Division” means the mental health and developmental disabilities division of the department of human services.

“Financial and statistical report” means a report prepared by a provider and submitted to host counties that is prepared in accordance with department rules for cost determination set forth in 441—Chapter 150.

“Host county” means the county in which the primary offices of a POS provider are located. However, if a POS provider operates separate programs in more than one county, “host county” means each county in which a separate program is operated.

“Purchase of service provider” or “POS provider” means a provider of sheltered work, work activity, supported employment, job placement, enclave services, adult day care, transportation, supported community living services, or adult residential services paid by a county from the county’s services fund created in Iowa Code section 331.424A under a state purchase of service or county contract.

“Risk pool board” means that board established by Iowa Code section 426B.5, subsection 3.

“Separate program” means a POS service operated in a county other than the county in which the provider’s home office is located and for which the provider allocates costs separately from similar programs located in the county where the provider’s home office is located.

“Services fund” means the fund defined in Iowa Code section 331.424A.

“Tobacco settlement fund loan” or “TSF loan” means the tobacco settlement fund risk pool funds a county received in a fiscal year in which the county did not levy the maximum amount allowed for the county’s mental health, mental retardation, and developmental disabilities services fund under Iowa Code section 331.424A. The repayment amount shall be limited to the amount by which the actual amount levied was less than the maximum amount allowed.

441—25.72(78GA,ch1221) Risk pool board. The risk pool board is organized and shall take action and keep minutes and records as set out in rule 441—25.62(426B).

A risk pool board member cannot be a part of any presentation to the board of that board member’s county’s application for tobacco settlement fund risk pool funds nor can the board member be a part of any action pertaining to that application. If a risk pool board member is employed by or is a board member of a POS provider whose increases in compensation caused the host county to apply to the fund, the board member cannot be a part of any presentation to the board nor can the board member be a part of any action pertaining to that application.

441—25.73(78GA,ch1221) Rate-setting process. For services provided on or after July 1, 2000, each county shall increase its reimbursement rates for each program to the lesser of the adjusted actual cost or 105 percent of the rate paid for services provided on June 30, 2000.

25.73(1) Financial and statistical report. Each provider of POS services shall submit a financial and statistical report to each host county for each program that the provider operates within that county. These reports shall include actual costs for each separate program for the provider’s fiscal year that ended during state fiscal year 1999 and state fiscal year 2000. These reports shall be submitted to the central point of coordination (CPC) administrator of the host county or counties no later than August 15, 2000.

25.73(2) Rate determination. The CPC administrator in each host county shall receive and review provider financial and statistical reports for each separate program for which that county is the host county. If the host county determines that all or part of the provider’s increase in costs is attributable to increases in service staff compensation and that the adjusted actual cost is more than the rate paid by the county on June 30, 2000, the CPC administrator shall notify the provider in writing of the new rate for each program no later than September 1, 2000.

If a rate paid for services provided on June 30, 2000, exceeds the adjusted actual cost, the county shall not be required to adjust the rate for services provided on or after July 1, 2000.
The provider shall, no later than September 11, 2000, send to the CPC administrator of any other counties with consumers in those programs a copy of the rate determination signed by the CPC administrator of the host county. A county may delay payment of the reimbursement rate established pursuant to this subrule until the risk pool board has completed action as to adopting or not adopting a different percentage for the definition of adjusted actual cost, provided however that any increased rates required by 2000 Iowa Acts, chapter 1221, section 3, subsection 2, paragraph “c,” shall be paid retroactively for all services provided on or after July 1, 2000.

25.73(3) Exemptions.
   a. A POS provider that has negotiated a reimbursement rate increase with a host county as of July 1, 2000, has the option of exemption from the provisions of these rules. However, a county shall not be eligible to receive tobacco settlement funds for any rates established outside of the process established in these rules.
   b. Nothing in these rules precludes a county from increasing reimbursement rates of POS providers by an amount that is greater than that specified in these rules. However, a county shall not be eligible for tobacco settlement funds for the amount of any rate increase in excess of the amount established pursuant to these rules.

441—25.74(78GA,ch1221) Application process.
   25.74(1) Who may apply: If a county determines that payment of POS provider rates in accordance with these rules will cause the county to expend more funds in FY2001 than budgeted for POS services, the county may apply for assistance from the tobacco settlement fund. However, any fiscal year 2000 projected accrual basis fund balances in excess of 25 percent of fiscal year 2000 services fund gross expenditures will reduce the amount for which a county is eligible. In considering the cost of implementing these provisions, a county shall not include the cost of rate increases granted to any providers who fail to complete financial and statistical reports as provided in these rules.
   25.74(2) How to apply: The county shall send the original and 15 copies of Form 470-3768, Tobacco Settlement Fund Risk Pool Application, to the division. The division must receive the application no later than 4:30 p.m. on September 25, 2000. Facsimiles and electronic mail are not acceptable. The application shall be signed and dated by the chairperson of the county board of supervisors, the county auditor, and the CPC administrator. Staff of the division shall notify each county of receipt of the county’s application.
   25.74(3) Request for additional information. Staff shall review all applications for completeness. If an application is not complete, staff of the division shall contact the county by October 5, 2000, and request the information needed to complete the application. The county shall submit the required information by October 16, 2000.

441—25.75(78GA,ch1221) Methodology for awarding tobacco settlement fund risk pool funding.
   25.75(1) Review of applications. The risk pool board shall review all of the applications from counties for assistance from the tobacco settlement fund. If the total amount requested from the tobacco settlement fund does not exceed $2 million, eligible counties shall be awarded funding pursuant to this division. The risk pool board shall determine for each county whether any or all of the assistance granted to that county is a TSF loan.
   25.75(2) Notice of decision. The risk pool board shall notify the chair of the applying county’s board of supervisors of the board’s action no later than November 3, 2000. Copies shall be sent to the county auditor and the CPC administrator.
   25.75(3) Distribution of funds. The total amount of the risk pool shall be limited to $2 million. If the total dollar amount of the eligible applications exceeds the available pool, the risk pool board shall revise the percentage adjustment to actual cost to arrive at adjusted actual cost as defined in this division and prorate funding to the eligible counties. If it becomes necessary to revise the percentage adjustment used to determine adjusted actual cost, the risk pool board shall determine if applicant counties remain eligible under this program.
25.75(4) Notification of adjustment. If the risk pool board rolls back the percentage adjustment used to determine adjusted actual cost, the risk pool board shall notify the chair of the board of supervisors of all counties, and copies shall be sent to the county auditor and the CPC administrator of each county. Each host county shall recalculate the reimbursement rate under this division using the revised adjusted actual cost percentage and notify each provider in writing of the revised rate within 30 days of receiving notice of the percentage adjustment. The provider shall, within 30 days of receipt of notice, send to the CPC administrator of any other counties with consumers in those programs a copy of the revised rate determination signed by the CPC administrator of the host county.

441—25.76(78GA,ch1221) Repayment provisions.

25.76(1) Required repayment. Counties shall be required to repay TSF loans by January 1, 2002. Repayments shall be credited to the tobacco settlement fund.

25.76(2) Notification to county. In the notice of decision provided pursuant to these rules, the chairperson of the risk pool board shall notify each county of the portion, if any, of the assistance that is considered a TSF loan. If a county fails to reimburse the tobacco settlement fund by January 1, 2002, the board may request a revenue offset through the department of revenue. Copies of the overpayment and request for reimbursement shall be sent to the county auditor and the CPC administrator of the county.

441—25.77(78GA,ch1221) Appeals. The risk pool board may accept or reject an application for assistance from the tobacco settlement fund risk pool fund in whole or in part. The decision of the board is final and is not appealable.

These rules are intended to implement 2000 Iowa Acts, chapter 1221, section 3, as amended by chapter 1232, section 4.

441—25.78 to 25.80  Reserved.

DIVISION VII
COMMUNITY MENTAL HEALTH CENTER WAIVER REQUEST

PREAMBLE

This division establishes a process for the mental health and developmental disabilities commission to grant a waiver to any county not affiliated with a community mental health center.

441—25.81(225C) Waiver request. Counties that have not established or that are not affiliated with a community mental health center under Iowa Code chapter 230A are required to expend a portion of the money received from the MI/MR/DD/BI community services fund to contract with a community mental health center for services. When a county determines that a contractual arrangement is undesirable or unworkable, it may request a waiver from this requirement for a fiscal year. The waiver request and justification may be submitted to the mental health and developmental disabilities commission with the application for MI/MR/DD/BI community services funds on Form 470-0887, Waiver Request, or it may be submitted separately. The commission may grant a waiver if the request successfully demonstrates that all of the following conditions are met:

25.81(1) Accreditation of provider. The provider or network of providers that the county has contracted with to deliver the identified mental health services is accredited as another mental health provider pursuant to 441—Chapter 24.

25.81(2) Contracted services. The county has contracted to provide services that are equal to or greater than the smallest set of services provided by an accredited community mental health center in the department’s service area for that county.

25.81(3) Eligible populations. The county contract includes the following eligible populations:

a. Children.
b. Adults.
c. Elderly.
d. Chronically mentally ill.
e. Mentally ill.
This rule is intended to implement Iowa Code section 225C.7.

441—25.82 to 25.90 Reserved

DIVISION VIII
CRITERIA FOR EXEMPTING COUNTIES FROM JOINING INTO REGIONS TO ADMINISTER
MENTAL HEALTH AND DISABILITY SERVICES

441—25.91(331) Exemption from joining into mental health and disability services region.

25.91(1) Definitions.
“Applicant” means a single county or two counties that submit an application for an exemption from the requirement to join a region of three or more contiguous counties.
“Clear lines of accountability” means the governing board’s organizational structure makes it evident that the ultimate responsibility for the administration of non-Medicaid-funded mental health and disability services lies with the governing board and that the governing board directly and solely supervises the organization’s chief executive officer.
“Coordinator of disability services” means a person who meets the qualifications of a coordinator of disability services as defined in Iowa Code section 331.390(3) “b” and is responsible for ensuring that individuals receive effective service coordination consistent with the county’s or counties’ management plan.
“Core services” means core services mandated to be provided by the regional service system as defined in Iowa Code section 331.397.
“Department” means the Iowa department of human services.
“Director” means the director of the department.
“Evidence-based practice” means interventions that have been rigorously tested, have yielded consistent, replicable results, and have proven safe, beneficial, and effective.
“Penetration rate,” for the purposes of this rule, means the per capita number of adults in the adult population of a county who are receiving mental health and disability services.
“Reasonably close proximity” means a distance of 100 miles or less or a driving distance of two hours or less from the county seat or county seats of the applicant.
“Trauma-informed care” means services that are based on an understanding of the vulnerabilities or triggers of individuals who have experienced trauma, recognize the role trauma has played in the lives of those individuals, are supportive of trauma recovery, and avoid retraumatization.

25.91(2) Application for exemption from the requirement to form a region of three or more contiguous counties. The following requirements apply to an application for exemption from the requirement to form a region of three or more contiguous counties:

a. The applicant shall submit a written statement that the applicant intends to apply for an exemption from the requirement to form a region of three or more contiguous counties. The statement must be signed by the chairperson of the county board of supervisors of the applicant’s county. The signed written statement of intent must be received by the department on or before May 1, 2013, at 4:30 p.m.

b. The applicant shall submit a written application on forms specified by the department with required supporting documentation. The department shall only accept applications that are complete, signed by the applicant’s chairperson of the county board of supervisors, dated, and received by the department on or before June 30, 2013, at 4:30 p.m.

c. The director of the department shall issue a decision on the application within 45 days of receiving the application. The director shall deny an application if the application does not meet the criteria described in Iowa Code or rule.

25.91(3) Applicant criteria. The application shall include written documentation and evidence that the applicant has:

a. The capacity to provide required core services and perform required functions described in Iowa Code section 331.397.
b. A contract with a community mental health center or a federally qualified health center that provides psychiatric and outpatient mental health services in the applicant’s county or counties or written intent from the community mental health center or federally qualified health center to enter into such a contract.

c. A contract with a hospital with an inpatient psychiatric unit or a state mental health institute located in or within reasonably close proximity that has the capacity to provide inpatient services to the applicant or written intent from the state mental health institute or inpatient psychiatric unit to enter into such a contract.

d. An administrative structure with clear lines of accountability. A description of the applicant’s administrative functions shall be included with the application.

e. Taken steps to determine and demonstrate that forming a region of three or more contiguous counties is not workable.

25.91(4) Core services and required functions standards. The department shall review the application to determine if the applicant has provided written documentation and evidence for the availability of:

a. A 24-hour, 7-day-a-week, 365-days-per-year telephone response system for mental health and disability-related emergencies in the applicant’s county or counties.

b. Service providers in the applicant’s county or counties that demonstrate the capability of providing evidence-based practices that the applicant has independently verified meet established fidelity to evidence-based service models including, but not limited to:

(1) Assertive community treatment or strengths-based case management.

(2) Integrated treatment of co-occurring substance abuse and mental health disorders.

(3) Supported employment.

(4) Family psychoeducation.

(5) Illness management and recovery.

(6) Permanent supportive housing.

c. Service providers in the applicant’s county or counties that are trained to provide effective services to persons with two or more of the following co-occurring conditions: mental illness, intellectual disability, developmental disability, brain injury, or substance use disorder. Training for serving persons with co-occurring conditions shall be training identified by the Substance Abuse and Mental Health Services Administration, the Dartmouth Psychiatric Research Center or other generally recognized professional organization specified in the application.

d. Service providers in the applicant’s county or counties that are trained to provide effective trauma-informed care. Trauma-informed care training shall be training identified by the National Center for Trauma-Informed Care or other generally recognized professional organization specified in the application.

25.91(5) Service capacity. The department shall review the material provided in the application and by the applicant and other counties in their required county reports to determine if the applicant demonstrates that it has:

a. Sufficient financial resources to fund required core services.

b. A penetration rate that is at least equal to or exceeds the statewide per capita average for individuals with a mental illness or individuals with an intellectual disability.

c. A per capita use of inpatient psychiatric hospital services that is less than or equal to the statewide per capita average.

d. A per capita use of intermediate care facilities for individuals with intellectual disabilities that is less than or equal to the statewide per capita average.

e. A per capita use of outpatient mental health services that is greater than or equal to the statewide per capita average.

f. A per capita use of supported community living services that is greater than or equal to the statewide per capita average.

g. An average cost of service per individual served that is equal to or less than the statewide average.
h. Administrative costs, as a percentage of non-Medicaid service expenditures, that are less than or equal to the statewide average.

25.91(6) Provider network sufficiency. The department shall review the application to determine if the applicant provided written documentation and evidence of:

a. A contract with a community mental health center that provides services in the applicant’s county or counties or a federally qualified health center that provides psychiatric and outpatient mental health services in the applicant’s county or counties or written intent by a community mental health center or federally qualified health center to enter into such a contract.

b. Contracts with licensed and accredited providers to provide each service in the required core service domains or written intent by providers to enter into such contracts.

c. Adequate numbers of licensed and accredited providers to ensure availability of core services so that there is no waiting list for services due to lack of available providers.

d. A contract with an inpatient psychiatric hospital unit or state mental health institute within reasonably close proximity or written intent by an inpatient psychiatric hospital unit or state mental health institute to enter into such a contract.

25.91(7) to 25.91(9) Reserved.

25.91(10) Staffing. The department shall review the application to determine if the applicant provided written documentation and evidence of:

a. Clear lines of accountability.

b. The inclusion of one or more coordinators of disability services on the county administrator staff.

25.91(11) Reserved.

25.91(12) Determination that formation of a region is unworkable. The department shall review the application to determine if the applicant has provided documentation and convincing evidence that the applicant has evaluated the feasibility of forming into a region of three or more contiguous counties and that forming into such a region is unworkable.

25.91(13) Compliance with requirements of a mental health and disability services region. The applicant shall continuously fulfill all of the requirements of a region under Iowa Code chapters 331 and 225C for a regional service system, regional service system management plan, regional governing board, and regional administrator and any other requirements applicable to a region of counties providing local mental health and disability services. If the applicant does not fulfill these requirements, the department may address the deficiencies in the following order:

a. Require compliance with a corrective action plan that may include, but is not limited to, participation in technical assistance provided or arranged by the department, revision of the regional management plan, or other corrective actions required by the department.

b. Reduce the amount of the annual state funding provided through the mental health and disabilities regional services fund for the regional service system, not to exceed 15 percent of the amount of the annual state funding.

c. Withdraw approval for the county exemption.

This rule is intended to implement Iowa Code section 331.389.

[ARC 0576C, IAB 2/6/13, effective 1/8/13; ARC 0735C, IAB 5/15/13, effective 8/1/13]

441—25.92 to 25.94 Reserved.

DIVISION IX
DATA SUBMISSION TO DETERMINE MEDICAID OFFSET FOR COUNTIES

PREAMBLE

These rules define the department’s standards for the submission of county mental health and disability services expenditure data so that the department can calculate the Medicaid offset for each county consistent with 2014 Iowa Acts, House File 2473, section 82.

[ARC 1671C, IAB 10/15/14, effective 9/25/14]
441—25.95(426B) Definitions.

“Department” means the Iowa department of human services.

“Medicaid offset amount” means the amount resulting from the calculations described in Iowa Code section 426B.3 as amended by 2014 Iowa Acts, House File 2463, section 82(5)“d.”

“Uniform chart of accounts for Iowa county governments” means the set of codes used by counties to organize and delineate revenues and expenditures. The codes related to mental health and disability services expenditures identify diagnosis and types of services.

[ARC 1671C, IAB 10/15/14, effective 9/25/14]

441—25.96(426B) Data to determine Medicaid offset. Each county must submit to the department a report that provides the county mental health and disability services data needed to calculate the Medicaid offset for the county.

25.96(1) Data required. Each county is required to submit expenditure data as specified by the department based on the agreement by the department and representatives of the mental health and disability services regions consistent with the requirements of Iowa Code section 426B.3 as amended by 2014 Iowa Acts, House File 2463, section 82(5)“b.”

25.96(2) Submission of mental health and disability services data.

a. Counties must submit the required data to the department by 4:30 p.m. on September 19, 2014, consistent with data submissions as required in subrule 25.41(3).

b. If a county fails to submit data within the required time frame or a county submits data that is demonstrably inaccurate, the department will use a pro-rata methodology to determine the county’s Medicaid offset using data submitted by other counties.

[ARC 1671C, IAB 10/15/14, effective 9/25/14]

These rules are intended to implement Iowa Code section 225C.6 and 2014 Iowa Acts, House File 2463, section 82.

[Filed emergency 12/14/94—published 1/4/95, effective 12/14/94]
[Filed 2/16/95, Notice 1/4/95—published 3/15/95, effective 5/1/95]
[Filed 1/10/96, Notice 11/22/95—published 1/31/96, effective 4/1/96]
[Filed 12/12/96, Notice 11/6/96—published 1/1/97, effective 3/1/97]
[Filed emergency 6/25/98—published 7/15/98, effective 7/1/98]
[Filed 2/9/00, Notice 12/29/99—published 3/8/00, effective 4/12/00]
[Filed emergency 3/8/00—published 4/5/00, effective 3/8/00]
[Filed emergency 7/5/00—published 7/26/00, effective 8/1/00]
[Filed 9/6/00, Notice 4/5/00—published 10/4/00, effective 11/8/00]
[Filed 10/23/00, Notice 7/26/00—published 11/15/00, effective 1/1/01]
[Filed 11/14/01, Notice 9/19/01—published 12/12/01, effective 2/1/02]
[Filed 5/9/02, Notice 3/6/02—published 5/29/02, effective 7/3/02]
[Filed emergency 12/22/03 after Notice 10/15/03—published 1/21/04, effective 1/1/04]
[Filed 5/4/05, Notice 1/19/05—published 5/25/05, effective 7/1/05]
[Filed emergency 1/19/07—published 2/14/07, effective 1/20/07]
[Filed emergency 6/22/07—published 7/18/07, effective 7/1/07]
[Filed emergency 9/27/07—published 10/24/07, effective 10/10/07]
[Filed 11/16/07, Notice 8/1/07—published 12/19/07, effective 2/1/08]
[Filed 12/14/07, Notice 7/18/07—published 1/16/08, effective 2/20/08]
[Filed 12/14/07, Notice 10/24/07—published 1/16/08, effective 2/20/08]
[Filed emergency 9/19/08—published 10/8/08, effective 10/1/08]
[Filed ARC 7768B (Notice ARC 7626B, IAB 3/11/09), IAB 5/20/09, effective 7/1/09]
[Filed Emergency ARC 7879B, IAB 6/17/09, effective 6/1/09]
[Filed Emergency ARC 0576C, IAB 2/6/13, effective 1/8/13]
[Filed ARC 0753C (Notice ARC 0575C, IAB 2/6/13), IAB 5/15/13, effective 8/1/13]
[Filed ARC 1096C (Notice ARC 0885C, IAB 7/24/13), IAB 10/16/13, effective 11/20/13]
[Filed ARC 1173C (Notice ARC 0974C, IAB 8/21/13), IAB 11/13/13, effective 1/1/14]
[Filed Emergency After Notice ARC 1671C (Notice ARC 1591C, IAB 8/20/14), IAB 10/15/14, effective 9/25/14]

◊ Two or more ARCs
INSPECTIONS AND APPEALS DEPARTMENT[481]

CHAPTER 1
ADMINISTRATION

1.1(10A) Organization
1.2(10A) Definitions
1.3(10A) Administration division
1.4(10A) Investigations division
1.5(10A) Health facilities division
1.6(10A) Administrative hearings division
1.7(10A) Administering discretion
1.8(10A) Employment appeal board
1.9(10A,237) Child advocacy board
1.10(10A,13B) State public defender
1.11(10A,99D,99F) Racing and gaming commission

CHAPTER 2
PETITIONS FOR RULE MAKING

2.1(17A) Petition for rule making
2.2(17A) Briefs
2.3(17A) Inquiries
2.4(17A) Agency consideration

CHAPTER 3
DECLARATORY ORDERS
(Uniform Rules)

3.1(17A) Petition for declaratory order
3.2(17A) Notice of petition
3.3(17A) Intervention
3.4(17A) Briefs
3.5(17A) Inquiries
3.6(17A) Service and filing of petitions and other papers
3.7(17A) Consideration
3.8(17A) Action on petition
3.9(17A) Refusal to issue order
3.12(17A) Effect of a declaratory order

CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)

4.3(17A) Public rule-making docket
4.4(17A) Notice of proposed rule making
4.5(17A) Public participation
4.6(17A) Regulatory analysis
4.10(17A) Exemptions from public rule-making procedures
4.11(17A) Concise statement of reasons
4.13(17A) Agency rule-making record

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

5.1(17A,22) Definitions
5.3(17A,22) Requests for access to records
5.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record
5.9(17A,22) Disclosures without the consent of the subject
5.10(17A,22) Routine use
5.11(17A,22) Consensual disclosure of confidential records
5.12(17A,22) Release to subject
5.13(17A,22) Availability of records
5.14(17A,22) Authority to release confidential records
5.15(17A,22) Personnel files
5.16(17A,22) Personally identifiable information

CHAPTER 6
UNIFORM WAIVER AND VARIANCE RULES

6.2(10A,17A,ExecOrd11) Definitions
6.3(10A,17A,ExecOrd11) Interpretive rules
6.4(10A,17A,ExecOrd11) Compliance with statute
6.5(10A,17A,ExecOrd11) Criteria for waiver or variance
6.6(10A,17A,ExecOrd11) Filing of petition
6.7(10A,17A,ExecOrd11) Content of petition
6.8(10A,17A,ExecOrd11) Additional information
6.9(10A,17A,ExecOrd11) Notice
6.10(10A,17A,ExecOrd11) Hearing procedures
6.11(10A,17A,ExecOrd11) Ruling
6.12(10A,17A,ExecOrd11) Public availability
6.13(10A,17A,ExecOrd11) Voiding or cancellation
6.16(10A,17A,ExecOrd11) Appeals
6.17(10A,17A,ExecOrd11) Sample petition for waiver or variance

CHAPTER 7
CONSENT FOR THE SALE OF GOODS AND SERVICES

7.1(68B) General prohibition
7.2(68B) Definitions
7.3(68B) Conditions of consent for officials
7.4(68B) Application for consent
7.5(68B) Effect of consent
7.6(22,68B) Public information
7.7(68B) Appeal

CHAPTER 8
LICENSING ACTIONS FOR NONPAYMENT OF CHILD SUPPORT AND STUDENT LOAN DEFAULT/NONCOMPLIANCE WITH AGREEMENT FOR PAYMENT OF OBLIGATION

8.1(252J) Certificates of noncompliance
8.2(261) Student loan default/noncompliance with agreement for payment of obligation
8.3(261) Suspension or revocation of a license
CHAPTER 9
INDIGENT DEFENSE CLAIMS PROCESSING
9.1(232,815) Definitions
9.2(815) Claims submitted by a public defender
9.3(815) Claims submitted by a private attorney
9.4(815) Claims submitted by a county
9.5(815) Claims for other professional services
9.6(10A) Processing and payment
9.7(10A) Payment errors
9.8(10A) Availability of records

CHAPTER 10
CONTESTED CASE HEARINGS
10.1(10A) Definitions
10.2(10A,17A) Time requirements
10.3(10A) Requests for a contested case hearing
10.4(10A) Transmission of contested cases
10.5(17A) Notices of hearing
10.6(10A) Waiver of procedures
10.7(10A,17A) Telephone proceedings
10.8(10A,17A) Scheduling
10.9(17A) Disqualification
10.10(10A,17A) Consolidation—severance
10.11(10A,17A) Pleadings
10.12(17A) Service and filing of pleadings and other papers
10.13(17A) Discovery
10.14(10A,17A) Subpoenas
10.15(10A,17A) Motions
10.16(17A) Prehearing conference
10.17(10A) Continuances
10.18(10A,17A) Withdrawals
10.19(10A,17A) Intervention
10.20(17A) Hearing procedures
10.21(17A) Evidence
10.22(17A) Default
10.23(17A) Ex parte communication
10.24(10A,17A) Decisions
10.25(10A,17A) DIA appeals
10.26(10A,17A,272C) Board hearings
10.27(10A) Transportation hearing fees
10.28(10A) Recording costs
10.29(10A) Code of administrative judicial conduct

CHAPTER 11
PROCEDURE FOR CONTESTED CASES INVOLVING PERMITS TO CARRY WEAPONS AND ACQUIRE FIREARMS
11.1(17A,724) Definitions
11.2(724) Appeals
11.3(17A,724) Notice of hearing
11.4(17A,724) Agency record
11.5(17A) Contested case hearing
11.6(17A) Service and filing of documents
11.7(17A) Witness lists and exhibits
11.8(17A) Evidence
11.9(17A) Withdrawals and dismissals
11.10(17A) Default
11.11(10A) Costs
11.12(724) Probable cause
11.13(724) Clear and convincing evidence

CHAPTERS 12 to 19
Reserved

AUDITS DIVISION

CHAPTERS 20 and 21
Reserved

CHAPTER 22
HEALTH CARE FACILITY AUDITS
22.1(10A) Audit occurrence
22.2(10A) Confidentiality

CHAPTERS 23 and 24
Reserved

CHAPTER 25
IOWA TARGETED SMALL BUSINESS CERTIFICATION PROGRAM
25.1(73) Definitions
25.2(10A) Certification
25.3(17A) Description of application
25.4(10A) Eligibility standards
25.5(10A) Special consideration
25.6(10A) Family-owned business
25.7(10A) Cottage industry
25.8(10A) Decertification
25.9(12) Request for bond waiver
25.10(714) Fraudulent practices in connection with targeted small business programs
25.11(17A) Appeal procedure

CHAPTERS 26 to 29
Reserved

INSPECTIONS DIVISION

CHAPTER 30
FOOD AND CONSUMER SAFETY
30.1(10A,137C,137D,137F) Food and consumer safety bureau
30.2(10A,137C,137D,137F) Definitions
30.3(137C,137D,137F) Licensing and postings
30.4(137C,137D,137F) License fees
30.5(137F) Penalty and delinquent fees
30.6(137C,137D,137F) Returned checks
30.7(137F) Double licenses
30.8(137C,137D,137F) Inspection frequency
30.9(22) Examination of records
30.10(17A,137C,137D,137F) Denial, suspension, or revocation of a license to operate
30.11(10A,137C,137D,137F) Formal hearing
30.12(137F) Primary servicing laboratory

CHAPTER 31
FOOD ESTABLISHMENT AND FOOD PROCESSING PLANT INSPECTIONS

31.1(137F) Inspection standards for food establishments
31.2(137F) Inspection standards for food processing plants
31.3(137D,137F) Adulterated food and disposal
31.4(137D,137F) False label or defacement
31.5(137F) Temporary food establishments and farmers market potentially hazardous food licensees

CHAPTERS 32 and 33
Reserved

CHAPTER 34
HOME FOOD ESTABLISHMENTS

34.1(137D) Inspection standards
34.2(137D) Enforcement
34.3(137D) Labeling requirement
34.4(137D) Annual gross sales
34.5(137D) Criminal offense—conviction of license holder

CHAPTER 35
CONTRACTOR REQUIREMENTS

35.1(137C,137D,137F) Definitions
35.2(137C,137D,137F) Contracts
35.3(137C,137D,137F) Contractor
35.4(137C,137D,137F) Contractor inspection personnel
35.5(137C,137D,137F) Investigation
35.6(137C,137D,137F) Inspection standards
35.7(137C,137D,137F) Enforcement
35.8(137C,137D,137F) Licensing
35.9(137C,137D,137F) Records
35.10(137C,137D,137F) Reporting requirements
35.11(137C,137D,137F) Contract rescinded

CHAPTER 36
Reserved

CHAPTER 37
HOTEL AND MOTEL INSPECTIONS

37.1(137C) Building and grounds
37.2(137C) Guest rooms
37.3(137C) Bedding
37.4(137C) Lavatory facilities
37.5(137C) Glasses and ice
37.6(137C) Employees
37.7(137C) Room rates
37.8(137C) Inspections
37.9(137C) Enforcement
37.10(137C) Criminal offense—conviction of license holder
CHAPTERS 38 and 39
Reserved

CHAPTER 40
FOSTER CARE FACILITY INSPECTIONS
40.1(10A) License surveys
40.2(10A) Unannounced inspections
40.3(10A) Results
40.4(10A) Ownership of records

CHAPTER 41
PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN (PMIC)
41.1(135H) Definitions
41.2(135H) Application for license
41.3(135H) Renewal application or change of ownership
41.4(135H) Licenses for distinct parts
41.5(135H) Variances
41.6(135H) Notice to the department
41.7(135H) Inspection of complaints
41.8(135H) General requirement
41.9(135H) Certification of need for services
41.10(135H) Active treatment
41.11(135H) Individual plan of care
41.12(135H) Individual written plan of care
41.13(135H) Plan of care team
41.14(135H) Required discharge
41.15(135H) Criminal behavior involving children
41.16(22,135H) Confidential or open information
41.17(135H) Additional provisions concerning physical restraint

CHAPTERS 42 to 49
Reserved

CHAPTER 50
HEALTH CARE FACILITIES ADMINISTRATION
50.1(10A) Inspections
50.2(10A) Definitions
50.3(135B,135C) Licensing
50.4(135C) Fines and citations
50.5(135C) Denial, suspension or revocation
50.6(10A) Formal hearing
50.7(10A,135C) Additional notification
50.8(22,135B,135C) Records
50.9(135C) Criminal, dependent adult abuse, and child abuse record checks
50.10(135C) Inspections, exit interviews, plans of correction, and revisits
50.11(135C) Complaint and self-reported incident investigation procedure
50.12(135C) Requirements for service
50.13(135C) Inspectors’ conflicts of interest

CHAPTER 51
HOSPITALS
51.1(135B) Definitions
51.2(135B) Classification, compliance and license
51.3(135B) Quality improvement program
51.4(135B) Long-term acute care hospital located within a general hospital
51.5(135B) Medical staff
51.6(135B) Patient rights and responsibilities
51.7(135B) Abuse
51.8(135B) Organ and tissue—requests and procurement
51.9(135B) Nursing services
51.10 and 51.11 Reserved
51.12(135B) Records and reports
51.13 Reserved
51.14(135B) Pharmaceutical service
51.15 Reserved
51.16(135B) Radiological services
51.17 Reserved
51.18(135B) Laboratory service
51.19 Reserved
51.20(135B) Food and nutrition services
51.21 Reserved
51.22(135B) Equipment for patient care
51.23 Reserved
51.24(135B) Infection control
51.25 Reserved
51.26(135B) Surgical services
51.27 Reserved
51.28(135B) Anesthesia services
51.29 Reserved
51.30(135B) Emergency services
51.31 Reserved
51.32(135B) Obstetric and neonatal services
51.33 Reserved
51.34(135B) Pediatric services
51.35 Reserved
51.36(135B) Psychiatric services
51.37 Reserved
51.38(135B) Long-term care service
51.39(135B) Penalty and enforcement
51.40(135B) Validity of rules
51.41(135B) Criminal, dependent adult abuse, and child abuse record checks
51.42 to 51.49 Reserved
51.50(135B) Minimum standards for construction
51.51 and 51.52 Reserved
51.53(135B) Critical access hospitals

CHAPTER 52
DEPENDENT ADULT ABUSE IN FACILITIES AND PROGRAMS
52.1(235E) Definitions
52.2(235E) Persons who must report dependent adult abuse and the reporting procedure for
those persons
52.3(235E) Reports and registry of dependent adult abuse
52.4(235E) Financial institution employees and reporting suspected financial exploitation
52.5(235E) Evaluation of report
52.6(235E) Separation of victim and alleged abuser
52.7(235E) Interviews, examination of evidence, and investigation of dependent adult abuse allegations

52.8(235E) Notification to subsequent employers

### CHAPTER 53

**HOSPICE LICENSE STANDARDS**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>53.1(135J)</td>
<td>Definitions</td>
</tr>
<tr>
<td>53.2(135J)</td>
<td>License</td>
</tr>
<tr>
<td>53.3(135J)</td>
<td>Patient rights</td>
</tr>
<tr>
<td>53.4(135J)</td>
<td>Governing body</td>
</tr>
<tr>
<td>53.5(135J)</td>
<td>Quality assurance and utilization review</td>
</tr>
<tr>
<td>53.6(135J)</td>
<td>Attending physician services</td>
</tr>
<tr>
<td>53.7(135J)</td>
<td>Medical director</td>
</tr>
<tr>
<td>53.8(135J)</td>
<td>Interdisciplinary team (IDT)</td>
</tr>
<tr>
<td>53.9(135J)</td>
<td>Nursing services</td>
</tr>
<tr>
<td>53.10</td>
<td>Reserved</td>
</tr>
<tr>
<td>53.11(135J)</td>
<td>Coordinator of patient care</td>
</tr>
<tr>
<td>53.12(135J)</td>
<td>Social services</td>
</tr>
<tr>
<td>53.13(135J)</td>
<td>Counseling services</td>
</tr>
<tr>
<td>53.14(135J)</td>
<td>Volunteer services</td>
</tr>
<tr>
<td>53.15(135J)</td>
<td>Spiritual counseling</td>
</tr>
<tr>
<td>53.16(135J)</td>
<td>Optional services</td>
</tr>
<tr>
<td>53.17(135J)</td>
<td>Contracted services</td>
</tr>
<tr>
<td>53.18(135J)</td>
<td>Short-term hospital services</td>
</tr>
<tr>
<td>53.19(135J)</td>
<td>Bereavement services</td>
</tr>
<tr>
<td>53.20(135J)</td>
<td>Records</td>
</tr>
</tbody>
</table>

### CHAPTER 54

**GOVERNOR’S AWARD FOR QUALITY CARE**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>54.1(135C)</td>
<td>Purpose</td>
</tr>
<tr>
<td>54.2(135C)</td>
<td>Definitions</td>
</tr>
<tr>
<td>54.3(135C)</td>
<td>Nomination</td>
</tr>
<tr>
<td>54.4(135C)</td>
<td>Applicant eligibility</td>
</tr>
<tr>
<td>54.5(135C)</td>
<td>Nomination information</td>
</tr>
<tr>
<td>54.6(135C)</td>
<td>Evaluation</td>
</tr>
<tr>
<td>54.7(135C)</td>
<td>Selection of finalists</td>
</tr>
<tr>
<td>54.8(135C)</td>
<td>Certificate of recognition</td>
</tr>
</tbody>
</table>

### CHAPTER 55

Reserved

### CHAPTER 56

**FINING AND CITATIONS**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>56.1(135C)</td>
<td>Authority for citations</td>
</tr>
<tr>
<td>56.2(135C)</td>
<td>Classification of violations—classes</td>
</tr>
<tr>
<td>56.3(135C)</td>
<td>Fines</td>
</tr>
<tr>
<td>56.4(135C)</td>
<td>Time for compliance</td>
</tr>
<tr>
<td>56.5(135C)</td>
<td>Failure to correct a violation within the time specified—penalty</td>
</tr>
<tr>
<td>56.6(135C)</td>
<td>Treble and double fines</td>
</tr>
<tr>
<td>56.7(135C)</td>
<td>Notation of classes of violations</td>
</tr>
<tr>
<td>56.8(135C)</td>
<td>Notation for more than one class of violation</td>
</tr>
<tr>
<td>56.9(135C)</td>
<td>Factors determining selection of class of violation</td>
</tr>
<tr>
<td>56.10(135C)</td>
<td>Factors determining imposition of citation and fine</td>
</tr>
</tbody>
</table>
56.11(135C) Class I violation not specified in the rules
56.12(135C) Class I violation as a result of multiple lesser violations
56.13(135C) Form of citations
56.14(135C) Licensee’s response to a citation
56.15(135C) Procedure for facility after informal conference
56.16 Reserved
56.17(135C) Formal contest

CHAPTER 57
RESIDENTIAL CARE FACILITIES

57.1(135C) Definitions
57.2(135C) Variances
57.3(135C) Application for licensure
57.4(135C) Special categories
57.5(135C) General requirements
57.6(135C) Notifications required by the department
57.7(135C) Special classification—memory care
57.8(135C) Licenses for distinct parts
57.9(135C) Administrator
57.10(135C) Administration
57.11(135C) General policies
57.12(135C) Personnel
57.13(135C) Admission, transfer, and discharge
57.14(135C) Contracts
57.15(135C) Physical examinations
57.16(135C) Records
57.17(135C) Resident care and personal services
57.18 Reserved
57.19(135C) Drugs
57.20(135C) Dental services
57.21(135C) Dietary
57.22(135C) Service plan
57.23(135C) Resident activities program
57.24(135C) Certified volunteer long-term care ombudsman program
57.25(135C) Safety
57.26(135C) Housekeeping
57.27(135C) Maintenance
57.28(135C) Laundry
57.29(135C) Garbage and waste disposal
57.30(135C) Buildings, furnishings, and equipment
57.31(135C) Family and employee accommodations
57.32(135C) Animals
57.33(135C) Environment and grounds
57.34(135C) Supplies
57.35(135C) Residents’ rights in general
57.36(135C) Involuntary discharge or transfer
57.37(135C) Residents’ rights
57.38(135C) Financial affairs—management
57.39(135C) Resident abuse prohibited
57.40(135C) Resident records
57.41(135C) Dignity preserved
57.42(135C) Resident work
57.43(135C) Communications
57.44(135C) Resident activities
57.45(135C) Resident property
57.46(135C) Family visits
57.47(135C) Choice of physician
57.48(135C) Incompetent residents
57.49(135C) County care facilities
57.50(135C) Another business or activity in a facility
57.51(135C) Respite care services

CHAPTER 58
NURSING FACILITIES

58.1(135C) Definitions
58.2(135C) Variances
58.3(135C) Application for licensure
58.4(135C) General requirements
58.5(135C) Notifications required by the department
58.6 Reserved
58.7(135C) Licenses for distinct parts
58.8(135C) Administrator
58.9(135C) Administration
58.10(135C) General policies
58.11(135C) Personnel
58.12(135C) Admission, transfer, and discharge
58.13(135C) Contracts
58.14(135C) Medical services
58.15(135C) Records
58.16(135C) Resident care and personal services
58.17 Reserved
58.18(135C) Nursing care
58.19(135C) Required nursing services for residents
58.20(135C) Duties of health service supervisor
58.21(135C) Drugs, storage, and handling
58.22(135C) Rehabilitative services
58.23(135C) Dental, diagnostic, and other services
58.24(135C) Dietary
58.25(135C) Social services program
58.26(135C) Resident activities program
58.27(135C) Certified volunteer long-term care ombudsman program
58.28(135C) Safety
58.29(135C) Resident care
58.30 Reserved
58.31(135C) Housekeeping
58.32(135C) Maintenance
58.33(135C) Laundry
58.34(135C) Garbage and waste disposal
58.35(135C) Buildings, furnishings, and equipment
58.36(135C) Family and employee accommodations
58.37(135C) Animals
58.38(135C) Supplies
58.39(135C) Residents’ rights in general
58.40(135C) Involuntary discharge or transfer
58.41(135C) Residents’ rights
58.42(135C) Financial affairs—management
58.43(135C) Resident abuse prohibited
58.44(135C) Resident records
58.45(135C) Dignity preserved
58.46(135C) Resident work
58.47(135C) Communications
58.48(135C) Resident activities
58.49(135C) Resident property
58.50(135C) Family visits
58.51(135C) Choice of physician and pharmacy
58.52(135C) Incompetent resident
58.53(135C) County care facilities
58.54(73GA,ch 1016) Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility)
58.55(135C) Another business or activity in a facility
58.56(135C) Respite care services
58.57(135C) Training of inspectors

CHAPTER 59
TUBERCULOSIS (TB) SCREENING
59.1(135B,135C) Purpose
59.2(135B,135C) Definitions
59.3(135B,135C) TB risk assessment
59.4(135B,135C) Health care facility or hospital risk classification
59.5(135B,135C) Baseline TB screening procedures for health care facilities and hospitals
59.6(135B,135C) Serial TB screening procedures for health care facilities and hospitals
59.7(135B,135C) Screening of HCWs who transfer to other health care facilities or hospitals
59.8(135B,135C) Baseline TB screening procedures for residents of health care facilities
59.9(135B,135C) Serial TB screening procedures for residents of health care facilities
59.10(135B,135C) Performance of screening and testing

CHAPTER 60
MINIMUM PHYSICAL STANDARDS FOR RESIDENTIAL CARE FACILITIES
60.1(135C) Definitions
60.2(135C) Variances
60.3(135C) General requirements
60.4(135C) Typical construction
60.5(135C) Supervised care unit
60.6(135C) Support area
60.7(135C) Service area
60.8(135C) Administration and staff area
60.9(135C) Definition of public area
60.10(135C) Elevator requirements
60.11(135C) Mechanical requirements
60.12(135C) Electrical requirement
60.13(135C) Codes and standards

CHAPTER 61
MINIMUM PHYSICAL STANDARDS FOR NURSING FACILITIES
61.1(135C) Definitions
61.2(135C) General requirements
### 61.3(135C) Submission of construction documents
### 61.4(135C) Variances
### 61.5(135C) Additional notification requirements
### 61.6(135C) Construction requirements
### 61.7(135C) Nursing care unit
### 61.8(135C) Dietetic and other service areas
### 61.9(135C) Specialized unit or facility for persons with chronic confusion or a dementing illness (CCDI unit or facility)

**CHAPTER 62**
**RESIDENTIAL CARE FACILITIES FOR PERSONS WITH MENTAL ILLNESS (RCF/PMI)**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>62.1(135C)</td>
<td>Definitions</td>
</tr>
<tr>
<td>62.2(135C)</td>
<td>Application for license</td>
</tr>
<tr>
<td>62.3(135C)</td>
<td>Licenses for distinct parts</td>
</tr>
<tr>
<td>62.4(135C)</td>
<td>Variances</td>
</tr>
<tr>
<td>62.5(135C)</td>
<td>General requirements</td>
</tr>
<tr>
<td>62.6(135C)</td>
<td>Notification required by the department</td>
</tr>
<tr>
<td>62.7(135C)</td>
<td>Administrator</td>
</tr>
<tr>
<td>62.8(135C)</td>
<td>Administration</td>
</tr>
<tr>
<td>62.9(135C)</td>
<td>Personnel</td>
</tr>
<tr>
<td>62.10(135C)</td>
<td>General admission policies</td>
</tr>
<tr>
<td>62.11(135C)</td>
<td>Evaluation services</td>
</tr>
<tr>
<td>62.12(135C)</td>
<td>Programming</td>
</tr>
<tr>
<td>62.13(135C)</td>
<td>Crisis intervention</td>
</tr>
<tr>
<td>62.14(135C)</td>
<td>Discharge or transfer</td>
</tr>
<tr>
<td>62.15(135C)</td>
<td>Medication management</td>
</tr>
<tr>
<td>62.16(135C)</td>
<td>Resident property</td>
</tr>
<tr>
<td>62.17(135C)</td>
<td>Financial affairs</td>
</tr>
<tr>
<td>62.18(135C)</td>
<td>Records</td>
</tr>
<tr>
<td>62.19(135C)</td>
<td>Health and safety</td>
</tr>
<tr>
<td>62.20(135C)</td>
<td>Nutrition</td>
</tr>
<tr>
<td>62.21(135C)</td>
<td>Physical facilities and maintenance</td>
</tr>
<tr>
<td>62.22</td>
<td>Reserved</td>
</tr>
<tr>
<td>62.23(135C)</td>
<td>Residents’ rights in general</td>
</tr>
<tr>
<td>62.24(135C)</td>
<td>County care facilities</td>
</tr>
<tr>
<td>62.25(135C)</td>
<td>Another business or activity in a facility</td>
</tr>
<tr>
<td>62.26(135C)</td>
<td>Respite care services</td>
</tr>
</tbody>
</table>

**CHAPTER 63**
**RESIDENTIAL CARE FACILITIES FOR THE INTELLECTUALLY DISABLED**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>63.1(135C)</td>
<td>Definitions</td>
</tr>
<tr>
<td>63.2(135C)</td>
<td>Variances</td>
</tr>
<tr>
<td>63.3(135C)</td>
<td>Application for licensure</td>
</tr>
<tr>
<td>63.4(135C)</td>
<td>General requirements</td>
</tr>
<tr>
<td>63.5(135C)</td>
<td>Notifications required by the department</td>
</tr>
<tr>
<td>63.6</td>
<td>Reserved</td>
</tr>
<tr>
<td>63.7(135C)</td>
<td>Licenses for distinct parts</td>
</tr>
<tr>
<td>63.8(135C)</td>
<td>Administrator</td>
</tr>
<tr>
<td>63.9(135C)</td>
<td>General policies</td>
</tr>
<tr>
<td>63.10</td>
<td>Reserved</td>
</tr>
</tbody>
</table>
63.11(135C) Personnel
63.12(135C) Resident care and personal services
63.13(135C) Admission, transfer, and discharge
63.14(135C) Contracts
63.15(135C) Physical examinations
63.16(135C) Dental services
63.17(135C) Records
63.18(135C) Drugs
63.19(135C) Dietary
63.20(135C) Orientation program
63.21(135C) Individualized program of care
63.22 Reserved
63.23(135C) Safety
63.24(135C) Housekeeping
63.25(135C) Maintenance
63.26(135C) Laundry
63.27(135C) Garbage and waste disposal
63.28(135C) Buildings, furnishings, and equipment
63.29(135C) Family and employee accommodations
63.30(135C) Animals
63.31(135C) Environment and grounds
63.32(135C) Supplies
63.33(135C) Residents’ rights in general
63.34(135C) Involuntary discharge or transfer
63.35(135C) Resident rights
63.36(135C) Financial affairs—management
63.37(135C) Resident abuse prohibited
63.38(135C) Resident records
63.39(135C) Dignity preserved
63.40(135C) Resident work
63.41(135C) Communications
63.42(135C) Resident activities
63.43(135C) Resident property
63.44(135C) Family visits
63.45(135C) Choice of physician
63.46(135C) Incompetent resident
63.47(135C) Specialized license for three- to five-bed facilities
63.48 Reserved
63.49(135C) Another business or activity in a facility
63.50(135C) Respite care services

CHAPTER 64
INTERMEDIATE CARE FACILITIES FOR THE INTELLECTUALLY DISABLED

64.1 Reserved
64.2(135C) Variances
64.3(135C) Application for license
64.4(135C) General requirements
64.5(135C) Notifications required by the department
64.6(135C) Veteran eligibility
64.7(135C) Licenses for distinct parts
64.8 to 64.16 Reserved
Analysis, p.14

Inspections and Appeals[481]  IAC 10/15/14

64.17(135C)  Contracts
64.18(135C)  Records
64.19 to 64.32  Reserved
64.33(135C)  Allegations of dependent adult abuse
64.34(135C)  Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse
64.35  Reserved
64.36(135C)  Involuntary discharge or transfer
64.37 to 64.59  Reserved
64.60(135C)  Federal regulations adopted—conditions of participation
64.61(135C)  Federal regulations adopted—rights
64.62(135C)  Another business or activity in a facility
64.63(135C)  Respite care services

CHAPTER 65
INTERMEDIATE CARE FACILITIES
FOR PERSONS WITH MENTAL ILLNESS (ICF/PMI)

65.1(135C)  Definitions
65.2(135C)  Application for license
65.3(135C)  Licenses for distinct parts
65.4(135C)  Variances
65.5(135C)  General requirements
65.6(135C)  Notification required by the department
65.7(135C)  Administrator
65.8(135C)  Administration
65.9(135C)  Personnel
65.10(135C)  General admission policies
65.11(135C)  Evaluation services
65.12(135C)  Individual program plan (IPP)
65.13(135C)  Activity program
65.14(135C)  Crisis intervention
65.15(135C)  Restraint or seclusion
65.16(135C)  Discharge or transfer
65.17(135C)  Medication management
65.18(135C)  Resident property and personal affairs
65.19(135C)  Financial affairs
65.20(135C)  Records
65.21(135C)  Health and safety
65.22(135C)  Nutrition
65.23(135C)  Physical facilities and maintenance
65.24  Reserved
65.25(135C)  Residents’ rights in general
65.26(135C)  Incompetent residents
65.27(135C)  County care facilities
65.28(135C)  Violations
65.29(135C)  Another business or activity in a facility
65.30(135C)  Respite care services
CHAPTER 66
BOARDING HOMES

66.1(83GA,SF484) Definitions
66.2(83GA,SF484) Registration of boarding homes
66.3(83GA,SF484) Occupancy reports
66.4(83GA,SF484) Complaints
66.5(83GA,SF484) Investigations
66.6(83GA,SF484) Penalties
66.7(83GA,SF484) Public and confidential information

CHAPTER 67
GENERAL PROVISIONS FOR ELDER GROUP HOMES, ASSISTED LIVING PROGRAMS, AND ADULT DAY SERVICES

67.2(231B,231C,231D) Program policies and procedures, including those for incident reports
67.3(231B,231C,231D) Tenant rights
67.4(231B,231C,231D) Program notification to the department
67.5(231B,231C,231D) Medications
67.6(231B,231C,231D) Another business or activity located in a program
67.7(231B,231C,231D) Waiver of criteria for retention of a tenant in the program
67.8(231B,231C,231D) All other waiver requests
67.9(231B,231C,231D) Staffing
67.10(17A,231B,231C,231D) Monitoring
67.11(231B,231C,231D) Complaint and program-reported incident report investigation procedure
67.12(17A,231B,231D) Adult day services and elder group homes—preliminary report, plan of correction and request for reconsideration
67.13(17A,231C,85GA,SF394) Assisted living programs—exit interview, final report, plan of correction
67.15(17A,231B,231C,231D) Denial, suspension or revocation of a certificate
67.17(17A,231B,231C,231D) Civil penalties
67.21(231C) Nursing assistant work credit
67.22(231B,231C,231D) Public or confidential information

CHAPTER 68
ELDER GROUP HOMES

68.1(231B) Definitions
68.2(231B) Program certification and posting requirements
68.3(231B) Certification—application process
68.4(231B) Certification—application content
68.5(231B) Initial certification process
68.6(231B) Expiration of program certification
68.7(231B) Recertification process
68.8(231B) Notification of recertification
68.9(231B) Listing of all certified programs
68.10(231B) Transfer of certification
68.11(231B) Cessation of program operation
68.12(231B) Occupancy agreement
68.13(231B) Evaluation of tenant
68.14(231B) Criteria for admission and retention of tenants
68.15(231B) Involuntary transfer from the program
68.16(231B) Tenant documents
68.17(231B) Service plans
68.18(231B) Nurse review
68.19(231B) Staffing
68.20(231B) Managed risk policy and managed risk consensus agreements
68.21(231B) Transportation
68.22(231B) Identification of veteran’s benefit eligibility
68.23(231B) Resident advocate committees
68.24(231B) Life safety—emergency policies and procedures and structural safety requirements
68.25(231B) Structural standards
68.26(231B) Landlord and tenant Act

CHAPTER 69
ASSISTED LIVING PROGRAMS

69.1(231C) Definitions
69.2(231C) Program certification
69.3(231C) Certification of a nonaccredited program—application process
69.4(231C) Nonaccredited program—application content
69.5(231C) Initial certification process for a nonaccredited program
69.6(231C) Expiration of the certification of a nonaccredited program
69.7(231C) Recertification process for a nonaccredited program
69.8(231C) Notification of recertification for a nonaccredited program
69.9(231C) Certification or recertification of an accredited program—application process
69.10(231C) Certification or recertification of an accredited program—application content
69.11(231C) Initial certification process for an accredited program
69.12(231C) Recertification process for an accredited program
69.13(231C) Listing of all certified programs
69.14(231C) Recognized accrediting entity
69.15(231C) Requirements for an accredited program
69.16(231C) Maintenance of program accreditation
69.17(231C) Transfer of certification
69.18(231C) Structural and life safety reviews of a building for a new program
69.19(231C) Structural and life safety review prior to the remodeling of a building for a certified program
69.20(231C) Cessation of program operation
69.21(231C) Occupancy agreement
69.22(231C) Evaluation of tenant
69.23(231C) Criteria for admission and retention of tenants
69.24(231C) Involuntary transfer from the program
69.25(231C) Tenant documents
69.26(231C) Service plans
69.27(231C) Nurse review
69.28(231C) Food service
69.29(231C) Staffing
69.30(231C) Dementia-specific education for program personnel
69.31(231C) Managed risk policy and managed risk consensus agreements
69.32(231C) Life safety—emergency policies and procedures and structural safety requirements
69.33(231C) Transportation
69.34(231C) Activities
69.35(231C)  Structural requirements
69.36(231C)  Dwelling units in dementia-specific programs
69.37(231C)  Landlord and tenant Act
69.38(83GA,SF203)  Identification of veteran’s benefit eligibility
69.39(231C)  Respite care services

CHAPTER 70
ADULT DAY SERVICES

70.1(231D)  Definitions
70.2(231D)  Program certification
70.3(231D)  Certification of a nonaccredited program—application process
70.4(231D)  Nonaccredited program—application content
70.5(231D)  Initial certification process for a nonaccredited program
70.6(231D)  Expiration of the certification of a nonaccredited program
70.7(231D)  Recertification process for a nonaccredited program
70.8(231D)  Notification of recertification for a nonaccredited program
70.9(231D)  Certification or recertification of an accredited program—application process
70.10(231D)  Certification or recertification of an accredited program—application content
70.11(231D)  Initial certification process for an accredited program
70.12(231D)  Recertification process for an accredited program
70.13(231D)  Listing of all certified programs
70.14(231D)  Recognized accrediting entity
70.15(231D)  Requirements for an accredited program
70.16(231D)  Maintenance of program accreditation
70.17(231D)  Transfer of certification
70.18(231D)  Structural and life safety reviews of a building for a new program
70.19(231D)  Structural and life safety review prior to the remodeling of a building for a certified program
70.20(231D)  Cessation of program operation
70.21(231D)  Contractual agreement
70.22(231D)  Evaluation of participant
70.23(231D)  Criteria for admission and retention of participants
70.24(231D)  Involuntary discharge from the program
70.25(231D)  Participant documents
70.26(231D)  Service plans
70.27(231D)  Nurse review
70.28(231D)  Food service
70.29(231D)  Staffing
70.30(231D)  Dementia-specific education for program personnel
70.31(231D)  Managed risk policy and managed risk consensus agreements
70.32(231D)  Life safety—emergency policies and procedures and structural safety requirements
70.33(231D)  Transportation
70.34(231D)  Activities
70.35(231D)  Structural requirements
70.36(231D)  Identification of veteran’s benefit eligibility

CHAPTER 71
Reserved
CHAPTER 72
PUBLIC ASSISTANCE
FRONT END INVESTIGATIONS
72.1(10A) Definitions
72.2(10A) Referrals
72.3(10A) Investigation procedures
72.4(10A) Findings

CHAPTER 73
MEDICAID FRAUD CONTROL BUREAU
73.1(10A) Definitions
73.2(10A) Complaints
73.3(10A) Investigative procedures
73.4(10A) Audit of clinical and fiscal records by the department
73.5(10A) Who shall be reviewed, audited, or investigated
73.6(10A) Auditing and investigative procedures
73.7(10A) Actions based on audit or investigative findings
73.8(10A) Confidentiality
73.9(10A) Appeal by provider of care

CHAPTER 74
ECONOMIC ASSISTANCE FRAUD BUREAU
74.1(10A) Definitions
74.2(10A) Responsibilities
74.3(10A) Procedures
74.4(10A) Investigations
74.5(10A) Executive branch investigations

CHAPTER 75
DIVESTITURE UNIT

PREAMBLE

CHAPTERS 76 to 89
Reserved

CHAPTER 90
PUBLIC ASSISTANCE DEBT RECOVERY UNIT
90.1(10A) Definitions
90.2(10A) Recovery process
90.3(10A) Records
90.4(10A) Review
90.5(10A) Debt repayment
90.6(10A) Further collection action
90.7(10A) Appeal rights
90.8(10A) Data processing systems matches
90.9(10A) Confidentiality

CHAPTERS 91 to 99
Reserved

GAMES OF SKILL, CHANCE, BINGO
AND RAFFLES

CHAPTER 100
ADMINISTRATION

100.1(10A,99B) Definitions
100.2(99B) Licensing
100.3(99B) License requirements
100.4(99B) Participation
100.5(99B) Posted rules
100.6(99B) Prizes
100.7(10A,99B) Records
100.8(10A,99B) Inspections
100.9(99B) Reports
100.10(99B) Extension of time to file quarterly report
100.11(10A,422) State and local option sales tax
100.12(10A,17A,99B) Appeal rights
100.13(99B) Penalties
100.14 to 100.29 Reserved

QUALIFIED ORGANIZATION

100.30(99B) License requirements
100.31 Reserved
100.32(99B) Raffles
100.33(99B) Expenses
100.34(99B) Nature and dedication of net receipts
100.35(99B) Extension of time to dedicate net receipts
100.36(10A,22) Confidentiality
100.37 to 100.49 Reserved

RAFFLES CONDUCTED AT A FAIR

100.50(99B) Raffles conducted at a fair
100.51(99B) Raffle prizes at a fair
100.52(99B) Exceptions for an annual raffle
100.53 to 100.79 Reserved

ANNUAL GAME NIGHT
BINGO MANUFACTURERS AND DISTRIBUTORS

100.80(99B) Bingo manufacturers and distributors
100.81(99B) Bingo manufacturer and distributor licenses
100.82(99B) Bingo supplies and equipment

CHAPTER 101
AMUSEMENT CONCESSIONS

101.1(99B) License requirements
101.2(99B) Prizes
### 101.3(99B) Conducting games
### 101.4(99B) Posted rules

#### CHAPTER 102
**SOCIAL GAMBLING**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>102.1(99B)</td>
<td>License requirements</td>
</tr>
<tr>
<td>102.2(99B)</td>
<td>Participation allowed</td>
</tr>
<tr>
<td>102.3(99B)</td>
<td>Permissible games</td>
</tr>
</tbody>
</table>

#### CHAPTER 103
**BINGO**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>103.1(10A,99B)</td>
<td>Definitions</td>
</tr>
<tr>
<td>103.2(10A,99B)</td>
<td>License</td>
</tr>
<tr>
<td>103.3(99B)</td>
<td>Bingo occasion</td>
</tr>
<tr>
<td>103.4(99B)</td>
<td>Game of bingo</td>
</tr>
<tr>
<td>103.5(99B)</td>
<td>State and house rules</td>
</tr>
<tr>
<td>103.6(99B)</td>
<td>Prizes</td>
</tr>
<tr>
<td>103.7(10A,99B)</td>
<td>Workers</td>
</tr>
<tr>
<td>103.8(99B)</td>
<td>Expenses</td>
</tr>
<tr>
<td>103.9(99B)</td>
<td>Location</td>
</tr>
<tr>
<td>103.10</td>
<td>Reserved</td>
</tr>
<tr>
<td>103.11(10A,725)</td>
<td>Advertising</td>
</tr>
<tr>
<td>103.12(10A,99B)</td>
<td>Equipment</td>
</tr>
<tr>
<td>103.13(99B)</td>
<td>Records</td>
</tr>
<tr>
<td>103.14(10A,99B)</td>
<td>Bingo checking account</td>
</tr>
<tr>
<td>103.15(10A,99B)</td>
<td>Bingo savings account</td>
</tr>
<tr>
<td>103.16(10A,99B)</td>
<td>Reports</td>
</tr>
<tr>
<td>103.17(10A,99B)</td>
<td>Inspections and audits</td>
</tr>
<tr>
<td>103.18(10A,99B)</td>
<td>Penalties</td>
</tr>
</tbody>
</table>

#### CHAPTER 104
**GENERAL PROVISIONS FOR ALL AMUSEMENT DEVICES**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>104.1(10A,99B)</td>
<td>Definitions</td>
</tr>
<tr>
<td>104.2(99B)</td>
<td>Device restrictions</td>
</tr>
<tr>
<td>104.3(99B)</td>
<td>Prohibited games/devices</td>
</tr>
<tr>
<td>104.4(99B)</td>
<td>Prizes</td>
</tr>
<tr>
<td>104.5(99B)</td>
<td>Registration</td>
</tr>
<tr>
<td>104.6(99B)</td>
<td>Violations</td>
</tr>
</tbody>
</table>

#### CHAPTER 105
**REGISTERED AMUSEMENT DEVICES**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>105.1(10A,99B)</td>
<td>Definitions</td>
</tr>
<tr>
<td>105.2(99B)</td>
<td>Registered amusement device restrictions</td>
</tr>
<tr>
<td>105.3(99B)</td>
<td>Prohibited registered amusement devices</td>
</tr>
<tr>
<td>105.4(99B)</td>
<td>Prizes</td>
</tr>
<tr>
<td>105.5(99B)</td>
<td>Registration by a manufacturer, manufacturer’s representative, distributor, or an owner that operates for profit</td>
</tr>
<tr>
<td>105.6(99B)</td>
<td>Registration of registered amusement devices</td>
</tr>
<tr>
<td>105.7(99B)</td>
<td>Violations</td>
</tr>
<tr>
<td>105.8(10A,99B)</td>
<td>Appeal rights</td>
</tr>
<tr>
<td>105.9(10A,99B,82GA,SF510)</td>
<td>Procedure for denial, revocation, or suspension of a registration</td>
</tr>
<tr>
<td>105.10(99B)</td>
<td>Reports</td>
</tr>
</tbody>
</table>
105.11(99B) Criteria for approval or denial of a registration
105.12(10A,99B) Suspension or revocation of a registration

CHAPTER 106
CARD GAME TOURNAMENTS BY VETERANS ORGANIZATIONS

106.1(10A,99B) Definitions
106.2(99B) Licensing
106.3(99B) Card game tournament
106.4(99B) Required postings
106.5(99B) Prizes and cost to participate
106.6(99B) Restrictions
106.7(99B) Qualified expenses limitation
106.8(99B) Records
106.9(99B) State and local option sales tax
106.10(99B) Inspections
106.11(99B) Quarterly reports
106.12(99B) Penalties
106.13(99B) Revocation, suspension, or denial of license

CHAPTER 107
GAME NIGHTS

107.1(10A,99B) Definitions
107.2(99B) Restrictions on game nights
107.3(99B) Applications
107.4(99B) Games
107.5(99B) Sponsors
107.6(99B) Reports and dedication of funds for qualified and eligible organizations
107.7(422) State and local option sales tax
CHAPTER 69
ASSISTED LIVING PROGRAMS

481—69.1(231C) Definitions. In addition to the definitions in 481—Chapter 67 and Iowa Code chapter 231C, the following definitions apply.

“Accredited” means that the program has received accreditation from an accreditation entity recognized in subrule 69.14(1).

“Applicable requirements” means Iowa Code chapter 231C, this chapter, and 481—Chapter 67 and includes any other applicable administrative rules and provisions of the Iowa Code.

“Assisted living” or “program” means provision of housing with services, which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living, to three or more tenants in a physical structure which provides a homelike environment. “Assisted living” also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. “Assisted living” includes the provision of housing and assistance with instrumental activities of daily living only if personal care or health-related care is also included. “Assisted living” includes 24 hours per day response staff to meet scheduled and unscheduled or unpredictable needs in a manner that promotes maximum dignity and independence and provides supervision, safety, and security.

“CARF” means the Commission on Accreditation of Rehabilitation Facilities.

“Cognitive disorder” means a disorder characterized by cognitive dysfunction presumed to be the result of illness that does not meet the criteria for dementia, delirium, or amnestic disorder.

“Dementia-specific assisted living program” means an assisted living program certified under this chapter that:

1. Serves fewer than 55 tenants and has 5 or more tenants who have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
2. Serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
3. Holds itself out as providing specialized care for persons with dementia, such as Alzheimer’s disease, in a dedicated setting.

“Dwelling unit” means an apartment, group of rooms or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building, and which has direct access from the outside of the building or through a common hall.

“In the proximate area” means located within a five minutes or less response time.

“Maximal assistance with activities of daily living” means routine total dependence on staff for the performance of a minimum of four activities of daily living for a period that exceeds 21 days.

“Medically unstable” means that a tenant has a condition or conditions:

1. Indicating physiological frailty as determined by the program’s staff in consultation with a physician or physician extender;
2. Resulting in three or more significant hospitalizations within a consecutive three-month period for more than observation; and
3. Requiring frequent supervision of the tenant for more than 21 days by a registered nurse.

For example, a tenant who has a condition such as congestive heart failure which results in three or more significant hospitalizations during a quarter and which requires that the tenant receive frequent supervision may be considered medically unstable.

“Nonaccredited” means that the program has been certified under the provisions of this chapter but has not received accreditation from an accreditation entity recognized in subrule 69.14(1).

“Unmanageable incontinence” means a condition that requires staff provision of total care for an incontinent tenant who lacks the ability to assist in bladder or bowel continence care.
“Unmanageable verbal abuse” means repeated verbalizations against tenants or staff that persist despite all interventions and that negatively affect the program. “Unmanageable verbal abuse” includes but is not limited to threats, frequent use of profane language, or unwelcome sexually oriented remarks.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.2(231C) Program certification. A program may obtain certification by meeting all applicable requirements. In addition, a program may be voluntarily accredited by a recognized accreditation entity. For the purpose of these rules, certification is equivalent to licensure.

69.2(1) Posting requirements. A program’s current certificate shall be visibly displayed within the designated operation area of the program. In addition, the latest monitoring report, state fire marshal report, and food establishment inspections report issued pursuant to Iowa Code chapter 137F shall be made available to the public by the program upon request.

69.2(2) Dementia-specific programs and door alarms. If a program meets the definition of a dementia-specific assisted living program during two sequential certification monitorings, the program shall meet all requirements for a dementia-specific program, including the requirements set forth in rule 481—69.30(231C), subrules 69.29(2) and 69.29(4), paragraph 69.35(1)”d,” and subrule 69.32(2), which includes the requirements relating to door alarms.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.3(231C) Certification of a nonaccredited program—application process.

69.3(1) The applicant shall complete an application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

69.3(2) The applicant shall submit one copy of the completed application and all supporting documentation to the department at the above address at least 90 calendar days prior to the expected date of beginning operation.

69.3(3) The appropriate fee as stated in Iowa Code section 231C.18 shall accompany each application and be payable by check or money order to the Department of Inspections and Appeals. Fees are nonrefundable.

69.3(4) The department shall consider the application when all supporting documents and fees are received.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.4(231C) Nonaccredited program—application content. An application for certification or recertification of a nonaccredited program shall include the following:

69.4(1) A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees and of the designated manager, as well as stockholders, partners or any individuals who have greater than a 5 percent equity interest in the program. The program shall notify the department of any changes in the list within ten working days of the change.

69.4(2) A statement affirming that the individuals listed in subrule 69.4(1) have not been convicted of a felony or serious misdemeanor or found in violation of the dependent adult abuse code in any state.

69.4(3) A statement disclosing whether any of the individuals listed in subrule 69.4(1) have or have had an ownership interest in an assisted living program, adult day services program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1 or licensed hospital as defined in Iowa Code section 135B.1, or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1), which has been closed in any state due to removal of program, agency, or facility licensure, certification, or registration or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services for participants to prevent abuse or neglect.
69.4(4) The policy and procedure for evaluation of each tenant. A copy of the evaluation tool or tools to be used to identify the functional, cognitive and health status of each tenant shall be included.

69.4(5) The policy and procedure for service plans.

69.4(6) The policy and procedure for addressing medication needs of tenants.

69.4(7) The policy and procedure for accidents and emergency response.

69.4(8) The policies and procedures for food service, including those relating to staffing, nutrition, menu planning, therapeutic diets, and food preparation, service and storage.

69.4(9) The policy and procedure for activities.

69.4(10) The policy and procedure for transportation.

69.4(11) The policy and procedure for staffing and training.

69.4(12) The policy and procedure for emergencies, including natural disasters. The policy and procedure shall include an evacuation plan and procedures for notifying legal representatives in emergency situations as applicable.

69.4(13) The policy and procedure for managing risk and upholding tenant autonomy when tenant decision making results in poor outcomes for the tenant or others.

69.4(14) The policy and procedure for reporting incidents including dependent adult abuse as required in rule 481—67.2(231B,231C,231D).

69.4(15) The policy and procedure related to life safety requirements for a dementia-specific program as required by subrule 69.32(2).

69.4(16) The tenant occupancy agreement and all attachments.

69.4(17) If the program contracts for personal care or health-related care services from a certified home health agency, a mental health center or a licensed health care facility, a copy of that entity’s current license or certification.

69.4(18) A copy of the state license for the entity that provides food service, whether the entity is the program or an outside entity or a combination of both.


[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.5(231C) Initial certification process for a nonaccredited program.

69.5(1) Upon receipt of all completed documentation, including state fire marshal approval and structural and evacuation review approval, the department shall determine whether or not the proposed program meets applicable requirements.

69.5(2) If, based upon the review of the complete application including all required supporting documents, the department determines the proposed program meets the requirements for certification, a provisional certification shall be issued to the program to begin operation and accept tenants.

69.5(3) Within 180 calendar days following issuance of provisional certification, the department shall conduct a monitoring to determine the program’s compliance with applicable requirements.

69.5(4) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

69.5(5) The department shall make a final certification decision based on the results of the monitoring and review of an acceptable plan of correction.

69.5(6) The department shall notify the program of a final certification decision within 10 working days following the finalization of the monitoring report or receipt of an acceptable plan of correction, whichever is applicable.

69.5(7) If the decision is to continue certification, the department shall issue a full two-year certification effective from the date of the original provisional certification.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.6(231C) Expiration of the certification of a nonaccredited program.

69.6(1) Unless conditionally issued, suspended or revoked, certification of a program shall expire at the end of the time period specified on the certificate.
69.6(2) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program’s certification. [ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.7(231C) Recertification process for a nonaccredited program. To obtain recertification, a program shall:

69.7(1) Submit one copy of the completed application, including the information required in rule 481—69.4(231C), associated documentation, and the recertification fee as listed in Iowa Code section 231C.18 to the department at the address stated in subrule 69.3(1) at least 90 calendar days prior to the expiration of the program’s certification. The program need not submit policies and procedures that have been previously submitted to the department and remain unchanged. The program shall provide a list of the policies and procedures that have been previously submitted and are not being resubmitted.

69.7(2) Submit additional documentation that each of the following has been inspected by a qualified professional and found to be maintained in conformance with the manufacturer’s recommendations and nationally recognized standards: heating system, cooling system, water heater, electrical system, plumbing, sewage system, artificial lighting, and ventilation system; and, if located on site, garbage disposal, kitchen appliances, washing machines and dryers, and elevators. [ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.8(231C) Notification of recertification for a nonaccredited program.

69.8(1) The department shall review the application and associated documentation and fees. If the application is incomplete, the department shall contact the program to request the additional information. After all finalized documentation is received, including state fire marshal approval, the department shall determine the program’s compliance with applicable requirements.

69.8(2) The department shall conduct a monitoring of the program between 60 and 90 days prior to expiration of the program’s certification.

69.8(3) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

69.8(4) If no regulatory insufficiency is identified as a result of the monitoring, the department shall issue a report of the findings with the final recertification decision.

69.8(5) If the decision is to recertify, the department shall issue the program a two-year certification effective from the date of the expiration of the previous certification.

69.8(6) If the decision is to deny recertification, the department shall issue a notice of denial and provide the program the opportunity for a hearing pursuant to rule 481—67.13(17A,231B,231C,231D).

69.8(7) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year. [ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.9(231C) Certification or recertification of an accredited program—application process.

69.9(1) An applicant for certification or recertification of a program accredited by a recognized accrediting entity shall:

a. Submit a completed application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

b. Submit a copy of the current accreditation outcome from the recognized accrediting entity.

c. Apply for certification or recertification within 90 calendar days following verification of compliance with life safety requirements pursuant to this chapter.

d. Maintain compliance with life safety requirements pursuant to this chapter.

e. Submit the appropriate fees as set forth in Iowa Code section 231C.18.
69.9(2) The department shall not consider an application until it is complete and includes all supporting documentation and the appropriate fees.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.10(231C) Certification or recertification of an accredited program—application content. An application for certification or recertification of an accredited program shall include the following:

69.10(1) A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees and of the designated manager, as well as stockholders, partners or any individuals who have greater than a 5 percent equity interest in the program. The program shall notify the department of any changes in the list within ten working days of the change.

69.10(2) A statement affirming that the individuals listed in subrule 69.10(1) have not been convicted of a felony or serious misdemeanor or found in violation of the dependent adult abuse code in any state.

69.10(3) A statement disclosing whether any of the individuals listed in subrule 69.10(1) have or have had an ownership interest in a program, adult day services program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1 or licensed hospital as defined under Iowa Code section 135B.1 or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1), which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.

69.10(4) A copy of the current accreditation outcome from the recognized accrediting entity.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.11(231C) Initial certification process for an accredited program.

69.11(1) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine and notify the accredited program whether or not the accredited program meets applicable requirements and whether or not certification will be issued.

69.11(2) If the decision is to certify, a certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

69.11(3) If the decision is to deny certification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

69.11(4) Unless conditionally issued, suspended or revoked, certification for a program shall expire at the end of the time period specified on the certificate.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.12(231C) Recertification process for an accredited program.

69.12(1) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program’s certification.

69.12(2) To obtain recertification, an accredited program shall submit one copy of the completed application, associated documentation, and the administrative fee as stated in Iowa Code section 231C.18 to the department at the address stated in subrule 69.9(1) at least 90 calendar days prior to the expiration of the program’s certification.

69.12(3) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine the program’s compliance with applicable requirements and make a recertification decision.

69.12(4) The department shall notify the accredited program within 10 working days of the final recertification decision.

a. If the decision is to recertify, a full certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.
b. If the decision is to deny recertification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

69.12(5) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.13(231C) Listing of all certified programs. The department shall maintain a list of all certified programs, which is available online at https://dia-hfd.iowa.gov/DIA_HFD/Home.do under the “Entities Book” tab.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.14(231C) Recognized accrediting entity.

69.14(1) The department designates CARF as a recognized accrediting entity for programs.

69.14(2) To apply for designation by the department as a recognized accrediting entity for programs, an accrediting entity shall submit a letter of request, and its standards shall, at minimum, meet the applicable requirements for programs.

69.14(3) The designation shall remain in effect for as long as the accreditation standards continue to meet, at minimum, the applicable requirements for programs.

69.14(4) An accrediting entity shall provide annually to the department, at no cost, a current edition of the applicable standards manual and survey preparation guide, and training thereon, within 120 working days after the publications are released.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.15(231C) Requirements for an accredited program. Each accredited program that is certified by the department shall:

69.15(1) Provide the department a copy of all survey reports including outcomes, quality improvement plans and annual conformance to quality reports generated or received, as applicable, within ten working days of receipt of the reports.

69.15(2) Notify the department by the most expeditious means possible of all credible reports of alleged improper or inappropriate conduct or conditions within the program and any actions taken by the accrediting entity with respect thereto.

69.15(3) Notify the department immediately of the expiration, suspension, revocation or other loss of the program’s accreditation.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.16(231C) Maintenance of program accreditation.

69.16(1) An accredited program shall continue to be recognized for certification by the department if both of the following requirements are met:

a. The program complies with the requirements outlined in rule 481—69.15(231C).

b. The program maintains its voluntary accreditation status for the duration of the time-limited certification period.

69.16(2) A program that does not maintain its voluntary accreditation status must become certified by the department prior to any lapse in accreditation.

69.16(3) A program that does not maintain its voluntary accreditation status and is not certified by the department prior to any lapse in voluntary accreditation shall cease operation as a program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.17(231C) Transfer of certification.

69.17(1) Certification, unless conditionally issued, suspended or revoked, may be transferable to a new owner of a program. If the program’s certification has been conditionally issued, the new owner must receive approval from the department prior to transfer of the certification.
69.17(2) The new owner is required to notify the department in writing within 30 calendar days prior to the change in ownership. The notice shall include assurance that the new owner meets all applicable requirements for programs.

69.17(3) The department may conduct a monitoring within 90 days following a change in the program's ownership or management corporation to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.18(231C) Structural and life safety reviews of a building for a new program.

69.18(1) Before a building is constructed or remodeled for use in a new program, the department shall review the blueprints for compliance with requirements pursuant to this chapter. Construction or remodeling includes new construction, remodeling of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

69.18(2) A program applicant shall submit to the department blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

69.18(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

69.18(4) The department shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

69.18(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the department to state how any noncompliance will be resolved.

69.18(6) Upon final notification by the department that the blueprints meet structural and life safety requirements, construction or remodeling of the building may commence.

69.18(7) The department shall schedule an on-site visit of the building site with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for certification.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.19(231C) Structural and life safety review prior to the remodeling of a building for a certified program.

69.19(1) Before a building for a certified program is remodeled, the department shall review the blueprints for compliance with requirements set forth in rule 481—69.35(231C). Remodeling includes modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

69.19(2) A certified program shall submit to the department blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

69.19(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

69.19(4) The department shall review the blueprints within 20 working days of receipt and immediately notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

69.19(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the department in 20 working days to state how any noncompliance will be resolved.

69.19(6) Upon final notification by the department that the blueprints meet structural and life safety requirements, remodeling of the building may commence.

69.19(7) The department shall schedule an on-site visit of the building with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance
with the approved blueprints. Any noncompliance must be resolved prior to approval for continued certification or recertification of the program.  

IAC 10/15/14

481—69.20(231C) Cessation of program operation.  

69.20(1) If a certified program ceases operation, which includes seeking decertification, at any time prior to expiration of the program’s certification, the program shall submit the certificate to the department. The program shall provide, at least 90 days in advance of cessation, which includes seeking decertification, unless there is some type of emergency, written notification to the department and the tenant advocate of the date on which the program will cease operation, which includes seeking decertification.  

69.20(2) If a certified program plans to cease operation, which includes seeking decertification, at the time the program’s certification expires, the program shall provide written notice of this fact to the department and the tenant advocate at least 90 days prior to expiration of the certification.  

69.20(3) At the time a program decides to cease operation, which includes seeking decertification, the program shall submit a plan to the department and make arrangements for the safe and orderly transfer or transition of all tenants within the 90-day period specified by subrule 69.20(2).  

69.20(4) The department may conduct a monitoring during the 90-day period to ensure the safety of tenants during the transfer process or transition process.  

69.20(5) The department may conduct an on-site visit to verify that the program has ceased operation as a certified program in accordance with the notice provided by the program.  

69.20(6) When a program ceases operation, which includes seeking decertification, tenant advocates shall be allowed by the program to privately meet with tenants to provide education and service options.  

IAC 10/15/14

481—69.21(231C) Occupancy agreement.  

69.21(1) The occupancy agreement shall be in 12-point type or larger, shall be written in plain language using commonly understood terms and shall be easy for the tenant or the tenant’s legal representative to understand.  

69.21(2) In addition to the requirements of Iowa Code section 231C.5, the written occupancy agreement shall include, but not be limited to, the following information in the body of the agreement or in the supporting documents and attachments:  

a. The telephone number for filing a complaint with the department.  

b. The telephone number for the office of the tenant advocate.  

c. The telephone number for reporting dependent adult abuse.  

d. A copy of the program’s statement on tenants’ rights.  

e. A statement that the tenant landlord law applies to assisted living programs.  

f. A statement that the program will notify the tenant at least 90 days in advance of any planned program cessation, which includes voluntary decertification, except in cases of emergency.  

69.21(3) The occupancy agreement shall be reviewed and updated as necessary to reflect any change in services or financial arrangements.  

69.21(4) A copy of the occupancy agreement shall be provided to the tenant or the tenant’s legal representative, if any, and a copy shall be kept by the program.  

69.21(5) A copy of the most current occupancy agreement shall be made available to the general public upon request. The basic marketing material shall include a statement that a copy of the occupancy agreement is available to all persons upon request.  

IAC 10/15/14

481—69.22(231C) Evaluation of tenant.  

69.22(1) Evaluation prior to occupancy. A program shall evaluate each prospective tenant’s functional, cognitive and health status prior to the tenant’s signing the occupancy agreement and taking occupancy of a dwelling unit in order to determine the tenant’s eligibility for the program, including whether the services needed are available. The cognitive evaluation shall utilize a scored, objective
tool. When the score from the cognitive evaluation indicates moderate cognitive decline and risk, the Global Deterioration Scale shall be used at all subsequent intervals, if applicable. If the tenant subsequently returns to the tenant’s mildly cognitively impaired state, the program may discontinue the GDS and revert to a scored cognitive screening tool. The evaluation shall be conducted by a health care professional or human service professional.

69.22(2) Evaluation within 30 days of occupancy and with significant change. A program shall evaluate each tenant’s functional, cognitive and health status within 30 days of occupancy. A program shall also evaluate each tenant’s functional, cognitive and health status as needed with significant change, but not less than annually, to determine the tenant’s continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human service professional. A licensed practical nurse may complete the evaluation via nurse delegation when the tenant has not exhibited a significant change.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.23(231C) Criteria for admission and retention of tenants.

69.23(1) Persons who may not be admitted or retained. A program shall not knowingly admit or retain a tenant who:

a. Is bed-bound; or
b. Requires routine, two-person assistance with standing, transfer or evacuation; or
c. Is dangerous to self or other tenants or staff, including but not limited to a tenant who:
   (1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse or aggression; or
   (2) Displays behavior that places another tenant at risk; or
   d. Is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness; or
   e. Is under the age of 18; or
   f. Requires more than part-time or intermittent health-related care; or
   g. Has unmanageable incontinence on a routine basis despite an individualized toileting program; or
   h. Is medically unstable; or
   i. Requires maximal assistance with activities of daily living.

69.23(2) Disclosure of additional occupancy and transfer criteria. A program may have additional occupancy or transfer criteria if the criteria are disclosed in the written occupancy agreement prior to the tenant’s occupancy.

69.23(3) Assistance with transfer from the program. A program shall provide assistance to a tenant and the tenant’s legal representative, if applicable, to ensure a safe and orderly transfer from the program when the tenant exceeds the program’s criteria for admission and retention.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.24(231C) Involuntary transfer from the program.

69.24(1) Program initiation of transfer. If a program initiates the involuntary transfer of a tenant and the action is not the result of a monitoring, including a complaint investigation or program-reported incident investigation, by the department and if the tenant or tenant’s legal representative contests the transfer, the following procedures shall apply:

a. The program shall notify the tenant or tenant’s legal representative, in accordance with the occupancy agreement, of the need to transfer the tenant and of the reason for the transfer and shall include the contact information for the tenant advocate.

b. The program shall immediately provide to the tenant advocate, by certified mail, a copy of the notification and notify the tenant’s treating physician, if any.

c. Pursuant to statute, the tenant advocate shall offer the notified tenant or tenant’s legal representative assistance with the program’s internal appeal process. The tenant or tenant’s legal representative is not required to accept the assistance of the tenant advocate.

d. If, following the internal appeal process, the program upholds the transfer decision, the tenant or tenant’s legal representative may utilize other remedies authorized by law to contest the transfer.
69.24(2) Transfer pursuant to results of monitoring or complaint or program-reported incident investigation by the department. If one or more tenants are identified as exceeding the admission and retention criteria for tenants and need to be transferred as a result of a monitoring or a complaint or program-reported incident investigation conducted by the department, the following procedures shall apply:

a. Notification of the program. Within 20 working days of the monitoring or complaint or program-reported incident investigation, the department shall notify the program, in writing, of the identification of any tenant who exceeds admission and retention criteria.

b. Notification of others. Each identified tenant, the tenant’s legal representative, if applicable, and other providers of services to the tenant shall be notified of their opportunity to provide responses including: specific input, written comment, information, and documentation directly addressing any agreement or disagreement with the identification. All responses shall be provided to the department within 10 days of receipt of the notice.

c. Program agreement with the department’s finding. If the program agrees with the department’s finding and the program begins involuntary transfer proceedings, the program’s internal appeal process in subrule 69.24(1) shall be utilized for appeals.

d. Program disagreement with the department’s finding. If the program does not agree with the department’s finding that the tenant exceeds admission and retention criteria, the program may collect and submit all responses to the department, including those from other interested parties. In the program’s response, the program shall identify the tenant, list the known responses from others, and note the program’s agreement or disagreement with the responses from others. The program's response shall be submitted to the department within 10 working days of the receipt of the notice. Submission of a response does not eliminate the applicable requirements, including submission of a plan of correction under 481—subrule 67.10(5). Other persons may also submit information directly to the department.

(1) Consideration of response. Within 10 working days of receipt of the program’s response for each identified tenant, the department shall consider the response and make a final finding regarding the continued retention of a tenant.

(2) Amending the regulatory insufficiency. If the department’s determination is to amend the regulatory insufficiency based on the response, the department shall modify the report of findings.

(3) Retaining regulatory insufficiency. If the department retains the regulatory insufficiency, the department shall review the plan of correction in accordance with this chapter and 481—Chapter 67. The department shall notify the program of the opportunity to appeal the report findings as they relate to the admission and retention decision. In addition, the department shall provide to the tenant or the tenant’s legal representative the contact information for the tenant advocate. A copy of the final report shall also be sent to the tenant advocate.

(4) Effect of the filing of an appeal. If an appeal is filed, the tenant who exceeds admission and retention criteria shall be allowed to continue living at the program until all administrative appeals have been exhausted. Appeals filed that relate to the tenant’s exceeding admission and retention criteria shall be heard within 30 days of receipt, and appropriate services to meet the tenant’s needs shall be provided during that period of time.

(5) Request for waiver of criteria for retention of a tenant in a program. To allow a tenant to remain in the program, the program may request a waiver of criteria for retention of a tenant pursuant to Rule 481—67.7(231B,231C,231D) from the department within 10 working days of the receipt of the report.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.25(231C) Tenant documents.

69.25(1) Documentation for each tenant shall be maintained by the program and shall include:

a. An occupancy record including the tenant’s name, birth date, and home address; identification numbers; date of occupancy; name, address and telephone number of health professional(s); diagnosis; and names, addresses and telephone numbers of family members, friends or other designated people to contact in the event of illness or an emergency;

b. Application forms;
c. The initial evaluations and updates;
d. A nutritional assessment as necessary;
e. The initial individual service plan and updates;
f. Signed authorizations for permission to release medical information, photographs, or other media information as necessary;
g. A signed authorization for the tenant to receive emergency medical care as necessary;
h. A signed managed risk policy and signed managed risk consensus agreements, if any;
i. When any personal or health-related care is delegated to the program, the medical information sheet; documentation of health professionals’ orders, such as those for treatment, therapy, and medication; and nurses’ notes written by exception;
j. Medication lists, which shall be maintained in conformance with 481—subrule 67.5(4);
k. Advance health care directives as applicable;
l. A complete copy of the tenant’s occupancy agreement, including any updates;
m. A written acknowledgment that the tenant or the tenant’s legal representative, if applicable, has been fully informed of the tenant’s rights;
n. A copy of guardianship, durable power of attorney for health care, power of attorney, or conservatorship or other documentation of a legal representative;
o. Incident reports involving the tenant, including but not limited to those related to medication errors, accidents, falls, and elopements (such reports shall be maintained by the program but need not be included in the tenant’s medical record);
p. A copy of waivers of admission or retention criteria, if any;
q. When the tenant is unable to advocate on the tenant’s own behalf or the tenant has multiple service providers, including hospice care providers, accurate documentation of the completion of routine personal or health-related care is required on task sheets. If tasks are doctor-ordered, the tasks shall be part of the medication administration records (MARs); and
r. Authorizations for the release of information, if any.

491—69.25(2) The program records relating to a tenant shall be retained for a minimum of three years after the transfer or death of the tenant.

491—69.25(3) All records shall be protected from loss, damage and unauthorized use.

[ARC 8176B, LAB 9/23/09, effective 1/1/10]

491—69.26(231C) Service plans.

69.26(1) A service plan shall be developed for each tenant based on the evaluations conducted in accordance with subrules 69.22(1) and 69.22(2) and shall be designed to meet the specific service needs of the individual tenant. The service plan shall subsequently be updated at least annually and whenever changes are needed.

69.26(2) Prior to the tenant’s signing the occupancy agreement and taking occupancy of a dwelling unit, a preliminary service plan shall be developed by a health care professional or human service professional in consultation with the tenant and, at the tenant’s request, with other individuals identified by the tenant, and, if applicable, with the tenant’s legal representative. All persons who develop the plan and the tenant or the tenant’s legal representative shall sign the plan.

69.26(3) When a tenant needs personal care or health-related care, the service plan shall be updated within 30 days of the tenant’s occupancy and as needed with significant change, but not less than annually.

a. If a significant change triggers the review and update of the service plan, the updated service plan shall be signed and dated by all parties.

b. If a significant change does not exist, the program may, after nurse review, add minor discretionary changes to the service plan without a comprehensive evaluation and without obtaining signatures on the service plan.

c. If a significant change relates to a recurring or chronic condition, a previous evaluation and service plan of the recurring condition may be utilized without new signatures being obtained. For example, with chronic exacerbation of a urinary tract infection, nurse review is adequate to institute the previously written evaluation and service plan.
69.26(4) The service plan shall be individualized and shall indicate, at a minimum:
   a. The tenant’s identified needs and preferences for assistance;
   b. Any services and care to be provided pursuant to the occupancy agreement;
   c. The service provider(s), if other than the program, including but not limited to providers of hospice care, home health care, occupational therapy, and physical therapy;
   d. For tenants who are unable to plan their own activities, including tenants with dementia, planned and spontaneous activities based on the tenant’s abilities and personal interests; and
   e. Preferences, if any, of the tenant or the tenant’s legal representative for nursing facility care, if the need for nursing facility care presents itself during the assisted living program occupancy.
   [ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.27(231C) Nurse review. If a tenant does not receive personal or health-related care, but an observed significant change in the tenant’s condition occurs, a nurse review shall be conducted. If a tenant receives personal or health-related care, the program shall provide for a registered nurse or a licensed practical nurse via nurse delegation:

   69.27(1) To monitor, at least every 90 days, or after a significant change in the tenant’s condition, any tenant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders; and

   69.27(2) To ensure that health care professionals’ orders are current for tenants who receive health care professional-directed care from the program; and

   69.27(3) To assess and document the health status of each tenant, to make recommendations and referrals as appropriate, and to monitor progress relating to previous recommendations at least every 90 days and whenever there are changes in the tenant’s health status; and

   69.27(4) To provide the program with written documentation of the activities under the service plan, as set forth in rule 481—69.26(231C), showing the time, date and signature.

   NOTE: Refer to Table A at the end of this chapter. If the program does not provide personal or health-related care to a tenant, nurse review is not required.
   [ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.28(231C) Food service.

   69.28(1) The program shall provide or coordinate with other community providers to provide a hot or other appropriate meal(s) at least once a day or shall make arrangements for the availability of meals.

   69.28(2) Meals and snacks provided by the program but not prepared on site shall be obtained from or provided by an entity that meets the standards of state and local health laws and ordinances concerning the preparation and serving of food.

   69.28(3) Menus shall be planned to provide the following percentage of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences based on the number of meals provided by the program:

   a. A minimum of 33 1/3 percent if the program provides one meal per day;
   b. A minimum of 66 2/3 percent if the program provides two meals per day; and
   c. One hundred percent if the program provides three meals per day.

   69.28(4) Therapeutic diets may be provided by a program. If therapeutic diets are provided, they shall be prescribed by a physician, physician assistant, or advanced registered nurse practitioner. A current copy of the Iowa Simplified Diet Manual published by the Iowa Dietetic Association shall be available and used in the planning and serving of therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and for reviewing procedures for food preparation and service for therapeutic diets.

   69.28(5) Personnel who are employed by or contract with the program and who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection.
a. In addition to the requirements above, a minimum of one person directly responsible for food preparation shall have successfully completed a state-approved food protection program by:
   (1) Obtaining certification as a dietary manager; or
   (2) Obtaining certification as a food protection professional; or
   (3) Successfully completing a course meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another course may be substituted if the course’s curriculum includes substantially similar competencies to a course that meets the requirements of the Food Code and the provider of the course files with the department a statement indicating that the course provides substantially similar instruction as it relates to sanitation and safe food handling.

b. If the person is in the process of completing a course or certification listed in paragraph “a,” the requirement relating to completion of a state-approved food protection program shall be considered to have been met.

69.28(6) Programs engaged in the preparation and service of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F. The department will not require the program to be licensed as a food establishment if the program limits food activities to the following:

   a. All main meals and planned menu items must be prepared offsite and transferred to the program kitchen for service to tenants.

   b. Baked goods that do not require temperature control for safety and single-service juice or milk may be stored in the program’s kitchen and provided as part of a continental breakfast.

   c. Ingredients used for food-related activities with tenants may be stored in the program’s kitchen. Tenant activities may include the preparation and cooking of food items in the program’s kitchen if the activity occurs on an irregular or sporadic basis and the items prepared are not part of the program’s menu.

   d. Appropriately trained staff may prepare in the program’s kitchen individual quantities of tenant-requested menu-substitution food items that require limited or no preparation, such as peanut butter or cheese sandwiches or a single-service can of soup. The food items necessary to prepare the menu substitution may be stored in the program’s kitchen. These food items may not be cooked in the program’s kitchen but may be reheated in a microwave. A two- or four-slice toaster may be used for tenant-requested menu-substitution items, but no bare-hand contact is permitted.

   e. Tenants may take food items left over from a meal back to their apartments. The program may not store leftovers in the program’s kitchen.

   f. Warewashing may be done in the program’s kitchen as long as the program utilizes a commercial dishwasher and documents daily testing of sanitizer chemical ppm and proper water temperatures. Verification by the department of these practices may be conducted during on-site visits.

69.28(7) Programs may have an on-site dietitian. Programs may secure menus and a dietitian through other methods.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1376C, IAB 3/19/14, effective 4/23/14]

481—69.29(231C) Staffing. In addition to the general staffing requirements in rule 481—67.9(231B,231C,231D), the following requirements apply to staffing in programs.

69.29(1) Each tenant shall have access to a 24-hour personal emergency response system that automatically identifies the tenant in distress and can be activated with one touch.

69.29(2) In lieu of providing access to a personal emergency response system, a program serving one or more tenants with cognitive disorder or dementia shall follow a system, program, or written staff procedures that address how the program will respond to the emergency needs of the tenant(s).

69.29(3) The owner or management corporation of the program is responsible for ensuring that all personnel employed by or contracting with the program receive training appropriate to assigned tasks and target population.

69.29(4) A dementia-specific assisted living program shall have one or more staff persons who monitor tenants as indicated in each tenant’s service plan. The staff shall be awake and on duty 24
hours a day on site and in the proximate area. The staff shall check on tenants as indicated in the tenants’ service plans.

69.29(5) All programs employing a new program manager after January 1, 2010, shall require the manager within six months of hire to complete an assisted living management class whose curriculum includes at least six hours of training specifically related to Iowa rules and laws on assisted living programs. Managers who have completed a similar training prior to January 1, 2010, shall not be required to complete additional training to meet this requirement.

69.29(6) All programs employing a new delegating nurse after January 1, 2010, shall require the delegating nurse within six months of hire to complete an assisted living manager class or assisted living nursing class whose curriculum includes at least six hours of training specifically related to Iowa rules and laws on assisted living. A minimum of one delegating nurse from each program must complete the training. If there are multiple delegating nurses and only one delegating nurse completes the training, the delegating nurse who completes the training shall train the other delegating nurses in the Iowa rules and laws on assisted living. As of January 1, 2011, all programs shall have a minimum of one delegating nurse who has completed the training described in this subrule.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.30(231C) Dementia-specific education for program personnel.

69.30(1) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of eight hours of dementia-specific education and training within 30 days of either employment or the beginning date of the contract, as applicable.

69.30(2) The dementia-specific education or training shall include, at a minimum, the following:
   a. An explanation of Alzheimer’s disease and related disorders;
   b. The program’s specialized dementia care philosophy and program;
   c. Skills for communicating with persons with dementia;
   d. Skills for communicating with family and friends of persons with dementia;
   e. An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the care-giving role, and family dynamics;
   f. The importance of planned and spontaneous activities;
   g. Skills in providing assistance with instrumental activities of daily living;
   h. The importance of the service plan and social history information;
   i. Skills in working with challenging tenants;
   j. Techniques for simplifying, cueing, and redirecting;
   k. Staff support and stress reduction; and
   l. Medication management and nonpharmacological interventions.

69.30(3) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of two hours of dementia-specific continuing education annually. Direct-contact personnel shall receive a minimum of eight hours of dementia-specific continuing education annually.

69.30(4) An employee or contractor who provides documentation of completion of a dementia-specific education or training program within the past 12 months shall be exempt from the education and training requirement of subrule 69.30(1).

69.30(5) Dementia-specific training shall include hands-on training and may include any of the following: classroom instruction, Web-based training, and case studies of tenants in the program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.31(231C) Managed risk policy and managed risk consensus agreements. The program shall have a managed risk policy. The managed risk policy shall be provided to the tenant along with the occupancy agreement. The managed risk policy shall include the following:

69.31(1) An acknowledgment of the shared responsibility for identifying and meeting the needs of the tenant and the process for managing risk and for upholding tenant autonomy when tenant decision making results in poor outcomes for the tenant or others; and

69.31(2) A consensus-based process to address specific risk situations. Program staff and the tenant shall participate in the process. The result of the consensus-based process may be a managed risk
consensus agreement. The managed risk consensus agreement shall include the signature of the tenant and the signatures of all others who participated in the process. The managed risk consensus agreement shall be included in the tenant’s file.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.32(231C) Life safety—emergency policies and procedures and structural safety requirements.

69.32(1) The program shall submit to the department and follow written emergency policies and procedures, which shall include the following:
   a. An emergency plan, which shall include procedures for natural disasters (identify where the plan is located for easy reference);
   b. Fire safety procedures;
   c. Other general or personal emergency procedures;
   d. Provisions for amending or revising the emergency plan;
   e. Provisions for periodic training of all employees;
   f. Procedures for fire drills;
   g. Regulations regarding smoking;
   h. Monitoring and testing of smoke-control systems;
   i. Tenant evacuation procedures; and
   j. Procedures for reporting and documentation.

69.32(2) An operating alarm system shall be connected to each exit door in a dementia-specific program. A program serving a person(s) with cognitive disorder or dementia, whether in a general or dementia-specific setting, shall have:
   a. Written procedures regarding alarm systems and appropriate staff response when a tenant’s service plan indicates a risk of elopement or a tenant exhibits wandering behavior.
   b. Written procedures regarding appropriate staff response if a tenant with cognitive disorder or dementia is missing.

69.32(3) The program’s structure and procedures and the facility in which a program is located shall meet the requirements adopted for assisted living programs in administrative rules promulgated by the state fire marshal. Approval of the state fire marshal indicating that the building is in compliance with these requirements is necessary for certification of a program.

69.32(4) The program shall have the means to control the maximum temperature of water at sources accessible by a tenant to prevent scalding and shall control the maximum water temperature for tenants with cognitive impairment or dementia or at a tenant’s request.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.33(231C) Transportation. When transportation services are provided directly or under contract with the program:

69.33(1) The vehicle shall be accessible and appropriate to the tenants who use it, with consideration for any physical disabilities and impairments.

69.33(2) Every tenant transported shall have a seat in the vehicle, except for a tenant who remains in a wheelchair during transport.

69.33(3) Vehicles shall have adequate seat belts and securing devices for ambulatory and wheelchair-using passengers.

69.33(4) Wheelchairs shall be secured when the vehicle is in motion.

69.33(5) During loading and unloading of a tenant, the driver shall be in the proximate area of the tenants in a vehicle.

69.33(6) The driver shall have a valid and appropriate Iowa driver’s license or commercial driver’s license as required by law for the vehicle being utilized for transport. If the driver is licensed in another state, the license shall be valid and appropriate for the vehicle being utilized for transport. The driver shall meet any state or federal requirements for licensure or certification for the vehicle operated.
69.33(7) Each vehicle shall have a first-aid kit, fire extinguisher, safety triangles and a device for two-way communication.
[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.34(231C) Activities.

69.34(1) The program shall provide appropriate activities for each tenant. Activities shall reflect individual differences in age, health status, sensory deficits, lifestyle, ethnic and cultural beliefs, religious beliefs, values, experiences, needs, interests, abilities and skills by providing opportunities for a variety of types and levels of involvement.

69.34(2) Activities shall be planned to support the tenant’s service plan and shall be consistent with the program statement and occupancy policies.

69.34(3) A written schedule of activities shall be developed at least monthly and made available to tenants and their legal representatives.

69.34(4) Tenants shall be given the opportunity to choose their levels of participation in all activities offered in the program.
[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.35(231C) Structural requirements.

69.35(1) General requirements.

a. The structure of the program shall be designed and operated to meet the needs of the tenants.

b. The buildings and grounds shall be well-maintained, clean, safe and sanitary.

c. Programs shall have private dwelling units with a single-action, lockable entrance door.

d. A program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or remove the lock on an entrance door and shall disable or remove the lock if its presence presents a danger to the health and safety of the tenant.

e. The structure in which a program is housed shall be built, at a minimum, of Type V (111) construction as provided in Section 22.3.1.3.3 and Sections 6.2.1A to 6.2.2 of NFPA 101, Life Safety Code, 2003 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, or as required in administrative rules promulgated by the state fire marshals.

f. Programs may have individual cooking facilities within the private dwelling units. Any program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or easily remove appliances and shall disable or remove them if their presence presents a danger to the health and safety of the tenant or others.

69.35(2) Programs certified prior to July 4, 2001. Facilities for programs certified prior to July 4, 2001, shall meet the following requirements:

a. Each dwelling unit shall have at least one room that shall have not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. Each dwelling unit shall have not less than 190 square feet of floor area, excluding bathrooms.

c. A dwelling unit used for double occupancy shall have not less than 290 square feet of floor area, excluding bathrooms.

d. The program shall have a minimum of 15 square feet of common area per tenant.

69.35(3) New construction built on or after July 4, 2001. Programs operated in new construction built on or after July 4, 2001, shall meet the following requirements:

a. Each dwelling unit shall have at least one room that shall have not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. Each dwelling unit used for single occupancy shall have a total square footage of not less than 240 square feet of floor area, excluding bathrooms and door swing.

c. A dwelling unit used for double occupancy shall have a total square footage of not less than 340 square feet of floor area, excluding bathrooms and door swing.

d. Each dwelling unit shall contain a bathroom, including but not limited to a toilet, sink and bathing facilities. A program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or remove the sink or bathing facility
water control and shall disable or remove the water control if its presence presents a danger to the health and safety of the tenant.

   e. The program shall have a minimum of 25 square feet of common space per tenant.

   f. Self-closing doors are not required for individual dwelling units, whether in a general or dementia-specific setting, unless the authority with jurisdiction determines that the level of hazard has increased to require the installation of closure hardware (for example, presence of a stove, range or oven).

   69.35(4) Structure being converted to or remodeled for use by a program on or after July 4, 2001. A program operating in a structure that was converted or remodeled for use for a program on or after July 4, 2001, shall meet the following requirements:

   a. Each dwelling unit shall have at least one room that has not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

   b. Each dwelling unit used for single occupancy shall have a total square footage of not less than 190 square feet of floor area, excluding bathrooms and door swing.

   c. A dwelling unit used for double occupancy shall have a total square footage of not less than 290 square feet of floor area, excluding bathrooms and door swing.

   d. The program shall have dedicated for use by tenants a minimum of 15 square feet of common area per tenant.

   e. Each dwelling unit shall have a bathroom, including but not limited to a toilet, sink and bathing facility.

   f. Each sleeping room shall have a minimum of 5.7 square feet of operable window. Waiver of this requirement may be granted by the state fire marshal or designee.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.36(231C) Dwelling units in dementia-specific programs. Dementia-specific programs are exempt from the requirements in subrules 69.35(2) to 69.35(4) as follows:

   69.36(1) For a program built in a family or neighborhood design:

   a. Each dwelling unit used for single occupancy shall have a total square footage of not less than 150 square feet of floor area, excluding a bathroom; and

   b. Each dwelling unit used for double occupancy shall have a total square footage of not less than 250 square feet of floor area, excluding a bathroom.

   69.36(2) Dementia-specific programs may choose not to provide bathing facilities in the dwelling units.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.37(231C) Landlord and tenant Act. Iowa Code chapter 562A, the uniform residential landlord and tenant Act, shall apply to programs under this chapter.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.38(83GA,SF203) Identification of veteran’s benefit eligibility.

   69.38(1) Within 30 days of a tenant’s admission to an assisted living program that receives reimbursement through the medical assistance program under Iowa Code chapter 249A, the program shall ask the tenant or the tenant’s personal representative whether the tenant is a veteran or whether the tenant is the spouse, widow, or dependent of a veteran and shall document the response.

   69.38(2) If the program determines that the tenant may be a veteran or the spouse, widow, or dependent of a veteran, the program shall report the tenant’s name along with the name of the veteran, if applicable, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. When appropriate, the program may also report such information to the Iowa department of human services.

   69.38(3) If a tenant is eligible for benefits through the U.S. Department of Veterans Affairs or other third-party payor, the program first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]
Respite care services. “Respite care services” means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. “Respite care individual” means an individual receiving respite care services. An assisted living program which chooses to provide respite care services must meet the following requirements related to respite care services and must be certified as an assisted living program.

69.39(1) Length of stay. Respite care services shall be provided for no more than 30 consecutive days and for a total of no more than 60 days in a consecutive 12-month period. The 12-month period begins on the first day of the respite care individual’s stay in the program.

69.39(2) No separate certificate. An assisted living program that chooses to provide respite care services is not required to obtain a separate certificate or pay a certification fee.

69.39(3) Assessment. The program nurse shall conduct an assessment of the respite care individual prior to the respite care individual’s stay. The assessment shall be documented and shall include, at a minimum:
   a. Safety and supervision needs;
   b. Medical needs;
   c. Dietary needs; and
   d. Bowel and bladder function.

69.39(4) Written direction to staff. The program nurse shall document the care needs of the respite care individual based on the assessment conducted pursuant to subrule 69.39(3) and provide the documentation to staff.

69.39(5) Involuntary termination of respite care services. The program may terminate the respite care services for a respite care individual. Rule 481—69.24(231C) shall not apply. The program shall make proper arrangements for the welfare of the respite care individual prior to involuntary termination of respite care services, including notification of the respite care individual’s family or legal representative.

69.39(6) Contract. The program shall have a contract with each respite care individual. The contract shall, at a minimum, include the following:
   a. The time period during which the individual will be considered to be receiving respite care services, not to exceed 30 consecutive days.
   b. A description of all fees, charges, and rates for respite care services, and any additional and optional services and their related costs.
   c. A statement that respite care services may be involuntarily terminated. Rule 481—69.24(231C) shall not apply.
   d. Identification of the party responsible for payment of fees and identification of the respite care individual’s legal representative, if any.
   e. Identification of emergency contacts, including but not limited to the respite care individual’s family member(s) and physician.
   f. A statement that all respite care individual information shall be maintained in a confidential manner to the extent required under state and federal law.
   g. The refund policy, if applicable.
   h. A statement regarding billing and payment procedures.

69.39(7) Admission to program.
   a. A respite care individual shall not be considered an admission to the program.
   b. A respite care individual shall be included in the program’s census.
   c. The program shall not enter into multiple 30-day contracts with a respite care individual in order to lengthen the respite care individual’s stay in the program.
   d. If a respite care individual remains in the program beyond 30 consecutive days and is eligible for admission, the department shall consider the individual a tenant in the program. The program shall follow all requirements for admission to the program.

69.39(8) Level of care criteria. Respite care individuals must meet the criteria found in subrule 69.23(1) for admission and retention of tenants. Respite care services shall not be provided by an assisted
living program to persons requiring a level of care which is higher than the level of care the program is certified to provide.

69.39(9) Accessibility by the department. The department shall have the same access to respite care services records as provided in 481—subrule 67.10(2).

ARC 1667C, IAB 10/15/14, effective 11/19/14

These rules are intended to implement Iowa Code chapter 231C.

Table A
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.

CHAPTERS 1 to 3
Reserved

CHAPTER 4
BOARD ADMINISTRATIVE PROCESSES
4.1(17A) Definitions
4.2(17A) Purpose of board
4.3(17A,147,272C) Organization of board and proceedings
4.4(17A) Official communications
4.5(17A) Office hours
4.6(21) Public meetings
4.7(147) Licensure by reciprocal agreement
4.8(147) Duplicate certificate or wallet card
4.9(147) Reissued certificate or wallet card
4.10(17A,147,272C) License denial
4.11(272C) Audit of continuing education
4.12(272C,83GA, SF2325) Automatic exemption
4.13(272C) Grounds for disciplinary action
4.14(272C) Continuing education exemption for disability or illness
4.15(147,272C) Order for physical, mental, or clinical competency examination or alcohol or drug screening
4.16(252J,261,272D) Noncompliance rules regarding child support, loan repayment and nonpayment of state debt

CHAPTER 5
FEES
5.1(147,152D) Athletic training license fees
5.2(147,158) Barbering license fees
5.3(147,154D) Behavioral science license fees
5.4(151) Chiropractic license fees
5.5(147,157) Cosmetology arts and sciences license fees
5.6(147,152A) Dietetics license fees
5.7(147,154A) Hearing aid dispensers license fees
5.8(147) Massage therapy license fees
5.9(147,156) Mortuary science license fees
5.10(147,155) Nursing home administrators license fees
5.11(147,148B) Occupational therapy license fees
5.12(147,154) Optometry license fees
5.13(147,148A) Physical therapy license fees
5.14(148C) Physician assistants license fees
5.15(147,148F,149) Podiatry license fees
5.16(147,154B) Psychology license fees
5.17(147,152B) Respiratory care license fees
5.18(147,154E) Sign language interpreters and transliterators license fees
5.19(147,154C) Social work license fees
5.20(147) Speech pathology and audiology license fees
CHAPTER 6
PETITIONS FOR RULE MAKING
6.1(17A) Petition for rule making
6.2(17A) Inquiries

CHAPTER 7
AGENCY PROCEDURE FOR RULE MAKING
7.1(17A) Adoption by reference

CHAPTER 8
DECLARATORY ORDERS
(Uniform Rules)
8.1(17A) Petition for declaratory order
8.2(17A) Notice of petition
8.3(17A) Intervention
8.5(17A) Inquiries

CHAPTER 9
COMPLAINTS AND INVESTIGATIONS
9.1(272C) Complaints
9.2(272C) Report of malpractice claims or actions or disciplinary actions
9.3(272C) Report of acts or omissions
9.4(272C) Investigation of complaints or reports
9.5(17A,272C) Issuance of investigatory subpoenas
9.6(272C) Peer review committees
9.7(17A) Appearance

CHAPTER 10
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)
10.1(17A,22) Definitions
10.3(17A,22) Requests for access to records
10.5(17A,22) Request for treatment of a record as a confidential record and its withholding from examination
10.6(17A,22) Procedures by which additions, dissents, or objections may be entered into certain records
10.9(17A,22) Disclosures without the consent of the subject
10.10(17A,22) Routine use
10.11(17A,22) Consensual disclosure of confidential records
10.12(17A,22) Release to subject
10.13(17A,22) Availability of records
10.14(17A,22) Personally identifiable information
10.15(22) Other groups of records routinely available for public inspection
10.16(17A,22) Applicability

CHAPTER 11
CONTESTED CASES
11.1(17A) Scope and applicability
11.2(17A) Definitions
11.3(17A) Time requirements
11.4(17A) Probable cause
11.5(17A) Legal review
11.6(17A) Statement of charges and notice of hearing
11.7(17A,272C) Legal representation
11.8(17A,272C) Presiding officer in a disciplinary contested case
11.9(17A) Presiding officer in a nondisciplinary contested case
11.10(17A) Disqualification
11.11(17A) Consolidation—severance
11.12(17A) Answer
11.13(17A) Service and filing
11.14(17A) Discovery
11.15(17A,272C) Issuance of subpoenas in a contested case
11.16(17A) Motions
11.17(17A) Prehearing conferences
11.18(17A) Continuances
11.19(17A,272C) Hearing procedures
11.20(17A) Evidence
11.21(17A) Default
11.22(17A) Ex parte communication
11.23(17A) Recording costs
11.24(17A) Interlocutory appeals
11.25(17A) Applications for rehearing
11.26(17A) Stays of agency actions
11.27(17A) No factual dispute contested cases
11.28(17A) Emergency adjudicative proceedings
11.29(17A) Appeal
11.30(272C) Publication of decisions
11.31(272C) Reinstatement
11.32(17A,272C) License denial

CHAPTER 12
INFORMAL SETTLEMENT

12.1(17A,272C) Informal settlement

CHAPTER 13
DISCIPLINE

13.1(272C) Method of discipline
13.2(272C) Discretion of board
13.3(272C) Conduct of persons attending meetings

CHAPTERS 14 and 15
Reserved

CHAPTER 16
IMPAIRED PRACTITIONER REVIEW COMMITTEE

16.1(272C) Definitions
16.2(272C) Purpose
16.3(272C) Composition of the committee
16.4(272C) Organization of the committee
16.5(272) Eligibility
16.6(272C) Meetings
16.7(272C) Terms of participation
16.8(272C) Noncompliance
16.9(272C) Practice restrictions
16.10(272C) Limitations
16.11(272C) Confidentiality
CHAPTER 17
MATERIALS FOR BOARD REVIEW
17.1(147) Materials for board review

CHAPTER 18
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES
18.1(17A,147,272C) Definitions
18.2(17A,147,272C) Scope of chapter
18.3(17A,147,272C) Applicability of chapter
18.4(17A,147,272C) Criteria for waiver or variance
18.5(17A,147,272C) Filing of petition
18.6(17A,147,272C) Content of petition
18.7(17A,147,272C) Additional information
18.8(17A,147,272C) Notice
18.9(17A,147,272C) Hearing procedures
18.10(17A,147,272C) Ruling
18.11(17A,147,272C) Public availability
18.12(17A,147,272C) Summary reports
18.13(17A,147,272C) Cancellation of a waiver
18.14(17A,147,272C) Violations
18.15(17A,147,272C) Defense
18.16(17A,147,272C) Judicial review

CHAPTERS 19 and 20
Reserved

BARBERS

CHAPTER 21
LICENSURE
21.1(158) Definitions
21.2(158) Requirements for licensure
21.3(158) Examination requirements for barbers and barber instructors
21.4 Reserved
21.5(158) Licensure by endorsement
21.6 Reserved
21.7(158) Temporary permits to practice barbering
21.8(158) Demonstrator’s permit
21.9(158) License renewal
21.10 Reserved
21.11(158) Requirements for a barbershop license
21.12(158) Barbershop license renewal
21.13 to 21.15 Reserved
21.16(17A,147,272C) License reactivation
21.17(17A,147,272C) Reactivation of a barbershop license
21.18(17A,147,272C) License reinstatement

CHAPTER 22
SANITATION
22.1(158) Definitions
22.2(158) Posting of sanitation rules and inspection report
22.3(147) Display of licenses
22.4(158) Responsibilities of barbershop owner and supervisor
22.5(158) Building standards
22.6(158) Barbershops in residential buildings
22.7(158) Barbershops adjacent to other businesses
22.8(142D,158) Smoking
22.9(158) Personal cleanliness
22.10(158) Universal precautions
22.11(158) Minimum equipment and supplies
22.12(158) Disinfecting nonelectrical instruments and equipment
22.13(158) Disinfecting electrical instruments
22.14(158) Instruments and supplies that cannot be disinfected
22.15(158) Semisolids, dusters, and styptics
22.16(158) Disposal of materials
22.17(158) Prohibited hazardous substances and use of products
22.18(158) Proper protection of neck
22.19(158) Proper laundering and storage
22.20(158) Pets
22.21(158) Records

CHAPTER 23
BARBER SCHOOLS
23.1(158) Definitions
23.2(158) Licensing for barber schools
23.3(158) School license renewal
23.4(272C) Inactive school license
23.5 Reserved
23.6(158) Physical requirements for barber schools
23.7(158) Minimum equipment requirements
23.8(158) Course of study requirements
23.9(158) Instructors
23.10(158) Students
23.11(158) Attendance requirements
23.12(158) Graduate of a barber school
23.13(147) Records requirements
23.14(158) Public notice
23.15(158) Apprenticeship
23.16(158) Mentoring program

CHAPTER 24
CONTINUING EDUCATION FOR BARBERS
24.1(158) Definitions
24.2(158) Continuing education requirements
24.3(158,272C) Standards

CHAPTER 25
DISCIPLINE FOR BARBERS, BARBER INSTRUCTORS, BARBERSHOPS AND BARBER SCHOOLS
25.1(158) Definitions
25.2(272C) Grounds for discipline
25.3(158,272C) Method of discipline
25.4(272C) Discretion of board

CHAPTERS 26 to 30
Reserved
CHAPTER 31
LICENSURE OF MARITAL AND FAMILY THERAPISTS
AND MENTAL HEALTH COUNSELORS

31.1(154D) Definitions
31.2(154D) Requirements for permanent and temporary licensure
31.3(154D) Examination requirements
31.4(154D) Educational qualifications for marital and family therapists
31.5(154D) Clinical experience requirements for marital and family therapists
31.6(154D) Educational qualifications for mental health counselors
31.7(154D) Clinical experience requirements for mental health counselors
31.8(154D) Licensure by endorsement
31.9 Reserved
31.10(147) License renewal
31.11 Reserved
31.12(147) Licensee record keeping
31.13 to 31.15 Reserved
31.16(17A,147,272C) License reactivation
31.17(17A,147,272C) License reinstatement
31.18(154D) Marital and family therapy and mental health counselor services subject to regulation

CHAPTER 32
CONTINUING EDUCATION FOR MARITAL AND
FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

32.1(272C) Definitions
32.2(272C) Continuing education requirements
32.3(154D,272C) Standards

CHAPTER 33
DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS
AND MENTAL HEALTH COUNSELORS

33.1(154D) Definitions
33.2(154D,272C) Grounds for discipline
33.3(147,272C) Method of discipline
33.4(272C) Discretion of board

CHAPTERS 34 to 40
Reserved

CHIROPRACTIC

CHAPTER 41
LICENSURE OF CHIROPRACTIC PHYSICIANS

41.1(151) Definitions
41.2(151) Requirements for licensure
41.3(151) Examination requirements
41.4(151) Educational qualifications
41.5(151) Temporary certificate
41.6(151) Licensure by endorsement
41.7 Reserved
41.8(151) License renewal
41.9 to 41.13 Reserved
41.14(17A,147,272C)  License reactivation
41.15(17A,147,272C)  License reinstatement

CHAPTER 42
COLLEGES FOR CHIROPRACTIC PHYSICIANS
42.1(151)  Definitions
42.2(151)  Board-approved chiropractic colleges
42.3(151)  Practice by chiropractic interns and chiropractic residents
42.4(151)  Approved chiropractic preceptorship program
42.5(151)  Approved chiropractic physician preceptors
42.6(151)  Termination of preceptorship

CHAPTER 43
PRACTICE OF CHIROPRACTIC PHYSICIANS
43.1(151)  Definitions
43.2(147,272C)  Principles of chiropractic ethics
43.3(514F)  Utilization and cost control review
43.4(151)  Chiropractic insurance consultant
43.5(151)  Acupuncture
43.6  Reserved
43.7(151)  Adjunctive procedures
43.8(151)  Physical examination
43.9(151)  Gonad shielding
43.10(151)  Record keeping
43.11(151)  Billing procedures
43.12(151)  Chiropractic assistants

CHAPTER 44
CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS
44.1(151)  Definitions
44.2(272C)  Continuing education requirements
44.3(151,272C)  Standards

CHAPTER 45
DISCIPLINE FOR CHIROPRACTIC PHYSICIANS
45.1(151)  Definitions
45.2(151,272C)  Grounds for discipline
45.3(147,272C)  Method of discipline
45.4(272C)  Discretion of board

CHAPTERS 46 to 59
Reserved

COSMETOLOGISTS

CHAPTER 60
LICENSURE OF COSMETOLOGISTS, ELECTROLOGISTS, ESTHETICIANS, MANICURISTS, NAIL TECHNOLOGISTS, AND INSTRUCTORS OF COSMETOLOGY ARTS AND SCIENCES
60.1(157)  Definitions
60.2(157)  Requirements for licensure
60.3(157)  Criteria for licensure in specific practice disciplines
60.4(157)  Practice-specific training requirements
60.5(157)  Licensure restrictions relating to practice
60.6(157) Consent form requirements
60.7(157) Licensure by endorsement
60.8(157) License renewal
60.9(157) Temporary permits
60.10 to 60.16 Reserved
60.17(17A,147,272C) License reactivation
60.18(17A,147,272C) License reinstatement

CHAPTER 61
LICENSURE OF SALONS AND SCHOOLS
OF COSMETOLOGY ARTS AND SCIENCES

61.1(157) Definitions
61.2(157) Salon licensing
61.3(157) Salon license renewal
61.4(272C) Inactive salon license
61.5(157) Display requirements for salons
61.6(147) Duplicate certificate or wallet card for salons
61.7(157) Licensure for schools of cosmetology arts and sciences
61.8(157) School license renewal
61.9(272C) Inactive school license
61.10(157) Display requirements for schools
61.11 Reserved
61.12(157) Physical requirements for schools of cosmetology arts and sciences
61.13(157) Minimum equipment requirements
61.14(157) Course of study requirements
61.15(157) Instructors
61.16(157) Student instructors
61.17(157) Students
61.18(157) Attendance requirements
61.19(157) Accelerated learning
61.20(157) Mentoring program
61.21(157) Graduate of a school of cosmetology arts and sciences
61.22(157) Records requirements
61.23(157) Classrooms used for other educational purposes
61.24(157) Public notice

CHAPTER 62
Reserved

CHAPTER 63
SANITATION FOR SALONS AND SCHOOLS OF COSMETOLOGY ARTS AND SCIENCES

63.1(157) Definitions
63.2(157) Posting of sanitation rules and inspection report
63.3(157) Responsibilities of salon owners
63.4(157) Responsibilities of licensees
63.5(157) Joint responsibility
63.6(157) Building standards
63.7(157) Salons in residential buildings
63.8(157) Salons adjacent to other businesses
63.9(157) Smoking
63.10(157) Personal cleanliness
63.11(157) Universal precautions
63.12(157) Blood spill procedures
63.13(157) Disinfecting instruments and equipment
63.14(157) Instruments and supplies that cannot be disinfected
63.15(157) Sterilizing instruments
63.16(157) Sanitary methods for creams, cosmetics and applicators
63.17 Reserved
63.18(157) Prohibited hazardous substances and use of products and equipment
63.19(157) Proper protection of neck
63.20(157) Proper laundering and storage
63.21(157) Pets
63.22(157) General maintenance
63.23(157) Records
63.24(157) Salons and schools providing electrology or esthetics
63.25(157) Cleaning and disinfecting circulating and noncirculating tubs, bowls, and spas
63.26(157) Paraffin wax

CHAPTER 64
CONTINUING EDUCATION FOR COSMETOLOGY ARTS AND SCIENCES
64.1(157) Definitions
64.2(157) Continuing education requirements
64.3(157,272C) Standards

CHAPTER 65
DISCIPLINE FOR COSMETOLOGY ARTS AND SCIENCES LICENSEES, INSTRUCTORS, SALONS, AND SCHOOLS
65.1(157,272C) Definitions
65.2(157,272C) Grounds for discipline
65.3(157,272C) Method of discipline
65.4(272C) Discretion of board
65.5(157) Civil penalties against nonlicensees

CHAPTERS 66 to 80
Reserved

DIETITIANS

CHAPTER 81
LICENSEURE OF DIETITIANS
81.1(152A) Definitions
81.2(152A) Nutrition care
81.3 Reserved
81.4(152A) Requirements for licensure
81.5(152A) Educational qualifications
81.6(152A) Supervised experience
81.7(152A) Licensure by endorsement
81.8 Reserved
81.9(152A) License renewal
81.10 to 81.14 Reserved
81.15(17A,147,272C) License reactivation
81.16(17A,147,272C) License reinstatement
CHAPTER 82
CONTINUING EDUCATION FOR DIETITIANS
82.1(152A) Definitions
82.2(152A) Continuing education requirements
82.3(152A,272C) Standards

CHAPTER 83
DISCIPLINE FOR DIETITIANS
83.1(152A) Definitions
83.2(152A,272C) Grounds for discipline
83.3(152A,272C) Method of discipline
83.4(272C) Discretion of board

CHAPTERS 84 to 99
Reserved

FUNERAL DIRECTORS

CHAPTER 100
PRACTICE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS,
AND CREMATION ESTABLISHMENTS
100.1(156) Definitions
100.2(156) Funeral director duties
100.3(156) Permanent identification tag
100.4(142,156) Removal and transfer of dead human remains and fetuses
100.5(135,144) Burial transit permits
100.6(156) Preparation and embalming activities
100.7(156) Arranging and directing funeral and memorial ceremonies
100.8(142,156) Unclaimed dead human remains for scientific use
100.9(144) Disinterments
100.10(156) Cremation of human remains and fetuses
100.11(156) Records to be retained by a funeral establishment

CHAPTER 101
LICENSURE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS,
AND CREMATION ESTABLISHMENTS
101.1(156) Definitions
101.2(156) Requirements for licensure
101.3(156) Educational qualifications
101.4(156) Examination requirements
101.5(147,156) Internship and preceptorship
101.6(156) Student practicum
101.7(156) Funeral establishment license or cremation establishment license or both
establishment licenses
101.8(156) Licensure by endorsement
101.9 Reserved
101.10(156) License renewal
101.11 and 101.12 Reserved
101.13(272C) Renewal of a funeral establishment license or cremation establishment license
or both establishment licenses
101.14(272C) Inactive funeral establishment license or cremation establishment license or both
establishment licenses
101.15(17A,147,272C) License reinstatement
101.16 and 101.17 Reserved
101.18(17A,147,272C) License reactivation
101.19(17A,147,272C) License reinstatement

CHAPTER 102
CONTINUING EDUCATION FOR FUNERAL DIRECTORS
102.1(272C) Definitions
102.2(272C) Continuing education requirements
102.3(156,272C) Standards
102.4 Reserved
102.5(83GA, SF2325) Automatic exemption

CHAPTER 103
DISCIPLINARY PROCEEDINGS
103.1(156) Definitions
103.2(17A,147,156,272C) Disciplinary authority
103.3(17A,147,156,272C) Grounds for discipline against funeral directors
103.4(17A,147,156,272C) Grounds for discipline against funeral establishments and cremation establishments
103.5(17A,147,156,272C) Method of discipline
103.6(17A,147,156,272C) Board discretion in imposing disciplinary sanctions
103.7(156) Order for mental, physical, or clinical competency examination or alcohol or drug screening
103.8(17A,147,156,272C) Informal discussion

CHAPTER 104
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES
104.1(156) Civil penalties against nonlicensees
104.2(156) Unlawful practices
104.3(156) Investigations
104.4(156) Subpoenas
104.5(156) Notice of intent to impose civil penalties
104.6(156) Requests for hearings
104.7(156) Factors to consider
104.8(156) Enforcement options

CHAPTERS 105 to 120
Reserved

HEARING AID DISPENSERS

CHAPTER 121
LICENSURE OF HEARING AID DISPENSERS
121.1(154A) Definitions
121.2(154A) Temporary permits
121.3(154A) Supervision requirements
121.4(154A) Requirements for initial licensure
121.5(154A) Examination requirements
121.6(154A) Licensure by endorsement
121.7 Reserved
121.8(154A) Display of license
121.9(154A) License renewal
121.10 to 121.13 Reserved
121.14(17A,147,272C) License reactivation
121.15(17A,147,272C) License reinstatement
CHAPTER 122
CONTINUING EDUCATION FOR HEARING AID DISPENSERS
122.1(154A) Definitions
122.2(154A) Continuing education requirements
122.3(154A,272C) Standards

CHAPTER 123
PRACTICE OF HEARING AID DISPENSING
123.1(154A) Definitions
123.2(154A) Requirements prior to sale of a hearing aid
123.3(154A) Requirements for sales receipt
123.4(154A) Requirements for record keeping

CHAPTER 124
DISCIPLINE FOR HEARING AID DISPENSERS
124.1(154A,272C) Definitions
124.2(154A,272C) Grounds for discipline
124.3(154A,272C) Method of discipline
124.4(272C) Discretion of board

CHAPTERS 125 to 130
Reserved

MASSAGE THERAPISTS

CHAPTER 131
LICENSURE OF MASSAGE THERAPISTS
131.1(152C) Definitions
131.2(152C) Requirements for licensure
131.3(152C) Educational qualifications
131.4(152C) Examination requirements
131.5(152C) Temporary licensure of a licensee from another state
131.6(152C) Licensure by endorsement
131.7 Reserved
131.8(152C) License renewal
131.9 to 131.13 Reserved
131.14(17A,147,272) License reactivation
131.15(17A,147,272C) License reinstatement

CHAPTER 132
MASSAGE THERAPY EDUCATION CURRICULUM
132.1(152C) Definitions
132.2(152C) Application for approval of massage therapy education curriculum
132.3(152C) Curriculum requirements
132.4(152C) Student clinical practicum standards
132.5(152C) School certificate or diploma
132.6(152C) School records retention
132.7(152C) Massage school curriculum compliance
132.8(152C) Denial or withdrawal of approval
CHAPTER 133
CONTINUING EDUCATION FOR MASSAGE THERAPISTS
133.1(152C) Definitions
133.2(152C) Continuing education requirements
133.3(152C,272C) Continuing education criteria

CHAPTER 134
DISCIPLINE FOR MASSAGE THERAPISTS
134.1(152C) Definitions
134.2(152C,272C) Grounds for discipline
134.3(147,272C) Method of discipline
134.4(272C) Discretion of board
134.5(152C) Civil penalties

CHAPTERS 135 to 140
Reserved

NURSING HOME ADMINISTRATORS

CHAPTER 141
LICENSURE OF NURSING HOME ADMINISTRATORS
141.1(155) Definitions
141.2(155) Requirements for licensure
141.3(147,155) Examination requirements
141.4(155) Educational qualifications
141.5(155) Practicum experience
141.6(155) Provisional license
141.7(155) Licensure by endorsement
141.8(147,155) Licensure by reciprocal agreement
141.9(147,155) License renewal
141.10 to 141.14 Reserved
141.15(17A,147,272C) License reactivation
141.16(17A,147,272C) License reinstatement

CHAPTER 142
Reserved

CHAPTER 143
CONTINUING EDUCATION FOR NURSING HOME ADMINISTRATION
143.1(272C) Definitions
143.2(272C) Continuing education requirements
143.3(155,272C) Standards
143.4(155,272C) Audit of continuing education report
143.5(155,272C) Automatic exemption
143.6(272C) Continuing education exemption for disability or illness
143.7(155,272C) Grounds for disciplinary action

CHAPTER 144
DISCIPLINE FOR NURSING HOME ADMINISTRATORS
144.1(155) Definitions
144.2(155,272C) Grounds for discipline
144.3(155,272C) Method of discipline
144.4(272C) Discretion of board
144.5(155) Order for mental, physical, or clinical competency examination or alcohol or drug screening

CHAPTERS 145 to 179
Reserved

OPTOMETRISTS

CHAPTER 180
LICENSE OF OPTOMETRISTS

180.1(154) Definitions
180.2(154) Requirements for licensure
180.3(154) Licensure by endorsement
180.4 Reserved
180.5(154) License renewal
180.6 to 180.10 Reserved
180.11(17A,147,272C) License reactivation
180.12(17A,147,272C) License reinstatement

CHAPTER 181
CONTINUING EDUCATION FOR OPTOMETRISTS

181.1(154) Definitions
181.2(154) Continuing education requirements
181.3(154,272C) Standards

CHAPTER 182
PRACTICE OF OPTOMETRISTS

182.1(154) Code of ethics
182.2(154,272C) Record keeping
182.3(154) Furnishing prescriptions
182.4(155A) Prescription drug orders

CHAPTER 183
DISCIPLINE FOR OPTOMETRISTS

183.1(154) Definitions
183.2(154,272C) Grounds for discipline
183.3(147,272C) Method of discipline
183.4(272C) Discretion of board

CHAPTERS 184 to 199
Reserved

PHYSICAL AND OCCUPATIONAL THERAPISTS

CHAPTER 200
LICENSE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

200.1(147) Definitions
200.2(147) Requirements for licensure
200.3 Reserved
200.4(147) Examination requirements for physical therapists and physical therapist assistants
200.5(147) Educational qualifications
200.6(272C) Supervision requirements
200.7(147) Licensure by endorsement
200.8 Reserved
200.9(147) License renewal
200.10 to 200.14 Reserved
200.15(17A,147,272C) License reactivation
200.16(17A,147,272C) License reinstatement

CHAPTER 201
PRACTICE OF PHYSICAL THERAPISTS
AND PHYSICAL THERAPIST ASSISTANTS
201.1(148A,272C) Code of ethics for physical therapists and physical therapist assistants
201.2(147) Record keeping

CHAPTER 202
DISCIPLINE FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS
202.1(148A) Definitions
202.2(272C) Grounds for discipline
202.3(147,272C) Method of discipline
202.4(272C) Discretion of board

CHAPTER 203
CONTINUING EDUCATION FOR PHYSICAL THERAPISTS
AND PHYSICAL THERAPIST ASSISTANTS
203.1(272C) Definitions
203.2(148A) Continuing education requirements
203.3(148A,272C) Standards

CHAPTERS 204 and 205
Reserved

CHAPTER 206
LICENSURE OF OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS
206.1(147) Definitions
206.2(147) Requirements for licensure
206.3(147) Limited permit to practice pending licensure
206.4(147) Applicant occupational therapist and occupational therapy assistant
206.5(147) Practice of occupational therapy limited permit holders and endorsement applicants
prior to licensure
206.6(147) Examination requirements
206.7(147) Educational qualifications
206.8(148B) Supervision requirements
206.9(147) Licensure by endorsement
206.10(147) License renewal
206.11(17A,147,272C) License reactivation
206.12(17A,147,272C) License reinstatement

CHAPTER 207
CONTINUING EDUCATION FOR OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS
207.1(148B) Definitions
207.2(272C) Continuing education requirements
207.3(148B,272C) Standards
CHAPTER 208
PRACTICE OF OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS
208.1(148B,272C) Code of ethics for occupational therapists and occupational therapy assistants
208.2(147) Record keeping

CHAPTER 209
DISCIPLINE FOR OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS
209.1(148B) Definitions
209.2(272C) Grounds for discipline
209.3(147,272C) Method of discipline
209.4(272C) Discretion of board

CHAPTERS 210 to 219
Reserved

PODIATRISTS

CHAPTER 220
LICENSURE OF PODIATRISTS
220.1(149) Definitions
220.2(149) Requirements for licensure
220.3(149) Written examinations
220.4(149) Educational qualifications
220.5(149) Title designations
220.6(147,149) Temporary license
220.7(149) Licensure by endorsement
220.8 Reserved
220.9(149) License renewal
220.10 to 220.14 Reserved
220.15(17A,147,272C) License reactivation
220.16(17A,147,272C) License reinstatement

CHAPTER 221
LICENSURE OF ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS
221.1(148F) Definitions
221.2(148F) Transition period
221.3(148F) Requirements for licensure
221.4(148F) Written examinations
221.5(148F) Educational qualifications
221.6(148F) Licensure by endorsement
221.7(148F) License renewal
221.8(17A,147,272C) License reactivation
221.9(17A,147,272C) License reinstatement

CHAPTER 222
CONTINUING EDUCATION FOR PODIATRISTS
222.1(149,272C) Definitions
222.2(149,272C) Continuing education requirements
222.3(149,272C) Standards
CHAPTER 223
PRACTICE OF PODIATRY

223.1(149) Definitions
223.2(149) Requirements for administering conscious sedation
223.3(139A) Preventing HIV and HBV transmission
223.4(149) Unlicensed graduate of a podiatric college

CHAPTER 224
DISCIPLINE FOR PODIATRISTS, ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

224.1(148F,149) Definitions
224.2(148F,149,272C) Grounds for discipline
224.3(147,272C) Method of discipline
224.4(272C) Discretion of board
224.5 Reserved
224.6(148F,149,272C) Indiscriminately prescribing, administering or dispensing any drug for other than a lawful purpose

CHAPTER 225
CONTINUING EDUCATION FOR ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

225.1(148F) Definitions
225.2(148F,272C) Continuing education requirements
225.3(148F,272C) Standards
225.4(148F,272C) Audit of continuing education report

CHAPTERS 226 to 239
Reserved

PSYCHOLOGISTS

CHAPTER 240
LICENSURE OF PSYCHOLOGISTS

240.1(154B) Definitions
240.2(154B) Requirements for licensure
240.3(154B) Educational qualifications
240.4(154B) Examination requirements
240.5(154B) Title designations
240.6(154B) Supervised professional experience
240.7(154B) Certified health service provider in psychology
240.8(154B) Exemption to licensure
240.9(154B) Psychologists’ supervision of unlicensed persons in a practice setting
240.10(147) Licensure by endorsement
240.11(147) Licensure by reciprocal agreement
240.12(147) License renewal
240.13 to 240.17 Reserved
240.18(17A,147,272C) License reactivation
240.19(17A,147,272C) License reinstatement

CHAPTER 241
CONTINUING EDUCATION FOR PSYCHOLOGISTS

241.1(272C) Definitions
241.2(272C) Continuing education requirements
241.3(154B,272C) Standards
CHAPTER 242
DISCIPLINE FOR PSYCHOLOGISTS

242.1(154B) Definitions
242.2(147,272C) Grounds for discipline
242.3(147,272C) Method of discipline
242.4(272C) Discretion of board

CHAPTERS 243 to 260
Reserved

RESPIRATORY CARE PRACTITIONERS

CHAPTER 261
LICENSURE OF RESPIRATORY CARE PRACTITIONERS

261.1(152B) Definitions
261.2(152B) Requirements for licensure
261.3(152B) Educational qualifications
261.4(152B) Examination requirements
261.5(152B) Students
261.6(152B) Licensure by endorsement
261.7 Reserved
261.8(152B) License renewal
261.9 to 261.13 Reserved
261.14(17A,147,272C) License reactivation
261.15(17A,147,272C) License reinstatement

CHAPTER 262
CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS

262.1(152B,272C) Definitions
262.2(152B,272C) Continuing education requirements
262.3(152B,272C) Standards
262.4 Reserved
262.5(152B,272C) Automatic exemption
262.6(152B,272C) Grounds for disciplinary action
262.7(152B,272C) Continuing education exemption for disability or illness

CHAPTER 263
DISCIPLINE FOR RESPIRATORY CARE PRACTITIONERS

263.1(152B) Definitions
263.2(152B,272C) Grounds for discipline
263.3(147,272C) Method of discipline
263.4(272C) Discretion of board

CHAPTER 264
Reserved

CHAPTER 265
PRACTICE OF RESPIRATORY CARE PRACTITIONERS

265.1(152B,272C) Code of ethics
265.2(152B,272C) Intravenous administration
265.3 Reserved
265.4(152B,272C) Setup and delivery of respiratory care equipment
265.5(152B,272C) Respiratory care as a practice
CHAPTERS 266 to 279
Reserved

SOCIAL WORKERS

CHAPTER 280
LICENSURE OF SOCIAL WORKERS

280.1(154C) Definitions
280.2(154C) Social work services subject to regulation
280.3(154C) Requirements for licensure
280.4(154C) Written examination
280.5(154C) Educational qualifications
280.6(154C) Supervised professional practice for the LISW
280.7(154C) Licensure by endorsement
280.8 Reserved
280.9(154C) License renewal
280.10 to 280.13 Reserved
280.14(17A,147,272C) License reactivation
280.15(17A,147,272C) License reinstatement

CHAPTER 281
CONTINUING EDUCATION FOR SOCIAL WORKERS

281.1(154C) Definitions
281.2(154C) Continuing education requirements
281.3(154C,272C) Standards

CHAPTER 282
PRACTICE OF SOCIAL WORKERS

282.1(154C) Definitions
282.2(154C) Rules of conduct

CHAPTER 283
DISCIPLINE FOR SOCIAL WORKERS

283.1(154B) Definitions
283.2(272C) Grounds for discipline
283.3(147,272C) Method of discipline
283.4(272C) Discretion of board

CHAPTERS 284 to 299
Reserved

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

CHAPTER 300
LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

300.1(147) Definitions
300.2(147) Speech pathology and audiology services subject to regulation
300.3(147) Requirements for licensure
300.4(147) Educational qualifications
300.5(147) Examination requirements
300.6(147) Temporary clinical license
300.7(147) Temporary permit
300.8(147) Use of assistants
300.9(147) Licensure by endorsement
300.10 Reserved
300.11(147) License renewal
300.12(17A,147,272C) Board meetings
300.13 to 300.16 Reserved
300.17(17A,147,272C) License reactivation
300.18(17A,147,272C) License reinstatement

CHAPTERS 301 and 302
Reserved

CHAPTER 303
CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS
303.1(147) Definitions
303.2(147) Continuing education requirements
303.3(147,272C) Standards

CHAPTER 304
DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS
304.1(147) Definitions
304.2(272C) Grounds for discipline
304.3(272C) Method of discipline
304.4(272C) Discretion of board

CHAPTERS 305 to 325
Reserved

PHYSICIAN ASSISTANTS

CHAPTER 326
LICENSURE OF PHYSICIAN ASSISTANTS
326.1(148C) Definitions
326.2(148C) Requirements for licensure
326.3(148C) Temporary licensure
326.4(148C) Licensure by endorsement
326.5 Reserved
326.6(148C) Examination requirements
326.7(148C) Educational qualifications
326.8(148C) Supervision requirements
326.9(148C) License renewal
326.10 to 326.14 Reserved
326.15(148C) Use of title
326.16(148C) Address change
326.17(148C) Student physician assistant
326.18(148C) Recognition of an approved program
326.19(17A,147,272C) License reactivation
326.20(17A,147,272C) License reinstatement

CHAPTER 327
PRACTICE OF PHYSICIAN ASSISTANTS
327.1(148C) Duties
327.2(148C) Prohibition
327.3 Reserved
327.4(148C) Remote medical site
327.5(147) Identification as a physician assistant
327.6(147) Prescription requirements
327.7(147) Supplying—requirements for containers, labeling, and records

CHAPTER 328
CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS

328.1(148C) Definitions
328.2(148C) Continuing education requirements
328.3(148C,272C) Standards

CHAPTER 329
DISCIPLINE FOR PHYSICIAN ASSISTANTS

329.1(148C) Definitions
329.2(148C,272C) Grounds for discipline
329.3(147,272C) Method of discipline
329.4(272C) Discretion of board

CHAPTERS 330 to 350
Reserved

ATHLETIC TRAINERS

CHAPTER 351
LICENSEURE OF ATHLETIC TRAINERS

351.1(152D) Definitions
351.2(152D) Requirements for licensure
351.3(152D) Educational qualifications
351.4(152D) Examination requirements
351.5(152D) Documentation of physician direction
351.6(152D) Athletic training plan for direct service
351.7(152D) Licensure by endorsement
351.8 Reserved
351.9(147) License renewal
351.10(272C) Exemptions for inactive practitioners
351.11 and 351.12 Reserved
351.13(272C) Lapsed licenses
351.14 Reserved
351.15(17A,147,272C) License reactivation
351.16(17A,147,272C) License reinstatement

CHAPTER 352
CONTINUING EDUCATION FOR ATHLETIC TRAINERS

352.1(272C) Definitions
352.2(152D) Continuing education requirements
352.3(152D,272C) Standards
352.4(152D,272C) Audit of continuing education report
352.5 and 352.6 Reserved
352.7(152D,272C) Continuing education waiver for active practitioners
352.8(152D,272C) Continuing education exemption for inactive practitioners
352.9 Reserved
352.10(152D,272C) Reinstatement of inactive practitioners
352.11(272C) Hearings
CHAPTER 353
DISCIPLINE FOR ATHLETIC TRAINERS
353.1(152D) Definitions
353.2(152D,272C) Grounds for discipline
353.3(152D,272C) Method of discipline
353.4(272C) Discretion of board

CHAPTERS 354 to 360
Reserved

SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361
LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
361.1(154E) Definitions
361.2(154E) Requirements for licensure
361.3(154E) Licensure by endorsement
361.4 Reserved
361.5(154E) License renewal
361.6 to 361.8 Reserved
361.9(17A,147,272C) License reactivation
361.10(17A,147,272C) License reinstatement

CHAPTER 362
CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
362.1(154E,272C) Definitions
362.2(154E,272C) Continuing education requirements
362.3(154E,272C) Standards

CHAPTER 363
DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
363.1(154E) Definitions
363.2(154E,272C) Grounds for discipline
363.3(147,272C) Method of discipline
363.4(272C) Discretion of board
CHAPTER 21  LICENSURE

[Prior to 7/29/87, Health Department[470] Ch 152]
[Prior to 2/20/02, see 645—Chapter 20]

645—21.1(158) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“Board” means the board of barbering.

“Examination” means any of the tests used by the board to determine minimum competency prior to the issuance of a barber or barber instructor license.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

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

“License expiration date” means June 30 of even-numbered years.

“Licensure by endorsement” means the issuance of an Iowa license to practice as a barber to an applicant who is or has been licensed in another state.

“NIC” means the National-Interstate Council of State Boards of Cosmetology, Inc.

“Reactivate” or “reactivation” means the process as outlined in rule 645—21.16(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice barbering to an applicant who is currently licensed in another state and which state has a mutual agreement to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Testing service” means a national testing service selected by the board.

[ARC 8349B, IAB 12/2/09, effective 1/6/10]

645—21.2(158) Requirements for licensure.

21.2(1) The following criteria shall apply to licensure:

a. Applicants shall complete a board-approved application form. Application forms may be obtained from the board’s Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. The application and licensure fees shall be sent to the Board of Barbering, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. Applicants shall present proof of completion of the tenth grade or equivalent education. In the event the applicant is a refugee or immigrant from a country where high school records no longer exist, the applicant shall be considered to have met this requirement when the applicant submits an affidavit attesting to the fact that the applicant has met the tenth-grade requirement.
c. Applicants shall provide an official copy of the transcript or diploma sent directly from the school to the board showing proof of completion of training at a barber school licensed by the board. If the applicant graduated from a school that is not licensed by the board, the applicant shall direct the school to provide an official transcript showing completion of a course of study that meets the requirements of rule 645—23.8(158).

d. Applicants shall pass both the NIC theory examination and the NIC practical examination with a score of 70 percent or better on each examination.

e. An applicant shall provide verification of license(s) from every state in which the applicant has been licensed as a barber, sent directly from the state(s) to the Iowa board of barbering office.

f. Applications for a barber license must be received in the board office a minimum of five business days prior to the NIC practical examination.

g. Licensees who were issued their licenses within six months prior to renewal shall not be required to renew their licenses until the renewal month two years later.

h. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

21.2(2) Foreign-trained barbers shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or World Education Services (WES) at (212)966-6311, electronically at www.wes.org or by writing to WES, P.O. Box 745, Old Chelsea Station, New York, NY 10113-0745. The professional curriculum must be equivalent to that stated in these rules. An applicant shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a barber school in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

21.2(3) Requirements for an instructor’s license. Applicants shall:

a. Complete all requirements stated in subrule 21.2(1), paragraphs “a” and “d”;

b. Present proof of graduation from an accredited high school or the equivalent thereof;

c. Be licensed in the state of Iowa as a barber for not less than two years; and

d. Pass both the NIC instructor theory examination and the NIC instructor practical examination with a score of 70 percent or better on each examination.

21.2(4) Instructors who were issued their licenses within six months prior to renewal shall not be required to renew their licenses until the renewal month two years later.

21.2(5) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

21.2(6) An applicant who meets the requirements for an instructor’s license except for the instructor examinations may apply for a temporary permit to be an instructor. The temporary permit shall be valid for a maximum of six months from the issue date of the permit and shall not be renewable.

[ARC 7578B, IAB 2/25/09, effective 4/1/09; ARC 8349B, IAB 12/2/09, effective 1/6/10]

645—21.3(158) Examination requirements for barbers and barber instructors.

21.3(1) Theory examination. Applicants shall contact the testing service directly to schedule the computer-based NIC theory examination. The fee for scheduling the written theory examination shall be paid directly to the testing service. This fee is not included in the licensure fee and practical examination fee identified in 645—subrules 5.2(1) and 5.2(4).
21.3(2) Practical examination. Applicants who have completed the application process and passed the NIC theory examination with a score of 70 percent or better shall be eligible to sit for the NIC practical examination administered by the board.

   a. Application, supporting documentation, and licensure and practical examination fees required by the board shall be received in the board office at least five days prior to the scheduled NIC practical examination date.

   b. The board shall send a notice of the date and time of the practical examination to the address on record.

   c. Applicants are required to receive a passing score of 70 percent on the practical examination to be eligible for licensure.

   d. Applicants shall be notified in writing of the result of the practical examination.

   e. Applicants who fail to appear for the practical examination must request in writing or by telephone to reschedule the examination. Examination fees are not refundable, but the rescheduled examination fee may be waived upon the applicant’s showing of good cause for missing the previously scheduled examination. Proof of good cause shall be submitted to the board office with the request to reschedule the examination. The applicant shall be required to pay the reexamination fee if the applicant does not appear for the subsequent examination.

   f. Persons who do not attain the passing score may reapply to take the practical examination. The examination fee cannot be refunded, and the applicant shall be required to pay the reexamination fee.

   [ARC 7578B, IAB 2/25/09, effective 4/1/09; ARC 8349B, IAB 12/2/09, effective 1/6/10]


645—21.5(158) Licensure by endorsement. The board may issue a license by endorsement to any applicant from the District of Columbia or another state, territory, province or foreign country who has held an active license under the laws of another jurisdiction for at least 12 months during the past 24 months and who:

   21.5(1) Submits to the board a completed application and pays the licensure fee specified in 645—subrule 5.2(1).

   21.5(2) Provides verification of license(s) from every state in which the applicant has been licensed as a barber, sent directly from the state(s) to the Iowa board of barbering office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

   a. Licensee’s name;
   b. Date of initial licensure;
   c. Current licensure status; and
   d. Any disciplinary action taken against the license.

   21.5(3) Beginning August 1, 2010, completes one hour of Iowa barbering laws and administrative rules and sanitation.

   21.5(4) Passes a national written and practical examination.

   [ARC 7578B, IAB 2/25/09, effective 4/1/09; ARC 8349B, IAB 12/2/09, effective 1/6/10]

645—21.6(158) Licensure by reciprocal agreement. Rescinded IAB 2/25/09, effective 4/1/09.

645—21.7(158) Temporary permits to practice barbering. An applicant must meet the following requirements:

   1. The applicant is applying for initial licensure and is not licensed in another state.
   2. The applicant has met the requirements for licensure except for passing the examinations required by the board. The temporary permit is valid from the date the application is approved for a maximum of six months and shall not be renewable.

   [ARC 8349B, IAB 12/2/09, effective 1/6/10]
645—21.8(158) Demonstrator’s permit. The board may issue a demonstrator’s permit to a licensed barber for the purpose of demonstrating barbering to the public. The following criteria apply to the demonstrator’s permit:

1. A demonstrator’s permit shall be valid for a barbershop, person or an event. The location, purpose and duration shall be stated on the permit.
2. A demonstrator’s permit shall be valid for no more than 10 days.
3. A completed application shall be submitted on a form provided by the board at least 30 days in advance of the intended use dates.
4. An application fee shall be submitted as set forth in these rules.
5. No more than four permits shall be issued to any applicant during a calendar year.

645—21.9(158) License renewal.

21.9(1) The biennial license renewal period for a license to practice barbering shall begin on July 1 of each even-numbered year and end on June 30 of each even-numbered year. All licensees shall renew on a biennial basis. 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.

21.9(2) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—24.2(158). 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
b. Submit the completed renewal application and renewal fee before the license expiration date.

c. Persons licensed to practice as barbers shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

d. Individuals who were issued a license within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

21.9(3) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.2(10). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

21.9(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. 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.

21.9(5) 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 barber in Iowa until the license is reactivated. A licensee who practices as a barber 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 7578B, IAB 2/25/09, effective 4/1/09; ARC 1680C, IAB 10/15/14, effective 11/19/14]

645—21.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/17/05, effective 9/21/05.

645—21.11(158) Requirements for a barbershop license.

21.11(1) A barbershop shall not operate unless the owner of the barbershop possesses a current barbershop license issued by the board. The following criteria shall apply to licensure:

a. The owner shall complete a board-approved application form. Application forms may be obtained from the board’s Web site (http://www.idph.state.ia.us/licensure), or directly from the board office. The application and fee shall be submitted to the Board of Barbering, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.
b. The barbershop shall meet the requirements for sanitary conditions established in 645—Chapter 22.

c. A barbershop license shall be issued for a specific location. A change in location or site of a barbershop shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by 645—subrule 5.2(8). A change of address without change of actual location shall not be construed as a new site.

d. A barbershop license is not transferable. A change in ownership of a barbershop shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by 645—subrule 5.2(8).

e. A change in the name of a barbershop shall be reported to the board within 30 days of the name change.

f. Upon closure of a barbershop, the barbershop license shall be submitted to the board office within 30 days.

g. A barbershop that was issued a license within six months prior to renewal shall not be required to renew the license until the renewal month two years later.

21.11(2) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

[ARC 7578B, IAB 2/25/09, effective 4/1/09]

645—21.12(158) Barbershop license renewal.

21.12(1) The biennial license renewal period for a barbershop license shall begin on July 1 of each even-numbered year and end on June 30 of the next even-numbered year.

21.12(2) Failure to receive the renewal application from the board shall not relieve the barbershop of the obligation to pay the biennial renewal fee on or before the renewal date.

21.12(3) The completed application and renewal fee shall be submitted to the board office before the license expiration date.

21.12(4) The barbershop shall be in full compliance with this chapter and 645—Chapter 22 to be eligible for license renewal.

21.12(5) When all requirements for license renewal are met, a license wallet card will be sent by regular mail.

21.12(6) A barbershop that is issued an initial license within six months prior to the renewal date will not be required to renew the license until the next renewal two years later.

21.12(7) Barbershop license late renewal. If the renewal fee and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration shall be charged.

21.12(8) Inactive barbershop license. If the renewal application and fee are not postmarked within 30 days after the license expiration date, the barbershop license is inactive. To reactivate a barbershop license, the reactivation application and fee shall be submitted to the board office.

[ARC 7578B, IAB 2/25/09, effective 4/1/09; ARC 1680C, IAB 10/15/14, effective 11/19/14]


645—21.16(17A,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

21.16(1) Submit a reactivation application on a form provided by the board.

21.16(2) Pay the reactivation fee that is due as specified in 645—subrule 5.2(11).
21.16(3) Provide verification of current competence to practice as a barber by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) 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; and

(2) Verification of completion of eight hours of continuing education that meet the continuing education standards defined in rule 645—24.3(158,272C) within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) 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; and

(2) Verification of completion of eight hours of continuing education that meet the continuing education standards defined in rule 645—24.3(158,272C) within two years of application for reactivation; and

(3) Verification of passing the examinations required by the board within one year immediately prior to reactivation if the applicant does not have a current license and has not been in active practice in the United States during the past five years.

21.16(4) Licensees who are barber instructors shall obtain an additional four hours of continuing education in teaching methodology.

[ARC 7578B, IAB 2/25/09, effective 4/1/09; ARC 8349B, IAB 12/2/09, effective 1/6/10]

645—21.17(17A,147,272C) Reactivation of a barbershop license. To apply for reactivation of an inactive license, a licensee shall:

21.17(1) Submit a reactivation application on a form provided by the board.

21.17(2) Pay the reactivation fee that is due as specified in 645—subrule 5.2(12).

21.17(3) Meet the requirements for sanitary conditions established in 645—Chapter 22.

[ARC 7578B, IAB 2/25/09, effective 4/1/09]

645—21.18(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 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—21.16(17A,147,272C) prior to practicing as a barber in this state.

[ARC 7578B, IAB 2/25/09, effective 4/1/09]

These rules are intended to implement Iowa Code chapters 272C and 158.

[Filed 7/11/67]

[Filed 8/5/77, Notice 6/1/77—published 8/24/77, effective 10/1/77]
[Filed 4/28/78, Notice 11/30/77—published 5/17/78, effective 6/21/78]
[Filed 1/18/79, Notice 10/18/78—published 2/7/79, effective 4/1/79]
[Filed 5/5/80, Notice 2/20/80—published 5/28/80, effective 7/7/80]  
[Filed 11/4/80, Notice 9/3/80—published 11/26/80, effective 1/1/81]  
[Filed 5/22/81, Notice 2/18/81—published 6/10/81, effective 7/17/81]  
[Filed 2/12/82, Notice 12/23/81—published 3/3/82, effective 4/8/82]  
[Filed 10/6/83, Notice 8/17/83—published 10/26/83, effective 11/30/83]  
[Filed 10/6/83, Notice 8/3/83—published 10/26/83, effective 11/30/83]  
[Filed 7/27/84, Notice 5/23/84—published 8/15/84, effective 9/19/84]  
[Filed emergency 8/31/84—published 9/26/84, effective 8/31/84]  
[Filed 11/15/84, Notice 9/12/84—published 12/5/84, effective 1/9/85]  
[Filed 9/4/85, Notice 5/22/85—published 9/25/85, effective 10/30/85]  
[Filed 9/5/85, Notice 7/17/85—published 9/25/85, effective 10/30/85]  
[Filed 2/20/86, Notice 1/15/86—published 3/12/86, effective 4/16/86]  
[Filed 8/22/86, Notice 6/18/86—published 9/10/86, effective 11/5/86]  
[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]  
[Filed 11/17/88, Notice 8/24/88—published 12/14/88, effective 1/18/89]  
[Filed 8/3/90, Notice 5/30/90—published 8/22/90, effective 9/26/90]  
[Filed 11/9/90, Notice 8/22/90—published 11/28/90, effective 1/2/91]  
[Filed 8/1/91, Notice 6/12/91—published 8/21/91, effective 9/25/91]  
[Filed 11/8/91, Notice 9/4/91—published 11/27/91, effective 1/1/92]  
[Filed 7/31/92, Notice 4/15/92—published 8/19/92, effective 10/1/92]  
[ Filed 11/16/92, Notice 7/8/92—published 12/9/92, effective 1/13/93]  
[Filed 1/29/93, Notice 10/14/92—published 2/17/93, effective 4/7/93]  
[Filed 1/29/93, Notice 12/9/92—published 2/17/93, effective 4/7/93]  
[Filed 5/2/97, Notice 3/12/97—published 5/21/97, effective 6/25/97]  
[Filed 11/24/99, Notice 8/11/99—published 12/15/99, effective 1/19/00]  
[Filed 11/9/00, Notice 8/23/00—published 11/29/00, effective 1/3/01]  
[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]  
[Filed 1/30/03, Notice 11/27/02—published 2/19/03, effective 3/26/03]  
[Filed 11/6/03, Notice 8/20/03—published 11/26/03, effective 12/31/03]  
[Filed 7/26/05, Notice 5/25/05—published 8/17/05, effective 9/21/05]  
[Filed 2/1/06, Notice 11/23/05—published 3/1/06, effective 4/5/06]  
[Filed 7/26/06, Notice 5/24/06—published 8/16/06, effective 9/20/06]  
[Filed 8/1/07, Notice 5/23/07—published 8/29/07, effective 10/3/07]  
[Filed ARC 7578B (Notice ARC 7401B, IAB 12/3/08), IAB 2/25/09, effective 4/1/09]  
[Filed ARC 8349B (Notice ARC 8085B, IAB 8/26/09), IAB 12/2/09, effective 1/6/10]  
[Filed ARC 1680C (Notice ARC 1584C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]  

0 Two or more ARCs  
1 See Public Health Department[641], IAB  
2 Effective date of rule 20.10(158) delayed 70 days by the Administrative Rules Review Committee at its meeting held December 11, 1991; delayed until adjournment of the 1992 General Assembly at the Committee’s meeting held February 3, 1992.
CHAPTER 23
BARBER SCHOOLS
[Prior to 2/20/02, see 645—Chapter 20]

645—23.1(158) Definitions.

“Clinic area” means the area of the school where the paying customers will receive services.

“Inactive license” means a school license that has not been renewed as required or the license of a school that has failed to meet stated obligations for renewal within a stated time.

“Mentor” means a licensee providing guidance in a mentoring program.

“Mentoring program” means a program allowing students to experience barbering in a licensed barbershop under the guidance of a mentor.

“School” means a school of barbering.

“School license” means a license to instruct students in barbering.

[ARC 1680C, IAB 10/15/14, effective 11/19/14]

645—23.2(158) Licensing for barber schools. The board shall grant approval for the issuance of an original barber school license to be issued by the department when the following conditions have been met:

23.2(1) An application shall be submitted to the Board of Barbering, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The following information shall be submitted with the application:

a. The exact location of the proposed barber school;

b. A copy of the essential parts of the lease or other documents to provide proof that the owner of the school has occupancy rights for a minimum of one year;

c. A sworn affidavit that proves the existence of sufficient finances to acquire the facilities and equipment required by the board and to operate the proposed barber school for a minimum of one year;

d. A complete plan of the physical facilities and an explanation detailing how the facilities will be utilized relative to the number of students and to the classroom and clinic space; and

e. Copies of the catalog, brochure, enrollment contract, mentoring contract, student policies, and cancellation and refund policies that will be used by the school or distributed by the school to students and the public.

23.2(2) The applicant for a barber school license may be interviewed by the board before the original license will be issued.

23.2(3) No barber school shall be approved by the board of barbering unless it complies with the course of study requirements in rule 645—23.8(158).

23.2(4) The barber school shall be inspected prior to the issuance of the school license and shall meet the requirements of this chapter and 645—Chapter 22.

23.2(5) Instruction of students shall not begin until the school license is issued and the applicant has complied with Iowa Code section 714.18 and, as applicable, Iowa Code section 714.23.

23.2(6) The original license shall be granted for the location(s) identified in the school’s application.

a. A change of location shall require submission of an application for a new school license and payment of the license fee.

b. A change of address without change of actual location shall not be construed as a new site.

23.2(7) A barber school license is not transferable. A change in ownership of a school shall require the issuance of a new license. Change in ownership shall be defined as any change of controlling interest in any corporation or any change of name of sole proprietorship or partnership. The board may request legal proof of ownership transfer.

23.2(8) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed. The records will be maintained after two years only if the applicant submits a written request to the board.

23.2(9) A barber school that is issued an initial license within six months prior to the renewal date shall not be required to renew the license until the renewal month one year later.

[ARC 1680C, IAB 10/15/14, effective 11/19/14]
23.3(1) The annual license renewal period for a barber school license shall begin on July 1 and end on June 30 one year later.

23.3(2) A renewal of license application shall be mailed to the school at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the school of the obligation to pay the annual renewal fee on or before the renewal date.

a. The barber school renewal application and renewal fee shall be submitted to the board office before the license expiration date.

b. Barber schools shall be in full compliance with this chapter and 645—Chapter 22 to be eligible for renewal. When all requirements for license renewal are met, the barber school shall be sent a license renewal card by regular mail.

23.3(3) Late renewal. If the renewal fee and renewal application are received within 30 days after the license expiration date, the late fee for failure to renew before expiration shall be charged.

23.4(1) If the renewal fee is received more than 30 days after the license expiration date, the school license is inactive. To reactivate the school license, the reactivation application and fee shall be submitted to the board.

23.4(2) A barber school that has not renewed the school license within the required time frame will have an inactive license and shall not provide schooling or services until the license is reactivated.

[ARC 7578B, IAB 2/25/09, effective 4/1/09]

23.5(147) Duplicate certificate or wallet card. Rescinded IAB 2/25/09, effective 4/1/09.

23.6(158) Physical requirements for barber schools. Each licensed barber school shall:

1. Provide a clinic area where paying customers will receive services. The clinic area shall be confined to the premises occupied by the school.

2. Be large enough and be equipped to provide room(s) separate from the clinic area for lectures and demonstration purposes.

3. Provide a library for students that contains textbooks, videos, current trade publications and business management materials. The contents of the library shall be current within the previous ten years and shall cover the topics necessary for the student to master the skill of barbering.

4. Have an administrative office.

5. Allow separation of laundry room from the clinic area by a full wall or partition if the school has a laundry room.

6. Provide closed cabinets or a separate room for storing supplies.

7. Meet the sanitation requirements in 645—Chapter 22.

[ARC 7578B, IAB 2/25/09, effective 4/1/09]

23.7(158) Minimum equipment requirements. Each barber school shall have, at a minimum, the following equipment:

1. The clinic area shall hold a minimum of ten workstations equipped for practice on the general public. Each workstation shall include one chair and backbar. The backbar will provide a cabinet for immediate linen supply and individual sterilizers for each workstation. There shall be no more than two students enrolled for each workstation.

2. Sinks shall be located in the clinic area and readily accessible for students to use.

3. Audiovisual equipment available for each classroom.

4. One classroom shall include charts showing illustrations of the skin, circulation of the blood, muscles and bones of the face, scalp, and neck.

5. One set of textbooks shall be available for each student and instructor.

6. One large bulletin board shall be conspicuously located for posting rules, notices, and similar bulletins.

7. One set of files shall be maintained for all required records.
8. Electric equipment shall include the following: one high-frequency electrode, one twin vibrator, one hood dryer, one infrared lamp and one ultraviolet lamp.
9. One automatic lather mixer shall be available for every ten chairs.
10. Bottles and containers shall be distinctly and correctly labeled to show intended use of the contents.
11. Covered waste containers shall be located in the clinic area.

645—23.8(158) Course of study requirements. Each Iowa barber school licensed by the board of barbering shall conduct a course of study of at least 2,100 hours to be equally divided over a period of not less than ten months. The course of study shall include the following:

23.8(1) Supervised practical instruction totaling 1,675 hours shall include:
Scalp care and shampooing
Honing and stropping
Shaving
Facials, massage and packs
Science of hair structure
Haircutting
Hair tonics
Hair relaxing
Hair coloring and hair body processing
Hair styling
Fitting of hairpieces
Manicuring
Artificial nails (all aspects)
Waxing

23.8(2) Demonstrations and lectures totaling 380 hours shall include:
Law, ethics, economics, equipment, shop management and history of barbering
Sanitation, sterilization, personal hygiene and first aid
Bacteriology
Anatomy
Skin, scalp, and hair and their common disorders
Electricity, as applied to barbering
Chemistry and pharmacology
Scalp care
Honing and stropping
Shaving
Facials, massage and packs
Hair relaxing
Science of hair structure
Haircutting
Hair tonics
Instruments, soaps, shampoos, creams, lotions and tonics
Nails
Waxing

23.8(3) Special lectures totaling 45 hours must include lectures by a qualified person in the following areas: tax consulting, advertising, insurance, business management, salesmanship and barbering.

645—23.9(158) Instructors.

23.9(1) All instructors in a barber school shall be licensed by the department.
23.9(2) The number of instructors for each barber school shall be based upon total enrollment, with a minimum of 2 instructors employed on a full-time basis for up to 30 students and 1 additional
instructor for each additional 15 students or fraction thereof. An applicant who is waiting to take the instructor examination and who is working on a temporary permit may be counted as an instructor for the instructor-to-student ratio.

23.9(3) An instructor shall:
   a. Be responsible for and in direct charge of all theory and practical classrooms and clinics at all times;
   b. Familiarize students with the different standard supplies and equipment used in barbershops;
   c. Work on clients only when instructing or otherwise assisting students in the school;
   d. Carefully grade and return to students all examinations and other written papers;
   e. Be attired in distinct and identifiable attire.

645—23.10(158) Students.
   23.10(1) Before a student is obligated to pay the school, the barber school shall inform the student of the disclosure requirements found in Iowa Code section 714.25.
   23.10(2) No one connected with a barber school shall guarantee occupational positions to students or guarantee financial aid in equipping a shop.
   23.10(3) Students shall:
      a. Be attired in clean and neat uniforms at all times during school hours and during participation in the mentoring program.
      b. Not be compensated by the school for services performed on clients.
      c. Not be required to perform janitorial services for the school, but may be required to keep their own areas clean and sanitary during school hours. If a student chooses to provide janitorial services, the hours shall not count toward the total course hours.
      d. Receive no credit for decorating for marketing and merchandising that relates to the promotion of barber school services or for recruiting students.
      e. Receive no credit for participating in demonstrations of barbering for the sole purpose of recruiting students.
      f. Be provided regularly scheduled breaks and a minimum of 30 minutes for lunch.

[ARC 1680C, IAB 10/15/14, effective 11/19/14]

645—23.11(158) Attendance requirements.
   23.11(1) A barber school shall have a written, published attendance policy.
   23.11(2) The barber school shall establish regular school hours. No student shall be required to attend more than nine hours on any given school day.
   23.11(3) Each student shall receive a minimum of eight hours of classroom instruction per week. Classroom instruction shall include lectures, individual instruction and written examinations.
   23.11(4) Student attendance policies shall be applied uniformly and fairly.
   23.11(5) Accurate and appropriate credit shall be given for all hours earned.
   23.11(6) Students shall earn all hours credited to their total course hours and shall not have hours deducted as a penalty.

645—23.12(158) Graduate of a barber school.
   23.12(1) To be considered a graduate, a student shall:
      a. Complete the required course and meet the minimum attendance standard.
      b. Complete the practical and theoretical curriculum requirements set forth by the school.
      c. Pass a final examination upon completion of the course of study.
   23.12(2) Students shall be issued a transcript when they have completed all requirements for graduation.

645—23.13(147) Records requirements. Each school shall keep a daily class record of each student, showing the hours devoted to the respective subjects, time devoted by a student to each subject, the total number of hours in attendance, and days present and absent. These records shall be subject to inspection
by the board of barbering or a representative of the board and shall be retained for two years after the graduation date.

645—23.14(158) Public notice. A sign shall be clearly displayed in the entrance of the school that indicates in prominent lettering that students perform all services under the supervision of instructors.

645—23.15(158) Apprenticeship. Apprenticeship hours earned in another state may be applied toward the required 2,100 hours of course of study prescribed by Iowa Code section 158.8 at a ratio of 1 hour of credit for each 4 hours of registered apprenticeship completed in the state in which the applicant is licensed or registered as an apprentice.

645—23.16(158) Mentoring program. Each barber school that elects to have a mentoring program must have a contract between the student, the school and the barbershop mentor that includes scheduling, liability insurance and details of training.

23.16(1) Students shall not begin a mentoring program until they have completed a minimum of 50 percent of the total contact or credit hours required for graduation and any other requirements of the mentoring program as established by the school.

23.16(2) Students may participate in a mentoring program for no more than 10 percent of the total contact or credit hours required for graduation.

23.16(3) Students shall be under supervision of the mentor at all times. Students may perform the following activities: act as receptionist, handle retail sales, sanitize the barbershop, consult with clients (to acquire customer service skills), take inventory, order supplies, prepare payroll, pay monthly bills, and hand equipment to the barber.

23.16(4) The barbershop mentor’s responsibilities include the following: introduce the student to the barbershop and the clients, record the time of the student’s attendance at the barbershop, prepare an evaluation of the student, discuss the student’s performance with the student, and allow the student to observe barbershop operations.

23.16(5) Neither the barbershop nor the school shall compensate students participating in the mentoring program.

These rules are intended to implement Iowa Code chapter 158 and section 714.25.

[ARC 1680C, IAB 10/15/14, effective 11/19/14]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]
[Filed 1/30/03, Notice 11/27/02—published 2/19/03, effective 3/26/03]
[Filed 11/6/03, Notice 8/20/03—published 11/26/03, effective 12/31/03]
[Filed 8/1/07, Notice 5/23/07—published 8/29/07, effective 10/3/07]
[Filed ARC 7578B (Notice ARC 7401B, IAB 12/3/08), IAB 2/25/09, effective 4/1/09]
[Filed ARC 8349B (Notice ARC 8085B, IAB 8/26/09), IAB 12/2/09, effective 1/6/10]
[Filed ARC 1680C (Notice ARC 1584C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]
PHYSICAL AND OCCUPATIONAL THERAPISTS

CHAPTER 200 LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS
CHAPTER 201 PRACTICE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS
CHAPTER 202 DISCIPLINE FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS
CHAPTER 203 CONTINUING EDUCATION FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS
CHAPTER 204 RESERVED
CHAPTER 205 RESERVED
CHAPTER 206 LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS
CHAPTER 207 CONTINUING EDUCATION FOR OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS
CHAPTER 208 PRACTICE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS
CHAPTER 209 DISCIPLINE FOR OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

CHAPTER 200

LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

[Prior to 3/6/02, see 645—200.3(147) to 645—200.8(147), 645—200.11(272C), and 645—202.3(147) to 645—202.7(147)]

[Prior to 12/24/03, see 645—ch 201]

645—200.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

“Assistive personnel” means any person who carries out physical therapy and is not licensed as a physical therapist or physical therapist assistant. This definition does not include students as defined in Iowa Code section 148A.3(2).

“Board” means the board of physical and occupational therapy.

“Department” means the department of public health.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inimpairment” means a mechanical, physiological or developmental loss or abnormality, a functional limitation, or a disability or other health- or movement-related condition.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

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

“License expiration date” means the fifteenth day of the birth month every two years after initial licensure.

“Licensure by endorsement” means the issuance of an Iowa license to practice physical therapy to an applicant who is or has been licensed in another state.

“Mandatory training” means training on identifying and reporting child abuse or dependent adult abuse required of physical therapists or physical therapist assistants who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“On site” means:

1. To be continuously on site and present in the department or facility where assistive personnel are performing services;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

“Physical therapist” means a person licensed under this chapter to practice physical therapy.

“Physical therapist assistant” means a person licensed under this chapter to assist in the practice of physical therapy.

“Physical therapy” means that branch of science that deals with the evaluation and treatment of human capabilities and impairments, including:

1. Evaluation of individuals with impairments in order to determine a diagnosis, prognosis, and plan of therapeutic treatment and intervention, and to assess the ongoing effects of intervention;
2. Use of the effective properties of physical agents and modalities, including but not limited to mechanical and electrotherapeutic devices, heat, cold, air, light, water, electricity, and sound, to prevent, correct, minimize, or alleviate an impairment;
3. Use of therapeutic exercises to prevent, correct, minimize, or alleviate an impairment;
4. Use of rehabilitative procedures to prevent, correct, minimize, or alleviate an impairment, including but not limited to the following procedures:
   ● Manual therapy, including soft-tissue and joint mobilization and manipulation;
   ● Therapeutic massage;
   ● Prescripion, application, and fabrication of assistive, adaptive, orthotic, prosthetic, and supportive devices and equipment;
   ● Airway clearance techniques;
   ● Integumentary protection and repair techniques; and
   ● Debridement and wound care;
5. Interpretation of performances, tests, and measurements;
6. The establishment and modification of physical therapy programs;
7. The establishment and modification of treatment planning;
8. The establishment and modification of consultive services;
9. The establishment and modification of instructions to the patient, including but not limited to functional training relating to movement and mobility;
10. Participation, administration and supervision attendant to physical therapy and educational programs and facilities.

“PT” means physical therapist.

“PTA” means physical therapist assistant.

“Reactivate” or “reactivation” means the process as outlined in rule 645—200.15(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice physical therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of physical and occupational therapy to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—200.2(147) Requirements for licensure. The following criteria shall apply to licensure:

200.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.
200.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

200.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Physical and Occupational Therapy. The fees are nonrefundable.

200.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board of physical and occupational therapy have been received by the board. An applicant shall have successfully completed a physical therapy education program accredited by a national accreditation agency approved by the board.

200.2(5) Notification of eligibility for the examination shall be sent to the applicant by the board.

200.2(6) The candidate shall have the examination score sent directly from the testing service to the board.

200.2(7) Licensees who were issued their initial licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

200.2(8) Incomplete applications that have been on file in the board office for more than two years shall be:
   a. Considered invalid and shall be destroyed; or
   b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

645—200.3(147) Requirements for practice prior to licensure. Rescinded IAB 12/19/07, effective 1/23/08.

645—200.4(147) Examination requirements for physical therapists and physical therapist assistants. The following criteria shall apply to the written examination(s):

200.4(1) The applicant shall take and pass the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board.

200.4(2) The applicant shall abide by the following criteria:
   a. For examinations taken prior to July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score exceeding 1.5 standard deviations below the national average.
   b. For examinations completed after July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score equal to or greater than the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy.

200.4(3) Before the board may approve an applicant for testing beyond three attempts, an applicant shall demonstrate evidence satisfactory to the board of having successfully completed additional coursework. The Federation of State Boards of Physical Therapy (FSBPT) determines the total number of times an applicant may take the examination in a lifetime. The board will not approve an applicant for testing when the applicant has exhausted the applicant’s lifetime opportunities for taking the examination, as determined by FSBPT.

200.4(4) The applicant shall be notified by the board in writing of examination results.

[ARC 0094C, IAB 4/18/12, effective 5/23/12; ARC 1659C, IAB 10/15/14, effective 1/19/14]

645—200.5(147) Educational qualifications.

200.5(1) The applicant must present proof of meeting the following requirements for licensure as a physical therapist or physical therapist assistant:

   a. Educational requirements—physical therapists. Physical therapists shall graduate from a physical therapy program accredited by a national accreditation agency approved by the board.
      (1) If the degree is granted on or before January 31, 2004, the degree must be equivalent to at least a baccalaureate degree.
      (2) If the degree is granted on or after February 1, 2004, the degree must be equivalent to a postbaccalaureate degree.
b. Educational requirements—physical therapist assistants. Physical therapist assistants shall graduate from a PTA program accredited by a national accreditation agency approved by the board.

200.5(2) Foreign-trained applicants shall:

a. Submit an English translation and an equivalency evaluation of their educational credentials through the following organization: Foreign Credentialing Commission on Physical Therapy, Inc., 124 West Street South, Third Floor, Alexandria, VA 22314; telephone (703)684-8406; Web site www.fccpt.org. The credentials of a foreign-educated physical therapist or foreign-educated physical therapist assistant licensure applicant should be evaluated using the version of the Federation of State Boards of Physical Therapy (FSBPT) Coursework Tool (CWT) that covers the date the applicant graduated from the applicant’s respective physical therapist or physical therapist assistant education program. A credentialing agency should use the version for the CWT that coincides with the professional educational criteria that were in effect on the date the applicant graduated from the applicant’s respective physical therapy education program. This same process should be used for first-time licensees and for those seeking licensure through endorsement. The professional curriculum must be equivalent to the Commission on Accreditation in Physical Therapy Education standards. An applicant shall bear the expense of the curriculum evaluation.

b. Submit certified proof of proficiency in the English language by achieving on the Test of English as a Foreign Language (IBT-TOEFL) a total score of at least 89 on the Internet-based TOEFL as well as accompanying minimum scores in the four test components as follows: 24 in writing; 26 in speaking; 21 in reading comprehension; and 18 in listening comprehension. This examination is administered by Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the TOEFL examination. Applicants may be exempt from the TOEFL examination when the native language is English, physical therapy education was completed in a school approved by the Commission on Accreditation in Physical Therapy Education (CAPTE), language of instruction in physical therapy was English, language of the textbooks was English, and the applicant’s transcript was in English.

c. Submit an official statement from each country’s or territory’s board of examiners or other regulatory authority regarding the status of the applicant’s license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicants shall request such statements from all entities in which they are currently or formerly licensed.

d. Receive a final determination from the board regarding the application for licensure.

[ARC 9328B, IAB 1/12/11, effective 2/16/11; ARC 0094C, IAB 4/18/12, effective 5/23/12]

645—200.6(272C) Supervision requirements.

200.6(1) Physical therapist supervisor responsibilities. The supervisor shall:

a. Provide supervision to a PTA.

b. Provide on-site supervision or supervision by telecommunication as long as the physical therapy services are rendered in accordance with the minimum frequency standards set forth in subrule 200.6(4).

c. Assume responsibility for all delegated tasks and shall not delegate a service which exceeds the expertise of the PTA.

d. Provide evaluation and development of a treatment plan for use by the PTA.

e. Supervise not more than the equivalent of two full-time PTAs, not to exceed four part-time PTAs, who are providing physical therapy per calendar day, including supervision by telecommunication.

f. Rescinded IAB 12/19/07, effective 1/23/08.

g. Ensure that a PTA under the PT’s supervision has a current license to practice as a PTA.

h. Rescinded IAB 12/19/07, effective 1/23/08.

i. Ensure that the signature of a PTA on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a PTA.

200.6(2) The following are functions that only a physical therapist may provide and cannot be delegated to a PTA:

a. Interpretation of referrals;
b. Initial physical therapy evaluation and reevaluations;
c. Identification, determination or modification of patient problems, goals, and care plans;
d. Final discharge evaluation and establishment of the discharge plan;
e. Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times;
f. Delegation of and instruction in the services to be rendered by the PTA or other assistive personnel including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures; and
g. Timely review of documentation, reexamination of the patient and revision of the plan when indicated.

200.6(3) Supervision of other assistive personnel. PTs are responsible for patient care provided by assistive personnel under their supervision. Physical therapy aides and other assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

a. The supervising PT has physical participation in the patient’s treatment or evaluation, or both, each treatment day;
b. The assistive personnel may provide independent patient care only while under the on-site supervision of the supervising PT;
c. Documentation made in physical therapy records by unlicensed assistive personnel shall be cosigned by the supervising PT; and
d. The PT provides periodic reevaluation of assistive personnel’s performance in relation to the patient.

200.6(4) The PT must provide patient evaluation and participate in treatment based upon the health care admission or residency status of the patient being treated. Participation shall include direct client contact according to the following schedule:

<table>
<thead>
<tr>
<th>Patient’s Health Care Residency or Admission Status</th>
<th>Maximum of Physical Therapist Delegation (whichever comes first)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospital, acute care</td>
<td>3 visits or 2 consecutive calendar days</td>
</tr>
<tr>
<td>Hospital, non-CARF</td>
<td>3 visits or 2 consecutive calendar days</td>
</tr>
<tr>
<td>Hospital, CARF-accredited beds</td>
<td>4 visits or 4 consecutive calendar days</td>
</tr>
<tr>
<td>Skilled nursing</td>
<td>4 visits or 7 consecutive calendar days</td>
</tr>
<tr>
<td>Home health</td>
<td>4 visits or 9 consecutive calendar days</td>
</tr>
<tr>
<td>Nursing facility</td>
<td>9 visits or 9 consecutive calendar days</td>
</tr>
<tr>
<td>Iowa educational agency</td>
<td>4 visits or 29 consecutive calendar days</td>
</tr>
<tr>
<td>Other facility/admissions status</td>
<td>4 visits or 9 consecutive calendar days</td>
</tr>
</tbody>
</table>

Calendar days include weekends and holidays.

200.6(5) Physical therapist assistant responsibilities. The physical therapist assistant:

a. Shall provide only those services for which the PTA has the skills necessary and shall consult the supervising physical therapist if the procedures are believed not to be in the best interest of the patient;
b. Shall gather data relating to the patient’s disability, but not interpret the data as it pertains to the plan of care;
c. Shall communicate any change, or lack of change, which occurs in the patient’s condition and which may need the assessment of the PT;
d. Shall provide physical therapy services only under the supervision of the physical therapist;
e. Shall provide treatment only after evaluation and development of a treatment plan by the physical therapist;
f. Shall refer inquiries that require interpretation of patient information to the physical therapist;
g. May have on-site or immediate telecommunicative supervision as long as the physical therapy services are rendered in accordance with the minimum frequency standards set forth in subrule 200.6(4); and
h. May receive supervision from any number of physical therapists.

i. Shall record on every patient chart the name of the PTA’s supervisor for each treatment session.

The signature of a PTA on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a PTA.

200.6(6) Other assistive personnel. Physical therapy aides and other assistive personnel may assist a PTA in providing patient care in the absence of a PT only if the PTA maintains in-sight supervision of the physical therapy aide or other assistive personnel and the PTA is primarily and significantly involved in that patient’s care.

645—200.7(147) Licensure by endorsement.

200.7(1) An applicant who has been a licensed PT or PTA under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

a. Submits to the board a completed application;

b. Pays the licensure fee;

c. Shows evidence of licensure requirements that are similar to those required in Iowa;

d. Submits a copy of the scores from the appropriate professional examination to be sent directly from the examination service to the board;

e. Provides official copies of the academic transcripts sent directly from the school to the board; and

f. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the 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.

200.7(2) In addition to the requirements of 200.7(1), a physical therapist applicant shall:

a. Have completed 40 hours of board-approved continuing education during the immediately preceding two-year period; or

b. Have practiced as a licensed physical therapist for a minimum of 2,080 hours during the immediately preceding two-year period; or

c. Have served the equivalent of one year as a full-time faculty member teaching physical therapy in an accredited school of physical therapy for at least one of the immediately preceding two years; or

d. Have successfully passed the examination within a period of one year from the date of examination to the time application is completed for licensure.

200.7(3) In addition to the requirements of 200.7(1), a physical therapist assistant applicant shall:

a. Have completed 20 hours of board-approved continuing education during the immediately preceding two-year period; or

b. Have practiced as a licensed physical therapist assistant for a minimum of 2,080 hours during the immediately preceding two-year period; or

c. Have successfully passed the examination for physical therapist assistants within a period of one year from the date of examination to the time application for licensure is completed.

200.7(4) Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

200.7(5) An applicant for licensure under subrule 200.7(1) must include with this application a sworn statement of previous physical therapy practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant has practiced physical therapy at least 2,080 hours or taught as the equivalent of a full-time faculty member for at least one of the immediately preceding years during the last two-year time period.
200.7(6) Foreign-trained applicants applying for licensure by endorsement shall also meet the requirements outlined in subrule 200.5(2).

645—200.8(147) Licensure by reciprocal agreement. Rescinded IAB 12/17/08, effective 1/21/09.

645—200.9(147) License renewal.

200.9(1) The biennial license renewal period for a license to practice as a physical therapist or physical therapist assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth 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.

200.9(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

200.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—203.2(148A) and the mandatory reporting requirements of subrule 200.9(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

b. Submit the completed renewal application and renewal fee before the license expiration date.

200.9(4) Mandatory reporter training requirements.

a. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years of condition(s) for waiver of this requirement as identified in paragraph “e.”

b. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

c. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirements as identified in paragraph “e.”

Training may be completed through separate courses as identified in paragraphs “a” and “b” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “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 service of this state or the United States.

(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 645—Chapter 4.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

200.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. 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.

200.9(6) Persons licensed to practice as physical therapists or physical therapist assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

200.9(7) Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.13(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

200.9(8) 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 physical therapist or a physical therapist assistant in Iowa until the license is reactivated. A licensee who practices as a physical therapist or a physical therapist assistant 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 0094C, IAB 4/18/12, effective 5/23/12]

645—200.10(272C) Exemptions for inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—200.11(272C) Lapsed licenses. Rescinded IAB 9/14/05, effective 10/19/05.

645—200.12(147) Duplicate certificate or wallet card. Rescinded IAB 12/17/08, effective 1/21/09.

645—200.13(147) Reissued certificate or wallet card. Rescinded IAB 12/17/08, effective 1/21/09.

645—200.14(17A,147,272C) License denial. Rescinded IAB 12/17/08, effective 1/21/09.

645—200.15(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

200.15(1) Submit a reactivation application on a form provided by the board.

200.15(2) Pay the reactivation fee that is due as specified in 645—subrule 5.13(5).

200.15(3) Provide verification of current competence to practice physical therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) 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; and

(2) Verification of completion of 20 hours of continuing education for a physical therapy assistant and 40 hours of continuing education for a physical therapist within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) 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; and

(2) Verification of completion of 40 hours of continuing education for a physical therapy assistant and 80 hours of continuing education for a physical therapist within two years of application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

645—200.16(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 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 200.15(17A,147,272C) prior to practicing physical therapy in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148A and 272C.

[Filed 2/13/02, Notice 10/3/01—published 3/6/02, effective 4/10/02]
[Filed 8/28/02, Notice 6/12/02—published 9/18/02, effective 10/23/02]
[Filed 11/26/03, Notice 9/17/03—published 12/24/03, effective 1/28/04]
[Filed 8/22/05, Notice 6/22/05—published 9/14/05, effective 10/19/05]◊
[Filed 11/30/07, Notice 9/26/07—published 12/19/07, effective 1/23/08]
[Filed 11/26/08, Notice 9/24/08—published 12/17/08, effective 1/21/09]
[Filed ARC 9328B (Notice ARC 9156B, IAB 10/20/10), IAB 1/12/11, effective 2/16/11]
[Filed ARC 0094C (Notice ARC 9972B, IAB 1/11/12), IAB 4/18/12, effective 5/23/12]
[Filed ARC 1659C (Notice ARC 1559C, IAB 7/23/14), IAB 10/15/14, effective 11/19/14]

◊ Two or more ARCs
CHAPTER 203
CONTINUING EDUCATION FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

645—203.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:
“Active license” means a license that is current and has not expired.
“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.
“Board” means the board of physical and occupational therapy.
“Continuing education” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.
“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.
“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.
“Independent study” means a subject/program/activity that a person pursues autonomously and that meets standards for approval criteria in the rules and includes a posttest.
“License” means license to practice.
“Licensee” means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

645—203.2(148A) Continuing education requirements.
203.2(1) The biennial continuing education compliance period shall extend for a two-year period that begins on the sixteenth day of the birth month and ends two years later on the fifteenth day of the birth month.
a. Requirements for physical therapist licensees. Each biennium, each person who is licensed to practice as a physical therapist in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board; a minimum of 30 hours shall be directly and primarily related to the clinical application of physical therapy.
b. Requirements for physical therapist assistant licensees. Each biennium, each person who is licensed to practice as a physical therapist assistant in this state shall be required to complete a minimum of 20 hours of continuing education approved by the board; a minimum of 15 hours shall be directly and primarily related to the clinical application of physical therapy.
203.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for physical therapists and a minimum of 20 hours for physical therapist assistants each subsequent license renewal.
203.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.
203.2(4) No hours of continuing education shall be carried over into the next biennium except for a new licensee. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.
203.2(5) It is the responsibility of each licensee to finance the cost of continuing education.
[ARC 9328B, IAB 1/12/11, effective 2/16/11; ARC 1659C, IAB 10/15/14, effective 11/19/14]
645—203.3(148A,272C) Standards.

203.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:
   a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
   b. Pertains to subject matters which integrally relate to the practice of the profession;
   c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program.

At the time of audit, the board may request the qualifications of presenters;

   d. Fulfills stated program goals, objectives, or both; and
   e. Provides proof of attendance to licensees in attendance including:
      (1) Date, location, course title, presenter(s);
      (2) Number of program contact hours; and
      (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

203.3(2) Specific criteria.

   a. Licensees may obtain continuing education hours of credit by:
      (1) Attending workshops, conferences, or symposiums.
      (2) Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.
      (3) Completing an American Physical Therapy Association-approved postprofessional clinical residency or fellowship. A licensee will receive 1 hour of credit for every 2 hours spent in clinical residency, up to a maximum of 20 hours. Clinical residency hours may not be used for credit if the licensee is also seeking credit hours earned for postprofessional academic coursework in the same renewal period.
      (4) Directly supervising students for clinical education if the physical therapist or physical therapist assistant who is supervising is an American Physical Therapy Association Advanced Credentialed Clinical Instructor and if the student being supervised is from an accredited physical therapist or physical therapist assistant program and is participating in a full-time clinical experience (defined as approximately 40 hours per week, ranging from 1 to 18 weeks). One hour will be awarded for every 160 contact hours of supervision. A maximum of 8 hours for a physical therapist and 4 hours for a physical therapist assistant may be awarded per biennium. The physical therapist or physical therapist assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.
      (5) Presenting professional programs that meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation for the first offering of the course. A course schedule or brochure must be maintained for audit.
      (6) Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of physical therapy will be necessary in order for the licensee to receive the following continuing education credits:
         1 academic semester hour = 15 continuing education hours of credit
         1 academic trimester hour = 12 continuing education hours of credit
         1 academic quarter hour = 10 continuing education hours of credit
      (7) Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits on a one-time basis for the first offering of a course:
         1 academic semester hour = 15 continuing education hours of credit
         1 academic trimester hour = 12 continuing education hours of credit
         1 academic quarter hour = 10 continuing education hours of credit
      (8) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee shall receive 5 hours of credit per page.
(9) Participating in professional organizations related to the practice of physical therapy, with 1 credit hour received for each six months of active service as an officer, delegate, or committee member, for a maximum of 4 hours of credit per biennium. Verification of participation must be provided by the professional organization to document the continuing education credit.

b. Continuing education hours of credit in the following topics are not considered to be directly and primarily related to the clinical application of physical therapy and therefore must not exceed a maximum combined total of 10 hours of credit for a physical therapist licensee and 5 hours of credit for a physical therapist assistant licensee:

(1) Business-related topics, such as marketing, time management, government regulations, and other like topics.

(2) Personal skills topics, such as career burnout, communication skills, human relations, and other like topics.

(3) General health topics, such as clinical research, CPR, mandatory reporter training, and other like topics.

[ARC 9328B, IAB 1/12/11, effective 2/16/11; ARC 1659C, IAB 10/15/14, effective 11/19/14]


645—203.5(148A,272C) Automatic exemption. Rescinded IAB 12/17/08, effective 1/21/09.

645—203.6(272C) Continuing education exemption for disability or illness. Rescinded IAB 12/17/08, effective 1/21/09.

645—203.7(148A,272C) Grounds for disciplinary action. Rescinded IAB 12/17/08, effective 1/21/09.

645—203.8(272C) Continuing education exemption for disability or illness. Rescinded IAB 9/14/05, effective 10/19/05.

645—203.9(148A,272C) Reinstatement of inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—203.10(272C) Hearings. Rescinded IAB 9/14/05, effective 10/19/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 148A.

[Filed 11/9/00, Notice 7/26/00—published 11/29/00, effective 1/3/01]
[Filed 2/13/02, Notice 10/3/01—published 3/6/02, effective 4/10/02]
[Filed 8/22/05, Notice 6/22/05—published 9/14/05, effective 10/19/05]
[Filed 11/30/07, Notice 9/26/07—published 12/19/07, effective 1/23/08]
[Filed 11/26/08, Notice 9/24/08—published 12/17/08, effective 1/21/09]
[Filed ARC 9328B (Notice ARC 9156B, IAB 10/20/10), IAB 1/12/11, effective 2/16/11]
[Filed ARC 1659C (Notice ARC 1559C, IAB 7/23/14), IAB 10/15/14, effective 11/19/14]
CHAPTER 207
CONTINUING EDUCATION FOR OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

645—207.1(148B) Definitions. For the purpose of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.
“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.
“Board” means the board of physical and occupational therapy.
“Continuing education” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.
“Hour of continuing education” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.
“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.
“Independent study” means a subject/program/activity that a person pursues autonomously and that meets standards for approval criteria in the rules and includes a posttest.
“License” means license to practice.
“Licensee” means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

645—207.2(272C) Continuing education requirements.

207.2(1) The biennial continuing education compliance period shall extend for a two-year period that begins on the sixteenth day of the licensee’s birth month and ends two years later on the fifteenth day of the birth month.

a. Requirements for occupational therapist licensees. Each biennium, each person who is licensed to practice as an occupational therapist in this state shall be required to complete a minimum of 30 hours of continuing education approved by the board; a minimum of 20 hours shall be directly and primarily related to the clinical application of occupational therapy.

b. Requirements for occupational therapy assistant licensees. Each biennium, each person who is licensed to practice as an occupational therapy assistant in this state shall be required to complete a minimum of 15 hours of continuing education approved by the board; a minimum of 10 hours shall be directly and primarily related to the clinical application of occupational therapy.

207.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for occupational therapists and 15 hours for occupational therapy assistants each subsequent license renewal.

207.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

207.2(4) With the exception of continuing education hours obtained by new licensees, no hours of continuing education shall be carried over into the next biennium. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

207.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 9328D, IAB 1/12/11, effective 2/16/11; ARC 1659C, IAB 10/15/14, effective 11/19/14]
645—207.3(148B,272C) Standards.

207.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
b. Pertains to subject matters which integrally relate to the practice of the profession;
c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program.

At the time of audit, the board may request the qualifications of presenters;

a. Fulfills stated program goals, objectives, or both; and
b. Provides proof of attendance to licensees in attendance including:
   (1) Date, location, course title, presenter(s);
   (2) Number of program contact hours; and
   (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

207.3(2) Specific criteria.

a. Licensees may obtain continuing education hours of credit by:
   (1) Attending workshops, conferences, or symposiums.
   (2) Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.
   (3) Directly supervising students for clinical education if the student being supervised is from an accredited occupational therapy or occupational therapy assistant program and is participating in a full-time clinical experience (defined as approximately 40 hours per week, ranging from 1 to 18 weeks). One hour will be awarded for every 160 contact hours of supervision. A maximum of 8 hours for an occupational therapist and 4 hours for an occupational therapy assistant may be awarded per biennium. The occupational therapist or occupational therapy assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.
   (4) Presenting professional programs that meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation for the first offering of the course. A course schedule or brochure must be maintained for audit.
   (5) Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of occupational therapy will be necessary in order for the licensee to receive the following continuing education credits:
      1 academic semester hour = 15 continuing education hours of credit
      1 academic trimester hour = 12 continuing education hours of credit
      1 academic quarter hour = 10 continuing education hours of credit
   (6) Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits on a one-time basis for the first offering of a course:
      1 academic semester hour = 15 continuing education hours of credit
      1 academic trimester hour = 12 continuing education hours of credit
      1 academic quarter hour = 10 continuing education hours of credit
   (7) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee shall receive 5 hours of credit per page.
   (8) Participating in professional organizations related to the practice of occupational therapy, with 1 credit hour received for each six months of active service as an officer, delegate, or committee member, for a maximum of 4 hours of credit per biennium. Verification of participation must be provided by the professional organization to document the continuing education credit.

b. Continuing education hours of credit in the following topics are not considered to be directly and primarily related to the clinical application of occupational therapy and therefore must not exceed a maximum combined total of 8 hours of credit for an occupational therapist licensee and 4 hours of credit for an occupational therapy assistant licensee:
(1) Business-related topics, such as marketing, time management, government regulations, and other like topics.
(2) Personal skills topics, such as career burnout, communication skills, human relations, and other like topics.
(3) General health topics, such as clinical research, CPR, mandatory reporter training, and other like topics.
[ARC 9328B, IAB 1/12/11, effective 2/16/11; ARC 1659C, IAB 10/15/14, effective 11/19/14]

645—207.4(148B,272C) Audit of continuing education report. Rescinded IAB 12/17/08, effective 1/21/09.

645—207.5(148B,272C) Automatic exemption. Rescinded IAB 12/17/08, effective 1/21/09.

645—207.6(272C) Continuing education exemption for disability or illness. Rescinded IAB 12/17/08, effective 1/21/09.

645—207.7(148B,272C) Grounds for disciplinary action. Rescinded IAB 12/17/08, effective 1/21/09.

645—207.8(272C) Continuing education exemption for disability or illness. Rescinded IAB 9/14/05, effective 10/19/05.

645—207.9(272C) Reinstatement of inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—207.10(272C) Hearings. Rescinded IAB 9/14/05, effective 10/19/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 148B.

[Filed 11/9/00, Notice 7/26/00—published 11/29/00, effective 1/3/01]
[Filed 2/14/02, Notice 10/3/01—published 3/6/02, effective 4/10/02]
[Filed 8/22/05, Notice 6/22/05—published 9/14/05, effective 10/19/05]
[Filed 11/30/07, Notice 9/26/07—published 12/19/07, effective 1/23/08]
[Filed 11/26/08, Notice 9/24/08—published 12/17/08, effective 1/21/09]
[Filed ARC 9328B (Notice ARC 9156B, IAB 10/20/10), IAB 1/12/11, effective 2/16/11]
[Filed ARC 1659C (Notice ARC 1559C, IAB 7/23/14), IAB 10/15/14, effective 11/19/14]

◊ Two or more ARCs
REVENUE DEPARTMENT[701]
Created by 1986 Iowa Acts, Chapter 1245.

CHAPTER 1
STATE BOARD OF TAX REVIEW—ADMINISTRATION
1.1(17A,421) Establishment, membership and location of the state board of tax review
1.2(421,17A) Powers and duties of the state board
1.3(421,17A) Powers and duties not subject to the jurisdiction of the state board

CHAPTER 2
STATE BOARD OF TAX REVIEW—CONDUCT OF APPEALS AND RULES OF PRACTICE AND PROCEDURE

DIVISION I
APPELLATE CASES
GENERAL RULES OF PRACTICE AND PROCEDURE FOR FINAL CONTESTED CASE DECISIONS OF OR ATTRIBUTABLE TO THE DIRECTOR OF REVENUE
2.1(421,17A) Definitions
2.2(421,17A) Appeal and jurisdiction
2.3(421,17A) Form of appeal
2.4(421,17A) Certification by director
2.5(421,17A) Motions
2.6(421,17A) Answer
2.7(421,17A) Docketing
2.8(421,17A) Filing of papers
2.9(421,17A) Hearing an appeal
2.10(17A,421) Appearances by appellant
2.11(421,17A) Authority of state board to issue procedural orders
2.12(421,17A) Continuances
2.13(17A,421) Place of hearing
2.14(17A,421) Members participating
2.15(17A,421) Presiding officer
2.16(17A,421) Appeals of state board decisions

DIVISION II
ORIGINAL JURISDICTION
RULES GOVERNING CONTESTED CASE PROCEEDINGS IN WHICH THE STATE BOARD HAS ORIGINAL JURISDICTION TO COMMENCE A CONTESTED CASE PROCEEDING
2.17(421,17A) Applicability and scope
2.18(17A) Definitions
2.19(421,17A) Time requirements
2.20(421,17A) Notice of appeal
2.21(421,17A) Form of appeal
2.22(421,17A) Certification by director
2.23(421,17A) Answer
2.24(421,17A) Docketing
2.25(421,17A) Appearances by appellant
2.26(421,17A) Place of hearing
2.27(421,17A) Transcript of hearing
2.28(421,17A) Requests for contested case proceeding
2.29(421,17A) Notice of hearing
2.30(17A) Presiding officer
2.31(421,17A) Transfer of case for hearing or appeal
2.32(421,17A) Waiver of procedures
2.33(421,17A) Telephone proceedings
2.34(17A,421) Disqualifications of a presiding officer
2.35(421,17A) Consolidation and severance
2.36(17A) Service and filing of pleadings and other papers
2.37(421,17A) Discovery
2.38(421,17A) Subpoenas
2.39(421,17A) Motions
2.40(421,17A) Prehearing conference
2.41(421,17A) Continuances
2.42(17A) Withdrawals
2.43(421,17A) Intervention
2.44(421,17A) Hearing procedures
2.45(421,17A) Evidence
2.46(421,17A) Default or dismissal
2.47(421,17A) Ex parte communication
2.48(421,17A) Recording costs
2.49(421,17A) Interlocutory appeals
2.50(421,17A) Final decision
2.51(421,17A) Applications for rehearing
2.52(421,17A) Stays of agency and board actions
2.53(421,17A) No factual dispute contested case
2.54(421,17A) Appeal and review of a state board decision

CHAPTER 3
VOLUNTARY DISCLOSURE PROGRAM

3.1(421,422,423) Voluntary disclosure program

CHAPTER 4
MULTILEVEL MARKETER AGREEMENTS

4.1(421) Multilevel marketers—in general

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

5.1(17A,22) Definitions
5.3(17A,22) Requests for access to records
5.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records
5.9(17A,22) Disclosures without the consent of the subject
5.10(17A,22) Routine use
5.11(17A,22) Consensual disclosure of confidential records
5.12(17A,22) Release to subject
5.13(17A,22) Availability of records
5.14(17A,22) Personally identifiable information
5.15(17A,22) Other groups of records
5.16(17A,22) Applicability
CHAPTER 6
ORGANIZATION, PUBLIC INSPECTION

6.1(17A) Establishment, organization, general course and method of operations, methods by which and location where the public may obtain information or make submissions or requests

6.2(17A) Public inspection

6.3(17A) Examination of records

6.4(17A) Copies of proposed rules

6.5(17A) Regulatory analysis procedures

6.6(422) Retention of records and returns by the department

6.7(68B) Consent to sell

6.8(421) Tax return extension in disaster areas

CHAPTER 7
PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF REVENUE

7.1(421,17A) Applicability and scope of rules

7.2(421,17A) Definitions

7.3(17A) Business hours

7.4(17A) Computation of time, filing of documents

7.5(17A) Form and style of papers

7.6(17A) Persons authorized to represent themselves or others

7.7(17A) Resolution of tax liability

7.8(17A) Protest

7.9(17A) Identifying details

7.10(17A) Docket

7.11(17A) Informal procedures and dismissals of protests

7.12(17A) Answer

7.13(17A) Subpoenas

7.14(17A) Commencement of contested case proceedings

7.15(17A) Discovery

7.16(17A) Prehearing conference

7.17(17A) Contested case proceedings

7.18(17A) Interventions

7.19(17A) Record and transcript

7.20(17A) Application for rehearing

7.21(17A) Service

7.22(17A) Ex parte communications and disqualification

7.23(17A) Licenses

7.24(17A) Declaratory order—in general

7.25(17A) Department procedure for rule making

7.26(17A) Public inquiries on rule making and the rule-making records

7.27(17A) Criticism of rules

7.28(17A) Waiver or variance of certain department rules

7.29(17A) Petition for rule making

7.30(9C,91C) Procedure for nonlocal business entity bond forfeitures

7.31(421) Abatement of unpaid tax

7.32(421) Time and place of taxpayer interviews

7.33(421) Mailing to the last-known address
7.34(421) Power of attorney
7.35(421) Taxpayer designation of tax type and period to which voluntary payments are to be applied

CHAPTER 8
FORMS AND COMMUNICATIONS
8.1(17A) Definitions
8.2(17A) Official forms
8.3(17A) Substitution of official forms
8.4(17A) Description of forms
8.5(422) Electronic filing of Iowa income tax returns

CHAPTER 9
FILING AND EXTENSION OF TAX LIENS
AND CHARGING OFF UNCOLLECTIBLE TAX ACCOUNTS
9.1(422,423) Definitions
9.2(422,423) Lien attaches
9.3(422,423) Purpose of filing
9.4(422,423) Place of filing
9.5(422,423) Time of filing
9.6(422,423) Period of lien
9.7(422,423) Fees

CHAPTER 10
INTEREST, PENALTY, EXCEPTIONS TO PENALTY, AND JEOPARDY ASSESSMENTS
10.1(421) Definitions
10.2(421) Interest
10.3(422,423,450,452A) Interest on refunds and unpaid tax
10.4(421) Frivolous return penalty
10.5(421) Improper receipt of credit or refund
10.6(421) Penalties
10.7(421) Waiver of penalty—definitions
10.8(421) Penalty exceptions
10.9(421) Notice of penalty exception for one late return in a three-year period
10.10 to 10.19 Reserved

RETAIL SALES
10.20 to 10.29 Reserved

USE
10.30 to 10.39 Reserved

INDIVIDUAL INCOME
10.40 to 10.49 Reserved

WITHHOLDING
10.50 to 10.55 Reserved

CORPORATE
10.56 to 10.65 Reserved

FINANCIAL INSTITUTIONS
10.66 to 10.70 Reserved
### MOTOR FUEL

- **10.71(452A)**: Penalty and enforcement provisions
- **10.72(452A)**: Interest
- **10.73 to 10.75**: Reserved

### CIGARETTES AND TOBACCO

- **10.76(453A)**: Penalties
- **10.77(453A)**: Interest
- **10.78**: Reserved
- **10.79(453A)**: Request for statutory exception to penalty
- **10.80 to 10.84**: Reserved

### INHERITANCE

- **10.85 to 10.89**: Reserved

### IOWA ESTATE

- **10.90 to 10.95**: Reserved

### GENERATION SKIPPING

- **10.96 to 10.100**: Reserved

### FIDUCIARY INCOME

- **10.101 to 10.109**: Reserved

### HOTEL AND MOTEL

- **10.110 to 10.114**: Reserved

### ALL TAXES

- **10.115(421)**: Application of payments to penalty, interest, and then tax due for payments made on or after January 1, 1995, unless otherwise designated by the taxpayer

### JEOPARDY ASSESSMENTS

- **10.116(422,453B)**: Jeopardy assessments
- **10.117(422,453B)**: Procedure for posting bond
- **10.118(422,453B)**: Time limits
- **10.119(422,453B)**: Amount of bond
- **10.120(422,453B)**: Posting of bond
- **10.121(422,453B)**: Order
- **10.122(422,453B)**: Director’s order
- **10.123(422,453B)**: Type of bond
- **10.124(422,453B)**: Form of surety bond
- **10.125(422,453B)**: Duration of the bond
- **10.126(422,453B)**: Exoneration of the bond

### TITLE II

#### EXCISE

### CHAPTER 11

#### ADMINISTRATION

- **11.1(422,423)**: Definitions
- **11.2(422,423)**: Statute of limitations
- **11.3(422,423)**: Credentials and receipts
- **11.4(422,423)**: Retailers required to keep records
- **11.5(422,423)**: Audit of records
- **11.6(422,423)**: Billings
- **11.7(422,423)**: Collections
- **11.8(422,423)**: No property exempt from distress and sale
CHAPTER 12
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST

12.1(422) Returns and payment of tax
12.2(422,423) Remittances
12.3(422) Permits and negotiated rate agreements
12.4(422) Nonpermit holders
12.5(422,423) Regular permit holders responsible for collection of tax
12.6(422,423) Sale of business
12.7(422) Bankruptcy, insolvency or assignment for benefit of creditors
12.8(422) Vending machines and other coin-operated devices
12.9(422) Claim for refund of tax
12.10(423) Audit limitation for certain services
12.11 Reserved
12.12(422) Extension of time for filing
12.13(422) Determination of filing status
12.14(422,423) Immediate successor liability for unpaid tax
12.15(422,423) Officers and partners—personal liability for unpaid tax
12.16(422) Show sponsor liability
12.17(422) Purchaser liability for unpaid sales tax
12.18(423) Biodiesel production refund
12.19(15) Sales and use tax refund for eligible businesses

CHAPTER 13
PERMITS

13.1(422) Retail sales tax permit required
13.2(422) Application for permit
13.3(422) Permit not transferable—sale of business
13.4(422) Permit—consolidated return optional
13.5(422) Retailers operating a temporary business
13.6(422) Reinstatement of canceled permit
13.7(422) Reinstatement of revoked permit
13.8(422) Withdrawal of permit
13.9(422) Loss or destruction of permit
13.10(422) Change of location
13.11(422) Change of ownership
13.12(422) Permit posting
13.13(422) Trustees, receivers, executors and administrators
13.14(422) Vending machines and other coin-operated devices
13.15(422) Other amusements
13.16(422) Substantially delinquent tax—denial of permit
13.17(422) Substantially delinquent tax—revocation of permit

CHAPTER 14
COMPUTATION OF TAX

14.1(422) Tax not to be included in price
14.2(422,423,77GA,ch1130) Retail bracket system for state sales and local option sales and service tax
14.3(422,423) Taxation of transactions due to rate change
CHAPTER 15
DETERMINATION OF A SALE AND SALE PRICE

15.1(422) Conditional sales to be included in gross sales
15.2(422,423) Repossessed goods
15.3(422,423) Exemption certificates, direct pay permits, fuel used in processing, and beer and wine wholesalers
15.4(422,423) Bad debts
15.5(422,423) Recovery of bad debts by collection agency or attorney
15.6(422,423) Discounts, rebates and coupons
15.7 Reserved
15.8(422,423) Returned merchandise
15.9(422) Goods damaged in transit
15.10(422) Consignment sales
15.11(422,423) Leased departments
15.12(422,423) Excise tax included in and excluded from gross receipts
15.13(422,423) Freight, other transportation charges, and exclusions from the exemption applicable to these services
15.14(422,423) Installation charges when tangible personal property is sold at retail
15.15(422) Premiums and gifts
15.16(422) Gift certificates
15.17(422,423) Finance charge
15.18(422,423) Coins and other currency exchanged at greater than face value
15.19(422,423) Trade-ins
15.20(422,423) Corporate mergers which do not involve taxable sales of tangible personal property or services

CHAPTER 16
TAXABLE SALES

16.1(422) Tax imposed
16.2(422) Used or secondhand tangible personal property
16.3(422,423) Tangible personal property used or consumed by the manufacturer thereof
16.4(422,423) Patterns, dies, jigs, tools, and manufacturing or printing aids
16.5(422,423) Explosives used in mines, quarries and elsewhere
16.6(422,423) Electrotypes, types, zinc etchings, halftones, stereotypes, color process plates and wood mounts
16.7 Reserved
16.8(422,423) Wholesalers and jobbers selling at retail
16.9(422,423) Materials and supplies sold to retail stores
16.10(422,423) Sales to certain corporations organized under federal statutes
16.11(422,423) Paper plates, paper cups, paper dishes, paper napkins, paper, wooden or plastic spoons and forks and straws
16.12(422) Tangible personal property purchased for resale but incidentally consumed by the purchaser
16.13(422) Property furnished without charge by employers to employees
16.14(422) Sales in interstate commerce—goods delivered into this state
16.15(422) Owners or operators of buildings
16.16(422,423) Tangible personal property made to order
16.17(422,423) Blacksmith and machine shops
16.18(422,423) Sales of signs at retail
16.19(422,423) Products sold by cooperatives to members or patrons
16.20(422,423) Municipal utilities, investor-owned utilities, or municipal or rural electrification cooperatives or associations
| 16.21(422,423) | Sale of pets |
| 16.22(422,423) | Sales on layaway |
| 16.23(422) | Meal tickets, coupon books, and merchandise cards |
| 16.24(422,423) | Truckers engaged in retail business |
| 16.25(422,423) | Foreign truckers selling at retail in Iowa |
| 16.26(422) | Admissions to amusements, athletic events, commercial amusement enterprises, fairs, and games |
| 16.27 and 16.28 | Reserved |
| 16.29(422) | Rental of personal property in connection with the operation of amusements |
| 16.30(422) | Commercial amusement enterprises—companies or persons which contract to furnish show for fixed fee |
| 16.31 | Reserved |
| 16.32(422) | River steamboats |
| 16.33(422) | Pawnbrokers |
| 16.34(422,423) | Druggists and pharmacists |
| 16.35(422,423) | Memorial stones |
| 16.36(422) | Communication services furnished by hotel to its guests |
| 16.37(422) | Private clubs |
| 16.38 | Reserved |
| 16.39(422) | Athletic events |
| 16.40(422,423) | Iowa dental laboratories |
| 16.41(422,423) | Dental supply houses |
| 16.42(422) | News distributors and magazine distributors |
| 16.43(422,423) | Magazine subscriptions by independent dealers |
| 16.44(422,423) | Sales by finance companies |
| 16.45(422,423) | Sale of baling wire and baling twine |
| 16.46(422,423) | Snowmobiles and motorboats |
| 16.47(422) | Conditional sales contracts |
| 16.48(422,423) | Carpeting and other floor coverings |
| 16.49(422,423) | Bowling |
| 16.50(422,423) | Various special problems relating to public utilities |
| 16.51(422,423) | Sales of services treated as sales of tangible personal property |
| 16.52(422,423) | Sales of prepaid merchandise cards |

**CHAPTER 17**

**EXEMPT SALES**

| 17.1(422,423) | Gross receipts expended for educational, religious, and charitable purposes |
| 17.2(422) | Fuel used in processing—when exempt |
| 17.3(422,423) | Processing exemptions |
| 17.4(422,423) | Commercial fertilizer and agricultural limestone |
| 17.5(422,423) | Sales to the American Red Cross, the Coast Guard Auxiliary, Navy-Marine Corps Relief Society, and U.S.O |
| 17.6(422,423) | Sales of vehicles subject to registration—new and used—by dealers |
| 17.7(422,423) | Sales to certain federal corporations |
| 17.8(422) | Sales in interstate commerce—goods transported or shipped from this state |
| 17.9(422,423) | Sales of breeding livestock, fowl and certain other property used in agricultural production |
| 17.10(422,423) | Materials used for seed inoculations |
| 17.11(422,423) | Educational institution |
| 17.12(422) | Coat or hat checkrooms |
| 17.13(422,423) | Railroad rolling stock |
| 17.14(422,423) | Chemicals, solvents, sorbents, or reagents used in processing |
17.15(422,423) Demurrage charges
17.16(422,423) Sale of a draft horse
17.17(422,423) Beverage container deposits
17.18(422,423) Films, video tapes and other media, exempt rental and sale
17.19(422,423) Gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to certain nonprofit corporations exempt from tax
17.20(422) Raffles
17.21(422) Exempt sales of prizes
17.22(422,423) Modular homes
17.23(422,423) Sales to other states and their political subdivisions
17.24(422) Nonprofit private museums
17.25(422,423) Exempt sales by excursion boat licensees
17.26(422,423) Bedding for agricultural livestock or fowl
17.27(422,423) Statewide notification center service exemption
17.28(422,423) State fair and fair societies
17.29(422,423) Reciprocal shipment of wines
17.30(422,423) Nonprofit organ procurement organizations
17.31(422,423) Sale of electricity to water companies
17.32(422) Food and beverages sold by certain organizations are exempt
17.33(422,423) Sales of building materials, supplies and equipment to not-for-profit rural water districts
17.34(422,423) Sales to hospices
17.35(422,423) Sales of livestock ear tags
17.36(422,423) Sale or rental of information services
17.37(422,423) Temporary exemption from sales tax on certain utilities
17.38(422,423) State sales tax phase-out on energies
17.39(422,423) Art centers
17.40(422,423) Community action agencies
17.41(422,423) Legislative service bureau

CHAPTER 18
TAXABLE AND EXEMPT SALES DETERMINED BY METHOD OF TRANSACTION OR USAGE
18.1(422,423) Tangible personal property purchased from the United States government
18.2(422,423) Sales of butane, propane and other like gases in cylinder drums, etc.
18.3(422,423) Chemical compounds used to treat water
18.4(422) Mortgages and trustees
18.5(422,423) Sales to agencies or instrumentalities of federal, state, county and municipal government
18.6(422,423) Relief agencies
18.7(422,423) Containers, including packing cases, shipping cases, wrapping material and similar items
18.8(422) Auctioneers
18.9(422) Sales by farmers
18.10(422,423) Florists
18.11(422,423) Landscaping materials
18.12(422,423) Hatcheries
18.13(422,423) Sales by the state of Iowa, its agencies and instrumentalities
18.14(422,423) Sales of livestock and poultry feeds
18.15(422,423) Student fraternities and sororities
18.16(422,423) Photographers and photostaters
18.17(422,423) Gravel and stone
18.18(422,423) Sale of ice
18.19(422,423) Antiques, curios, old coins or collector’s postage stamps
18.20(422,423) Communication services
18.21(422,423) Morticians or funeral directors
18.22(422,423) Physicians, dentists, surgeons, ophthalmologists, oculists, optometrists, and opticians
18.23(422) Veterinarians
18.24(422,423) Hospitals, infirmaries and sanitariums
18.25(422,423) Warranties and maintenance contracts
18.26(422) Service charge and gratuity
18.27(422) Advertising agencies, commercial artists, and designers
18.28(422,423) Casual sales
18.29(422,423) Processing, a definition of the word, its beginning and completion characterized with specific examples of processing
18.30(422) Taxation of American Indians
18.31(422,423) Tangible personal property purchased by one who is engaged in the performance of a service
18.32(422,423) Sale, transfer or exchange of tangible personal property or taxable enumerated services between affiliated corporations
18.33(422,423) Printers’ and publishers’ supplies exemption with retroactive effective date
18.34(422,423) Automatic data processing
18.35(422,423) Drainage tile
18.36(422,423) True leases and purchases of tangible personal property by lessors
18.37(422,423) Motor fuel, special fuel, aviation fuels and gasoline
18.38(422,423) Urban transit systems
18.39(422,423) Sales or services rendered, furnished, or performed by a county or city
18.40(422,423) Renting of rooms
18.41(422,423) Envelopes for advertising
18.42(422,423) Newspapers, free newspapers and shoppers’ guides
18.43(422,423) Written contract
18.44(422,423) Sale or rental of farm machinery and equipment
18.45(422,423) Sale or rental of computers, industrial machinery and equipment; refund of and exemption from tax paid for periods prior to July 1, 1997
18.46(422,423) Automotive fluids
18.47(422,423) Maintenance or repair of fabric or clothing
18.48(422,423) Sale or rental of farm machinery, equipment, replacement parts, and repairs used in livestock, dairy, or plant production
18.49(422,423) Aircraft sales, rental, component parts, and services exemptions prior to, on, and after July 1, 1999
18.50(422,423) Property used by a lending organization
18.51(422,423) Sales to nonprofit legal aid organizations
18.52(422,423) Irrigation equipment used in farming operations
18.53(422,423) Sales to persons engaged in the consumer rental purchase business
18.54(422,423) Sales of advertising material
18.55(422,423) Drop shipment sales
18.56(422,423) Wind energy conversion property
18.57(422,423) Exemptions applicable to the production of flowering, ornamental, and vegetable plants
18.58(422,423) Exempt sales or rentals of computers, industrial machinery and equipment, and exempt sales of fuel and electricity on and after July 1, 1997
18.59(422,423) Exempt sales to nonprofit hospitals
Exempt sales of gases used in the manufacturing process
Exclusion from tax for property delivered by certain media

CHAPTER 19
SALES AND USE TAX ON CONSTRUCTION ACTIVITIES
19.1(422,423) General information
19.2(422,423) Contractors are consumers of building materials, supplies, and equipment by statute
19.3(422,423) Sales of building materials, supplies, and equipment to contractors, subcontractors, builders or owners
19.4(422,423) Contractors, subcontractors or builders who are retailers
19.5(422,423) Building materials, supplies, and equipment used in the performance of construction contracts within and outside Iowa
19.6(422,423) Prefabricated structures
19.7(422,423) Types of construction contracts
19.8(422,423) Machinery and equipment sales contracts with installation
19.9(422,423) Construction contracts with equipment sales (mixed contracts)
19.10(422,423) Distinguishing machinery and equipment from real property
19.11(422,423) Tangible personal property which becomes structures
19.12(422,423) Construction contracts with tax exempt entities
19.13(422,423) Tax on enumerated services
19.14(422,423) Transportation cost
19.15(422,423) Start-up charges
19.16(422,423) Liability of subcontractors
19.17(422,423) Liability of sponsors
19.18(422,423) Withholding
19.19(422,423) Resale certificates
19.20(423) Reporting for use tax

CHAPTER 20
FOODS FOR HUMAN CONSUMPTION, PRESCRIPTION DRUGS, INSULIN, HYPODERMIC SYRINGES, DIABETIC TESTING MATERIALS, PROSTHETIC, ORTHOTIC OR ORTHOPEDIC DEVICES
20.1(422,423) Foods for human consumption
20.2(422,423) Food coupon rules
20.3(422,423) Nonparticipating retailer in the food coupon program
20.4(422,423) Determination of eligible foods
20.5(422,423) Meals and prepared food
20.6(422,423) Vending machines
20.7(422,423) Prescription drugs and devices
20.8(422,423) Exempt sales of nonprescription medical devices, other than prosthetic devices
20.9(422,423) Prosthetic, orthotic and orthopedic devices
20.10(422,423) Sales and rentals covered by Medicaid and Medicare
20.11(422,423) Reporting
20.12(422,423) Exempt sales of clothing and footwear during two-day period in August

CHAPTERS 21 to 25
Reserved
TITLE III
SALES TAX ON SERVICES

CHAPTER 26
SALES AND USE TAX ON SERVICES

26.1(422) Definition and scope
26.2(422) Enumerated services exempt
26.3(422) Alteration and garment repair
26.4(422) Armored car
26.5(422) Vehicle repair
26.6(422) Battery, tire and allied
26.7(422) Investment counseling
26.8(422) Bank and financial institution service charges
26.9(422) Barber and beauty
26.10(422) Boat repair
26.11(422) Car and vehicle wash and wax
26.12(422) Carpentry
26.13(422) Roof, shingle and glass repair
26.14(422) Dance schools and dance studios
26.15(422) Dry cleaning, pressing, dyeing and laundering
26.16(422) Electrical and electronic repair and installation
26.17(422) Engraving, photography and retouching
26.18(422,423) Equipment and tangible personal property rental
26.19(422) Excavating and grading
26.20(422) Farm implement repair of all kinds
26.21(422) Flying service
26.22(422) Furniture, rug, upholstery, repair and cleaning
26.23(422) Fur storage and repair
26.24(422) Golf and country clubs and all commercial recreation
26.25(422) House and building moving
26.26(422) Household appliance, television and radio repair
26.27(422) Jewelry and watch repair
26.28(422) Machine operators
26.29(422) Machine repair of all kinds
26.30(422) Motor repair
26.31(422) Motorcycle, scooter and bicycle repair
26.32(422) Oilers and lubricators
26.33(422) Office and business machine repair
26.34(422) Painting, papering and interior decorating
26.35(422) Parking facilities
26.36(422) Pipe fitting and plumbing
26.37(422) Wood preparation
26.38(422) Private employment agency, executive search agency
26.39(422) Printing and binding
26.40(422) Sewing and stitching
26.41(422) Shoe repair and shoe shine
26.42(422) Storage warehousing, storage locker, and storage warehousing of raw agricultural products and household goods
26.43(422,423) Telephone answering service
26.44(422) Test laboratories
26.45(422) Termite, bug, roach, and pest eradicators
26.46(422) Tin and sheet metal repair
26.47(422) Turkish baths, massage, and reducing salons
26.48(422) Vulcanizing, recapping or retreading
26.49 Reserved
26.50(422) Weighing
26.51(422) Welding
26.52(422) Well drilling
26.53(422) Wrapping, packing and packaging of merchandise other than processed meat, fish, fowl and vegetables
26.54(422) Wrecking service
26.55(422) Wrecker and towing
26.56(422) Cable and pay television
26.57(422) Camera repair
26.58(422) Campgrounds
26.59(422) Gun repair
26.60(422) Janitorial and building maintenance or cleaning
26.61(422) Lawn care
26.62(422) Landscaping
26.63(422) Pet grooming
26.64(422) Reflexology
26.65(422) Tanning beds and tanning salons
26.66(422) Tree trimming and removal
26.67(422) Water conditioning and softening
26.68(422) Motor vehicle, recreational vehicle and recreational boat rental
26.69(422) Security and detective services
26.70 Reserved
26.71(422,423) Solid waste collection and disposal services
26.72(422,423) Sewage services
26.73 Reserved
26.74(422,423) Aircraft rental
26.75(422,423) Sign construction and installation
26.76(422,423) Swimming pool cleaning and maintenance
26.77(422,423) Taxidermy
26.78(422,423) Mini-storage
26.79(422,423) Dating services
26.80(422,423) Limousine service
26.81(422) Sales of bundled services contracts

CHAPTER 27
AUTOMOBILE RENTAL EXCISE TAX
27.1(422,422C,423) Definitions and characterizations
27.2(422,422C,423) Tax imposed upon rental of automobiles
27.3(422,422C,423) Lessor’s obligation to collect tax
27.4(422,422C,423) Administration of tax

TITLE IV
USE

CHAPTER 28
DEFINITIONS
28.1(423) Taxable use defined
28.2(423) Processing of property defined
28.3(423) Purchase price defined
28.4(423) Retailer maintaining a place of business in this state defined
CHAPTER 29
CERTIFICATES
29.1(423) Certificate of registration
29.2(423) Cancellation of certificate of registration
29.3(423) Certificates of resale, direct pay permits, or processing

CHAPTER 30
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST
30.1(423) Liability for use tax and denial and revocation of permit
30.2(423) Measure of use tax
30.3(421,423) Consumer’s use tax return
30.4(423) Retailer’s use tax return
30.5(423) Collection requirements of registered retailers
30.6(423) Bracket system to be used by registered vendors
30.7(423) Sales tax or use tax paid to another state
30.8(423) Registered retailers selling tangible personal property on a conditional sale contract basis
30.9(423) Registered vendors repossessing goods sold on a conditional sale contract basis
30.10(423) Penalties for late filing of a monthly tax deposit or use tax returns
30.11(423) Claim for refund of use tax
30.12(423) Extension of time for filing

CHAPTER 31
RECEIPTS SUBJECT TO USE TAX
31.1(423) Transactions consummated outside this state
31.2(423) Goods coming into this state
31.3(423) Sales by federal government or agencies to consumers
31.4(423) Sales for lease of vehicles subject to registration—taxation and exemptions
31.5(423) Motor vehicle use tax on long-term leases
31.6(423) Sales of aircraft subject to registration
31.7(423) Communication services

CHAPTER 32
RECEIPTS EXEMPT FROM USE TAX
32.1(423) Tangible personal property and taxable services subject to sales tax
32.2(423) Sales tax exemptions applicable to use tax
32.3(423) Mobile homes and manufactured housing
32.4(423) Exemption for vehicles used in interstate commerce
32.5(423) Exemption for transactions if sales tax paid
32.6(423) Exemption for ships, barges, and other waterborne vessels
32.7(423) Exemption for containers
32.8(423) Exemption for building materials used outside this state
32.9(423) Exemption for vehicles subject to registration
32.10(423) Exemption for vehicles operated under Iowa Code chapter 326
32.11(423) Exemption for vehicles purchased for rental or lease
32.12(423) Exemption for vehicles previously purchased for rental
32.13(423) Exempt use of aircraft on and after July 1, 1999

CHAPTER 33
RECEIPTS SUBJECT TO USE TAX DEPENDING ON METHOD OF TRANSACTION
33.1 Reserved
33.2(423) Federal manufacturer’s or retailer’s excise tax
33.3(423) Fuel consumed in creating power, heat or steam for processing or generating electric current
33.4(423) Repair of tangible personal property outside the state of Iowa
33.5(423) Taxation of American Indians
33.6(422,423) Exemption for property used in Iowa only in interstate commerce
33.7(423) Property used to manufacture certain vehicles to be leased
33.8(423) Out-of-state rental of vehicles subject to registration subsequently used in Iowa
33.9(423) Sales of mobile homes, manufactured housing, and related property and services
33.10(423) Tax imposed on the use of manufactured housing as tangible personal property and as real estate

CHAPTER 34
VEHICLES SUBJECT TO REGISTRATION
34.1(422,423) Definitions
34.2(423) County treasurer shall collect tax
34.3(423) Returned vehicles and tax refunded by manufacturers
34.4(423) Use tax collections required
34.5(423) Exemptions
34.6(423) Vehicles subject to registration received as gifts or prizes
34.7(423) Titling of used foreign vehicles by dealers
34.8(423) Dealer’s retail sales tax returns
34.9(423) Affidavit forms
34.10(423) Exempt and taxable purchases of vehicles for taxable rental
34.11(423) Manufacturer’s refund of use tax to a consumer, lessor, or lessee of a defective motor vehicle
34.12(423) Government payments for a motor vehicle which do not involve government purchases of the same
34.13(423) Transfers of vehicles resulting from corporate mergers and other types of corporate transfers
34.14(423) Refund of use tax paid on the purchase of a motor vehicle
34.15(423) Registration by manufacturers
34.16(423) Rebates
34.17(321,423) Repossession of a vehicle
34.18(423) Federal excise tax
34.19(423) Claiming an exemption from Iowa tax
34.20(423) Affidavit forms
34.21(423) Insurance companies

CHAPTERS 35 and 36
Reserved

CHAPTER 37
UNDERGROUND STORAGE TANK RULES
INCORPORATED BY REFERENCE
37.1(424) Rules incorporated

TITLE V
INDIVIDUAL

CHAPTER 38
ADMINISTRATION
38.1(422) Definitions
38.2(422) Statute of limitations
38.3(422) Retention of records
38.4(422) Authority for deductions
38.5(422) Jeopardy assessments
38.6(422) Information deemed confidential
38.7(422) Power of attorney
38.8(422) Delegations to audit and examine
38.9(422) Bonding procedure
38.10(422) Indexation
38.11(422) Appeals of notices of assessment and notices of denial of taxpayer’s refund claims
38.12(422) Indexation of the optional standard deduction for inflation
38.13(422) Reciprocal tax agreements
38.14(422) Information returns for reporting income payments to the department of revenue
38.15(422) Relief of innocent spouse for substantial understatement of tax attributable to other spouse
38.16(422) Preparation of taxpayers’ returns by department employees
38.17(422) Resident determination
38.18(422) Tax treatment of income repaid in current tax year which had been reported on prior Iowa individual income tax return
38.19(422) Indication of dependent child health care coverage on tax return

CHAPTER 39
FILING RETURN AND PAYMENT OF TAX

39.1(422) Who must file
39.2(422) Time and place for filing
39.3(422) Form for filing
39.4(422) Filing status
39.5(422) Payment of tax
39.6(422) Minimum tax
39.7(422) Tax on lump-sum distributions
39.8(422) State income tax limited to taxpayer’s net worth immediately before the distressed sale
39.9(422) Special tax computation for all low-income taxpayers except single taxpayers
39.10(422) Election to report excess income from sale or exchange of livestock due to drought in the next tax year
39.11(422) Forgiveness of tax for an individual whose federal income tax was forgiven because the individual was killed outside the United States due to military or terroristic action
39.12(422) Tax benefits for persons in the armed forces deployed outside the United States
39.13 Reserved
39.14(422) Tax benefits for persons serving in support of the Bosnia-Herzegovina hazardous duty area
39.15(422) Special tax computation for taxpayers who are 65 years of age or older

CHAPTER 40
DETERMINATION OF NET INCOME

40.1(422) Net income defined
40.2(422) Interest and dividends from federal securities
40.3(422) Interest and dividends from foreign securities and securities of state and other political subdivisions
40.4 Reserved
40.5(422) Military pay
40.6(422) Interest and dividend income
40.7(422) Current year capital gains and losses
40.8(422)  Gains and losses on property acquired before January 1, 1934
40.9(422)  Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit
40.10 and 40.11  Reserved
40.12(422)  Income from partnerships or limited liability companies
40.13(422)  Subchapter “S” income
40.14(422)  Contract sales
40.15(422)  Reporting of incomes by married taxpayers who file a joint federal return but elect
to file separately for Iowa income tax purposes
40.16(422)  Income of nonresidents
40.17(422)  Income of part-year residents
40.18(422)  Net operating loss carrybacks and carryovers
40.19(422)  Casualty losses
40.20(422)  Adjustments to prior years
40.21(422)  Additional deduction for wages paid or accrued for work done in Iowa by certain
individuals
40.22(422)  Disability income exclusion
40.23(422)  Social security benefits
40.24(99E)  Lottery prizes
40.25 and 40.26  Reserved
40.27(422)  Incomes from distressed sales of qualifying taxpayers
40.28  Reserved
40.29(422)  Intangible drilling costs
40.30(422)  Percentage depletion
40.31(422)  Away-from-home expenses of state legislators
40.32(422)  Interest and dividends from regulated investment companies which are exempt
from federal income tax
40.33  Reserved
40.34(422)  Exemption of restitution payments for persons of Japanese ancestry
40.35(422)  Exemption of Agent Orange settlement proceeds received by disabled veterans
or beneficiaries of disabled veterans
40.36(422)  Exemption of interest earned on bonds issued to finance beginning farmer loan
program
40.37(422)  Exemption of interest from bonds issued by the Iowa comprehensive petroleum
underground storage tank fund board
40.38(422)  Capital gain deduction or exclusion for certain types of net capital gains
40.39(422)  Exemption of interest from bonds or notes issued to fund the E911 emergency
telephone system
40.40(422)  Exemption of active-duty military pay of national guard personnel and armed
forces reserve personnel received for services related to operation desert shield
40.41  Reserved
40.42(422)  Depreciation of speculative shell buildings
40.43(422)  Retroactive exemption for payments received for providing unskilled in-home
health care services to a relative
40.44(422,541A)  Individual development accounts
40.45(422)  Exemption for distributions from pensions, annuities, individual retirement
accounts, or deferred compensation plans received by nonresidents of Iowa
40.46(422)  Taxation of compensation of nonresident members of professional athletic teams
40.47(422)  Partial exclusion of pensions and other retirement benefits for disabled individuals,
individuals who are 55 years of age or older, surviving spouses, and survivors
40.48(422)  Health insurance premiums deduction
40.49(422)  Employer social security credit for tips
40.50(422)  Computing state taxable amounts of pension benefits from state pension plans
40.51(422) Exemption of active-duty military pay of national guard personnel and armed forces military reserve personnel for overseas services pursuant to military orders for peacekeeping in the Bosnia-Herzegovina area

40.52(422) Mutual funds

40.53(422) Deduction for contributions by taxpayers to the Iowa educational savings plan trust and addition to income for refunds of contributions previously deducted

40.54(422) Roth individual retirement accounts

40.55(422) Exemption of income payments for victims of the Holocaust and heirs of victims

40.56(422) Taxation of income from the sale of obligations of the state of Iowa and its political subdivisions

40.57(422) Installment sales by taxpayers using the accrual method of accounting

40.58(422) Exclusion of distributions from retirement plans by national guard members and members of military reserve forces of the United States

40.59 Reserved

40.60(422) Additional first-year depreciation allowance

40.61(422) Exclusion of active duty pay of national guard members and armed forces military reserve members for service under orders for Operation Iraqi Freedom, Operation Noble Eagle, Operation Enduring Freedom or Operation New Dawn

40.62(422) Deduction for overnight expenses not reimbursed for travel away from home of more than 100 miles for performance of service as a member of the national guard or armed forces military reserve

40.63(422) Exclusion of income from military student loan repayments

40.64(422) Exclusion of death gratuity payable to an eligible survivor of a member of the armed forces, including a member of a reserve component of the armed forces who has died while on active duty

40.65(422) Section 179 expensing

40.66(422) Deduction for certain unreimbursed expenses relating to a human organ transplant

40.67(422) Deduction for alternative motor vehicles

40.68(422) Injured veterans grant program

40.69(422) Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain

40.70(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects

40.71(422) Exclusion for certain victim compensation payments

40.72(422) Exclusion of Vietnam Conflict veterans bonus

40.73(422) Exclusion for health care benefits of nonqualified tax dependents

40.74(422) Exclusion for AmeriCorps Segal Education Award

40.75(422) Exclusion of certain amounts received from Iowa veterans trust fund

40.76(422) Exemption of active duty pay for armed forces, armed forces military reserve, or the national guard

40.77(422) Exclusion of biodiesel production refund

40.78(422) Allowance of certain deductions for 2008 tax year

40.79(422) Special filing provisions related to 2010 tax changes

40.80(422) Exemption for military retirement pay

CHAPTER 41
DETERMINATION OF TAXABLE INCOME

41.1(422) Verification of deductions required

41.2(422) Federal rulings and regulations

41.3(422) Federal income tax deduction and federal refund

41.4(422) Optional standard deduction

41.5(422) Itemized deductions
Itemized deductions—separate returns by spouses
41.7(422) Itemized deductions—part-year residents
41.8(422) Itemized deductions—nonresidents
41.9(422) Annualizing income
41.10(422) Income tax averaging
41.11(422) Reduction in state itemized deductions for certain high-income taxpayers
41.12(422) Deduction for home mortgage interest for taxpayers with mortgage interest credit
41.13(422) Iowa income taxes and Iowa tax refund

CHAPTER 42
ADJUSTMENTS TO COMPUTED TAX AND TAX CREDITS
42.1(257,422) School district surtax
42.2(422D) Emergency medical services income surtax
42.3(422) Exemption credits
42.4(422) Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa
42.5(422) Nonresident and part-year resident credit
42.6(422) Out-of-state tax credits
42.7(422) Out-of-state tax credit for minimum tax
42.8(422) Withholding and estimated tax credits
42.9(422) Motor fuel credit
42.10(422) Alternative minimum tax credit for minimum tax paid in a prior tax year
42.11(15,422) Research activities credit
42.12(422) New jobs credit
42.13(422) Earned income credit
42.14(15) Investment tax credit—new jobs and income program and enterprise zone program
42.15(422) Child and dependent care credit
42.16(422) Franchise tax credit
42.17(15E) Eligible housing business tax credit
42.18(422) Assistive device tax credit
42.19(404A,422) Historic preservation and cultural and entertainment district tax credit
42.20(422) Ethanol blended gasoline tax credit
42.21(15E) Eligible development business investment tax credit
42.22(15E,422) Venture capital credits
42.23(15) New capital investment program tax credits
42.24(15E,422) Endow Iowa tax credit
42.25(422) Soy-based cutting tool oil tax credit
42.26(15I,422) Wage-benefits tax credit
42.27(422,476B) Wind energy production tax credit
42.28(422,476C) Renewable energy tax credit
42.29(15) High quality job creation program
42.30(15E,422) Economic development region revolving fund tax credit
42.31(422) Early childhood development tax credit
42.32(422) School tuition organization tax credit
42.33(422) E-85 gasoline promotion tax credit
42.34(422) Biodiesel blended fuel tax credit
42.35(422) Soy-based transformer fluid tax credit
42.36(16,422) Agricultural assets transfer tax credit and custom farming contract tax credit
42.37(15,422) Film qualified expenditure tax credit
42.38(15,422) Film investment tax credit
42.39(422) Ethanol promotion tax credit
42.40(422) Charitable conservation contribution tax credit
42.41(15,422) Redevelopment tax credit
42.42(15) High quality jobs program
42.43(16,422) Disaster recovery housing project tax credit
42.44(422) Deduction of credits
42.45(15) Aggregate tax credit limit for certain economic development programs
42.46(422) E-15 plus gasoline promotion tax credit
42.47(422) Geothermal heat pump tax credit
42.48(422) Solar energy system tax credit
42.49(422) Volunteer fire fighter, volunteer emergency medical services personnel and reserve peace officer tax credit
42.50(422) Taxpayers trust fund tax credit
42.51(422,85GA,SF452) From farm to food donation tax credit
42.52(422) Adoption tax credit

CHAPTER 43
ASSESSMENTS AND REFUNDS
43.1(422) Notice of discrepancies
43.2(422) Notice of assessment, supplemental assessments and refund adjustments
43.3(422) Overpayments of tax
43.4(68A,422,456A) Optional designations of funds by taxpayer
43.5(422) Abatement of tax
43.6 and 43.7 Reserved
43.8(422) Livestock production credit refunds for corporate taxpayers and individual taxpayers

CHAPTER 44
PENALTY AND INTEREST
44.1(422) Penalty
44.2(422) Computation of interest on unpaid tax
44.3(422) Computation of interest on refunds resulting from net operating losses
44.4(422) Computation of interest on overpayments

CHAPTER 45
PARTNERSHIPS
45.1(422) General rule
45.2(422) Partnership returns
45.3(422) Contents of partnership return
45.4(422) Distribution and taxation of partnership income

CHAPTER 46
WITHHOLDING
46.1(422) Who must withhold
46.2(422) Computation of amount withheld
46.3(422) Forms, returns and reports
46.4(422) Withholding on nonresidents
46.5(422) Penalty and interest
46.6(422) Withholding tax credit to workforce development fund
46.7(422) ACE training program credits from withholding
46.8(260E) New job tax credit from withholding
46.9(15) Supplemental new jobs credit from withholding and alternative credit for housing assistance programs
46.10(403) Targeted jobs withholding tax credit
CHAPTER 47
Reserved

CHAPTER 48
COMPOSITE RETURNS
48.1(422) Composite returns
48.2(422) Definitions
48.3(422) Filing requirements
48.4 Reserved
48.5(422) Composite return required by director
48.6(422) Determination of composite Iowa income
48.7(422) Determination of composite Iowa tax
48.8(422) Estimated tax
48.9(422) Time and place for filing

CHAPTER 49
ESTIMATED INCOME TAX FOR INDIVIDUALS
49.1(422) Who must pay estimated income tax
49.2(422) Time for filing and payment of tax
49.3(422) Estimated tax for nonresidents
49.4(422) Special estimated tax periods
49.5(422) Reporting forms
49.6(422) Penalty—underpayment of estimated tax
49.7(422) Estimated tax carryforwards and how the carryforward amounts are affected under different circumstances

CHAPTER 50
APPORTIONMENT OF INCOME FOR RESIDENT SHAREHOLDERS OF S CORPORATIONS
50.1(422) Apportionment of income for resident shareholders of S corporations
50.2 Reserved
50.3(422) Distributions
50.4(422) Computation of net S corporation income
50.5(422) Computation of federal tax on S corporation income
50.6(422) Income allocable to Iowa
50.7(422) Credit for taxes paid to another state
50.8 and 50.9 Reserved
50.10(422) Example for tax periods beginning on or after January 1, 2002

TITLE VI
CORPORATION

CHAPTER 51
ADMINISTRATION
51.1(422) Definitions
51.2(422) Statutes of limitation
51.3(422) Retention of records
51.4(422) Cancellation of authority to do business
51.5(422) Authority for deductions
51.6(422) Jeopardy assessments
51.7(422) Information confidential
51.8(422) Power of attorney
51.9(422) Delegation of authority to audit and examine
## CHAPTER 52
### FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST, AND TAX CREDITS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>52.1</td>
<td>Who must file</td>
</tr>
<tr>
<td>52.2</td>
<td>Time and place for filing return</td>
</tr>
<tr>
<td>52.3</td>
<td>Form for filing</td>
</tr>
<tr>
<td>52.4</td>
<td>Payment of tax</td>
</tr>
<tr>
<td>52.5</td>
<td>Minimum tax</td>
</tr>
<tr>
<td>52.6</td>
<td>Motor fuel credit</td>
</tr>
<tr>
<td>52.7</td>
<td>Research activities credit</td>
</tr>
<tr>
<td>52.8</td>
<td>New jobs credit</td>
</tr>
<tr>
<td>52.9</td>
<td>Reserved</td>
</tr>
<tr>
<td>52.10</td>
<td>New jobs and income program tax credits</td>
</tr>
<tr>
<td>52.11</td>
<td>Refunds and overpayments</td>
</tr>
<tr>
<td>52.12</td>
<td>Deduction of credits</td>
</tr>
<tr>
<td>52.13</td>
<td>Livestock production credits</td>
</tr>
<tr>
<td>52.14</td>
<td>Enterprise zone tax credits</td>
</tr>
<tr>
<td>52.15</td>
<td>Eligible housing business tax credit</td>
</tr>
<tr>
<td>52.16</td>
<td>Franchise tax credit</td>
</tr>
<tr>
<td>52.17</td>
<td>Assistive device tax credit</td>
</tr>
<tr>
<td>52.18</td>
<td>Historic preservation and cultural and entertainment district tax credit</td>
</tr>
<tr>
<td>52.19</td>
<td>Ethanol blended gasoline tax credit</td>
</tr>
<tr>
<td>52.20</td>
<td>Eligible development business investment tax credit</td>
</tr>
<tr>
<td>52.21</td>
<td>Venture capital credits</td>
</tr>
<tr>
<td>52.22</td>
<td>New capital investment program tax credits</td>
</tr>
<tr>
<td>52.23</td>
<td>Endow Iowa tax credit</td>
</tr>
<tr>
<td>52.24</td>
<td>Soy-based cutting tool oil tax credit</td>
</tr>
<tr>
<td>52.25</td>
<td>Wage-benefits tax credit</td>
</tr>
<tr>
<td>52.26</td>
<td>Wind energy production tax credit</td>
</tr>
<tr>
<td>52.27</td>
<td>Renewable energy tax credit</td>
</tr>
<tr>
<td>52.28</td>
<td>High quality job creation program</td>
</tr>
<tr>
<td>52.29</td>
<td>Economic development region revolving fund tax credit</td>
</tr>
<tr>
<td>52.30</td>
<td>E-85 gasoline promotion tax credit</td>
</tr>
<tr>
<td>52.31</td>
<td>Biodiesel blended fuel tax credit</td>
</tr>
<tr>
<td>52.32</td>
<td>Soy-based transformer fluid tax credit</td>
</tr>
<tr>
<td>52.33</td>
<td>Agricultural assets transfer tax credit and custom farming contract tax credit</td>
</tr>
<tr>
<td>52.34</td>
<td>Film qualified expenditure tax credit</td>
</tr>
<tr>
<td>52.35</td>
<td>Film investment tax credit</td>
</tr>
<tr>
<td>52.36</td>
<td>Ethanol promotion tax credit</td>
</tr>
<tr>
<td>52.37</td>
<td>Charitable conservation contribution tax credit</td>
</tr>
<tr>
<td>52.38</td>
<td>School tuition organization tax credit</td>
</tr>
<tr>
<td>52.39</td>
<td>Redevelopment tax credit</td>
</tr>
<tr>
<td>52.40</td>
<td>High quality jobs program</td>
</tr>
<tr>
<td>52.41</td>
<td>Aggregate tax credit limit for certain economic development programs</td>
</tr>
<tr>
<td>52.42</td>
<td>Disaster recovery housing project tax credit</td>
</tr>
<tr>
<td>52.43</td>
<td>E-15 plus gasoline promotion tax credit</td>
</tr>
<tr>
<td>52.44</td>
<td>Solar energy system tax credit</td>
</tr>
<tr>
<td>52.45</td>
<td>From farm to food donation tax credit</td>
</tr>
</tbody>
</table>
CHAPTER 53
DETERMINATION OF NET INCOME

53.1(422) Computation of net income for corporations
53.2(422) Net operating loss carrybacks and carryovers
53.3(422) Capital loss carryback
53.4(422) Net operating and capital loss carrybacks and carryovers
53.5(422) Interest and dividends from federal securities
53.6(422) Interest and dividends from foreign securities, and securities of state and their political subdivisions
53.7(422) Safe harbor leases
53.8(422) Additions to federal taxable income
53.9(422) Gains and losses on property acquired before January 1, 1934
53.10(422) Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit
53.11(422) Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
53.12(422) Federal income tax deduction
53.13(422) Iowa income taxes and Iowa tax refund
53.14(422) Method of accounting, accounting period
53.15(422) Consolidated returns
53.16(422) Federal rulings and regulations
53.17(422) Depreciation of speculative shell buildings
53.18(422) Deduction of multipurpose vehicle registration fee
53.19(422) Deduction of foreign dividends
53.20(422) Employer social security credit for tips
53.21(422) Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust
53.22(422) Additional first-year depreciation allowance
53.23(422) Section 179 expensing
53.24(422) Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain
53.25(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television, or video projects
53.26(422) Exclusion of biodiesel production refund

CHAPTER 54
ALLOCATION AND APPORTIONMENT

54.1(422) Basis of corporate tax
54.2(422) Allocation or apportionment of investment income
54.3(422) Application of related expense to allocable interest, dividends, rents and royalties—tax periods beginning on or after January 1, 1978
54.4(422) Net gains and losses from the sale of assets
54.5(422) Where income is derived from the manufacture or sale of tangible personal property
54.6(422) Apportionment of income derived from business other than the manufacture or sale of tangible personal property
54.7(422) Apportionment of income of transportation, communications, and certain public utilities corporations
54.8(422) Apportionment of income derived from more than one business activity carried on within a single corporate structure
54.9(422) Allocation and apportionment of income in special cases
CHAPTER 55
ASSESSMENTS, REFUNDS, APPEALS

55.1(422) Notice of discrepancies
55.2(422) Notice of assessment
55.3(422) Refund of overpaid tax
55.4(421) Abatement of tax
55.5(422) Protests

CHAPTER 56
ESTIMATED TAX FOR CORPORATIONS

56.1(422) Who must pay estimated tax
56.2(422) Time for filing and payment of tax
56.3(422) Special estimate periods
56.4(422) Reporting forms
56.5(422) Penalties
56.6(422) Overpayment of estimated tax

TITLE VII
FRANCHISE

CHAPTER 57
ADMINISTRATION

57.1(422) Definitions
57.2(422) Statutes of limitation
57.3(422) Retention of records
57.4(422) Authority for deductions
57.5(422) Jeopardy assessments
57.6(422) Information deemed confidential
57.7(422) Power of attorney
57.8(422) Delegation to audit and examine

CHAPTER 58
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST, AND TAX CREDITS

58.1(422) Who must file
58.2(422) Time and place for filing return
58.3(422) Form for filing
58.4(422) Payment of tax
58.5(422) Minimum tax
58.6(422) Refunds and overpayments
58.7(422) Allocation of franchise tax revenues
58.8(15E) Eligible housing business tax credit
58.9(15E) Eligible development business investment tax credit
58.10(422) Historic preservation and cultural and entertainment district tax credit
58.11(15E,422) Venture capital credits
58.12(15) New capital investment program tax credits
58.13(15E,422) Endow Iowa tax credit
58.14(15I,422) Wage-benefits tax credit
58.15(422,476B) Wind energy production tax credit
58.16(422,476C) Renewable energy tax credit
58.17(15) High quality job creation program
58.18(15E,422) Economic development region revolving fund tax credit
58.19(15,422) Film qualified expenditure tax credit
58.20(15,422) Film investment tax credit
58.21(15)  High quality jobs program
58.22(422)  Solar energy system tax credit

CHAPTER 59
DETERMINATION OF NET INCOME
59.1(422)  Computation of net income for financial institutions
59.2(422)  Net operating loss carrybacks and carryovers
59.3(422)  Capital loss carryback
59.4(422)  Net operating and capital loss carrybacks and carryovers
59.5(422)  Interest and dividends from federal securities
59.6(422)  Interest and dividends from foreign securities and securities of states and other political subdivisions
59.7(422)  Safe harbor leases
59.8(422)  Additional deduction for wages paid or accrued for work done in Iowa by certain individuals
59.9(422)  Work opportunity tax credit
59.10  Reserved
59.11(422)  Gains and losses on property acquired before January 1, 1934
59.12(422)  Federal income tax deduction
59.13(422)  Iowa franchise taxes
59.14(422)  Method of accounting, accounting period
59.15(422)  Consolidated returns
59.16(422)  Federal rulings and regulations
59.17(15E,422)  Charitable contributions relating to the endow Iowa tax credit
59.18(422)  Depreciation of speculative shell buildings
59.19(422)  Deduction of multipurpose vehicle registration fee
59.20(422)  Disallowance of expenses to carry an investment subsidiary for tax years which begin on or after January 1, 1995
59.21(422)  S corporation and limited liability company financial institutions
59.22(422)  Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust
59.23(422)  Additional first-year depreciation allowance
59.24(422)  Section 179 expensing

ALLOCATION AND APPORTIONMENT
59.25(422)  Basis of franchise tax
59.26(422)  Allocation and apportionment
59.27(422)  Net gains and losses from the sale of assets
59.28(422)  Apportionment factor
59.29(422)  Allocation and apportionment of income in special cases

CHAPTER 60
ASSESSMENTS, REFUNDS, APPEALS
60.1(422)  Notice of discrepancies
60.2(422)  Notice of assessment
60.3(422)  Refund of overpaid tax
60.4(421)  Abatement of tax
60.5(422)  Protests

CHAPTER 61
ESTIMATED TAX FOR FINANCIAL INSTITUTIONS
61.1(422)  Who must pay estimated tax
61.2(422)  Time for filing and payment of tax
61.3(422) Special estimate periods
61.4(422) Reporting forms
61.5(422) Penalties
61.6(422) Overpayment of estimated tax

CHAPTERS 62 to 66
Reserved

TITLE VIII
MOTOR FUEL

CHAPTER 67
ADMINISTRATION

67.1(452A) Definitions
67.2(452A) Statute of limitations, supplemental assessments and refund adjustments
67.3(452A) Taxpayers required to keep records
67.4(452A) Audit—costs
67.5(452A) Estimate gallonage
67.6(452A) Timely filing of returns, reports, remittances, applications, or requests
67.7(452A) Extension of time to file
67.8(452A) Penalty and interest
67.9(452A) Penalty and enforcement provisions
67.10(452A) Application of remittance
67.11(452A) Reports, returns, records—variations
67.12(452A) Form of invoice
67.13(452A) Credit card invoices
67.14(452A) Original invoice retained by purchaser—certified copy if lost
67.15(452A) Taxes erroneously or illegally collected
67.16(452A) Credentials and receipts
67.17(452A) Information confidential
67.18(452A) Delegation to audit and examine
67.19(452A) Practice and procedure before the department of revenue
67.20(452A) Time for filing protest
67.21(452A) Bonding procedure
67.22(452A) Tax refund offset
67.23(452A) Supplier, restrictive supplier, importer, exporter, blender, dealer, or user licenses
67.24(452A) Reinstatement of license canceled for cause
67.25(452A) Fuel used in implements of husbandry
67.26(452A) Excess tax collected
67.27(452A) Retailer gallons report

CHAPTER 68
MOTOR FUEL AND UNDYED SPECIAL FUEL

68.1(452A) Definitions
68.2(452A) Tax rates—time tax attaches—responsible party
68.3(452A) Exemption
68.4(452A) Ethanol blended gasoline taxation—nonterminal location
68.5(452A) Tax returns—computations
68.6(452A) Distribution allowance
68.7(452A) Supplier credit—uncollectible account
68.8(452A) Refunds
68.9(452A) Claim for refund—payment of claim
68.10(452A) Refund permit
68.11(452A) Revocation of refund permit
68.12(452A) Income tax credit in lieu of refund
68.13(452A) Reduction of refund—sales tax
68.14(452A) Terminal withdrawals—meters
68.15(452A) Terminal and nonterminal storage facility reports and records
68.16(452A) Method of reporting taxable gallonage
68.17(452A) Transportation reports
68.18(452A) Bill of lading or manifest requirements
68.19(452A) Right of distributors and dealers to blend conventional blendstock for oxygenate blending, gasoline, or diesel fuel using a biofuel

CHAPTER 69
LIQUEFIED PETROLEUM GAS—COMPRESSED NATURAL GAS

69.1(452A) Definitions
69.2(452A) Tax rates—time tax attaches—responsible party—payment of the tax
69.3(452A) Penalty and interest
69.4(452A) Bonding procedure
69.5(452A) Persons authorized to place L.P.G. or C.N.G. in the fuel supply tank of a motor vehicle
69.6(452A) Requirements to be licensed
69.7(452A) Licensed metered pumps
69.8(452A) Single license for each location
69.9(452A) Dealer’s and user’s license nonassignable
69.10(452A) Separate storage—bulk sales—highway use
69.11(452A) Combined storage—bulk sales—highway sales or use
69.12(452A) Exemption certificates
69.13(452A) L.P.G. sold to the state of Iowa, its political subdivisions, contract carriers under contract with public schools to transport pupils or regional transit systems
69.14(452A) Refunds
69.15(452A) Notice of meter seal breakage
69.16(452A) Location of records—L.P.G. or C.N.G. users and dealers

TITLE IX
PROPERTY

CHAPTER 70
REPLACEMENT TAX AND STATEWIDE PROPERTY TAX

DIVISION I
REPLACEMENT TAX

70.1(437A) Who must file return
70.2(437A) Time and place for filing return
70.3(437A) Form for filing
70.4(437A) Payment of tax
70.5(437A) Statute of limitations
70.6(437A) Billings
70.7(437A) Refunds
70.8(437A) Abatement of tax
70.9(437A) Taxpayers required to keep records
70.10(437A) Credentials
70.11(437A) Audit of records
70.12(437A) Collections/reimbursements
70.13(437A) Information confidential
DIVISION II
STATEWIDE PROPERTY TAX

70.14(437A) Who must file return
70.15(437A) Time and place for filing return
70.16(437A) Form for filing
70.17(437A) Payment of tax
70.18(437A) Statute of limitations
70.19(437A) Billings
70.20(437A) Refunds
70.21(437A) Abatement of tax
70.22(437A) Taxpayers required to keep records
70.23(437A) Credentials
70.24(437A) Audit of records

CHAPTER 71
ASSESSMENT PRACTICES AND EQUALIZATION

71.1(405,427A,428,441,499B) Classification of real estate
71.2(421,428,441) Assessment and valuation of real estate
71.3(421,428,441) Valuation of agricultural real estate
71.4(421,428,441) Valuation of residential real estate
71.5(421,428,441) Valuation of commercial real estate
71.6(421,428,441) Valuation of industrial land and buildings
71.7(421,427A,428,441) Valuation of industrial machinery
71.8(428,441) Abstract of assessment
71.9(428,441) Reconciliation report
71.10(421) Assessment/sales ratio study
71.11(441) Equalization of assessments by class of property
71.12(441) Determination of aggregate actual values
71.13(441) Tentative equalization notices
71.14(441) Hearings before the director
71.15(441) Final equalization order
71.16(441) Alternative method of implementing equalization orders
71.17(441) Special session of boards of review
71.18(441) Judgment of assessors and local boards of review
71.19(441) Conference boards
71.20(441) Board of review
71.21(421,17A) Property assessment appeal board
71.22(428,441) Assessors
71.23 and 71.24 Reserved
71.25(441,443) Omitted assessments
71.26(441) Assessor compliance

CHAPTER 72
EXAMINATION AND CERTIFICATION OF ASSESSORS AND DEPUTY ASSESSORS

72.1(441) Application for examination
72.2(441) Examinations
72.3(441) Equivalent of high school diploma
72.4(441) Appraisal-related experience
72.5(441) Regular certification
72.6(441) Temporary certification
72.7 Reserved
72.8(441) Deputy assessors—regular certification
72.9 Reserved
72.10(441) Appointment of deputy assessors
72.11(441) Special examinations
72.12(441) Register of eligible candidates
72.13(441) Course of study for provisional appointees
72.14(441) Examining board
72.15(441) Appointment of assessor
72.16(441) Reappointment of assessor
72.17(441) Removal of assessor
72.18(421,441) Courses offered by the department of revenue

CHAPTER 73
PROPERTY TAX CREDIT AND RENT REIMBURSEMENT

73.1(425) Eligible claimants
73.2(425) Separate homesteads—husband and wife property tax credit
73.3(425) Dual claims
73.4(425) Multipurpose building
73.5(425) Multidwelling
73.6(425) Income
73.7(425) Joint tenancy
73.8(425) Amended claim
73.9(425) Simultaneous homesteads
73.10(425) Confidential information
73.11(425) Mobile, modular, and manufactured homes
73.12(425) Totally disabled
73.13(425) Nursing homes
73.14(425) Household
73.15(425) Homestead
73.16(425) Household income
73.17(425) Timely filing of claims
73.18(425) Separate homestead—husband and wife rent reimbursements
73.19(425) Gross rent/rent constituting property taxes paid
73.20(425) Leased land
73.21(425) Property: taxable status
73.22(425) Special assessments
73.23(425) Suspended, delinquent, or canceled taxes
73.24(425) Income: spouse
73.25(425) Common law marriage
73.26 Reserved
73.27(425) Special assessment credit
73.28(425) Credit applied
73.29(425) Deceased claimant
73.30(425) Audit of claim
73.31(425) Extension of time for filing a claim
73.32(425) Annual adjustment factor
73.33(425) Proration of claims
73.34(425) Unreasonable hardship

CHAPTER 74
MOBILE, MODULAR, AND MANUFACTURED HOME TAX

74.1(435) Definitions
74.2(435) Movement of home to another county
74.3(435) Sale of home
CHAPTER 75
PROPERTY TAX ADMINISTRATION

75.1(441) Tax year
75.2(445) Partial payment of tax
75.3(445) When delinquent
75.4(446) Payment of subsequent year taxes by purchaser
75.5(428,433,434,437,437A,438,85GA,SF451) Central assessment confidentiality
75.6(446) Tax sale
75.7(445) Refund of tax
75.8(614) Delinquent property taxes

CHAPTER 76
DETERMINATION OF VALUE OF RAILROAD COMPANIES

76.1(434) Definitions of terms
76.2(434) Filing of annual reports
76.3(434) Comparable sales
76.4(434) Stock and debt approach to unit value
76.5(434) Income capitalization approach to unit value
76.6(434) Cost approach to unit value
76.7(434) Correlation
76.8(434) Allocation of unit value to state
76.9(434) Exclusions

CHAPTER 77
DETERMINATION OF VALUE OF UTILITY COMPANIES

77.1(428,433,437,438) Definition of terms
77.2(428,433,437,438) Filing of annual reports
77.3(428,433,437,438) Comparable sales
77.4(428,433,437,438) Stock and debt approach to unit value
77.5(428,433,437,438) Income capitalization approach to unit value
77.6(428,433,437,438) Cost approach to unit value
77.7(428,433,437,438) Correlation
77.8(428,433,437,438) Allocation of unit value to state

CHAPTER 78
REPLACEMENT TAX AND STATEWIDE PROPERTY TAX ON RATE-REGULATED WATER UTILITIES

REPLACEMENT TAX

78.1(85GA,SF451) Who must file return
78.2(85GA,SF451) Time and place for filing return
78.3(85GA,SF451) Form for filing
78.4(85GA,SF451) Payment of tax
78.5(85GA,SF451) Statute of limitations
78.6(85GA,SF451) Billings
78.7(85GA,SF451) Refunds
78.8(85GA,SF451) Abatement of tax
78.9(85GA,SF451) Taxpayers required to keep records
78.10(85GA, SF451) Credentials
78.11(85GA, SF451) Audit of records
78.12(85GA, SF451) Information confidential

STATEWIDE PROPERTY TAX
78.13(85GA, SF451) Who must file return
78.14(85GA, SF451) Time and place for filing return
78.15(85GA, SF451) Form for filing
78.16(85GA, SF451) Payment of tax
78.17(85GA, SF451) Statute of limitations
78.18(85GA, SF451) Billings
78.19(85GA, SF451) Refunds
78.20(85GA, SF451) Abatement of tax
78.21(85GA, SF451) Taxpayers required to keep records
78.22(85GA, SF451) Credentials
78.23(85GA, SF451) Audit of records

CHAPTER 79
REAL ESTATE TRANSFER TAX AND DECLARATIONS OF VALUE
79.1(428A) Real estate transfer tax: Responsibility of county recorders
79.2(428A) Taxable status of real estate transfers
79.3(428A) Declarations of value: Responsibility of county recorders and city and county assessors
79.4(428A) Certain transfers of agricultural realty
79.5(428A) Form completion and filing requirements
79.6(428A) Public access to declarations of value

CHAPTER 80
PROPERTY TAX CREDITS AND EXEMPTIONS
80.1(425) Homestead tax credit
80.2(22, 35, 426A) Military service tax exemption
80.3(427) Pollution control and recycling property tax exemption
80.4(427) Low-rent housing for the elderly and persons with disabilities
80.5(427) Speculative shell buildings
80.6(427B) Industrial property tax exemption
80.7(427B) Assessment of computers and industrial machinery and equipment
80.8(404) Urban revitalization partial exemption
80.9(427C, 441) Forest and fruit-tree reservations
80.10(427B) Underground storage tanks
80.11(425A) Family farm tax credit
80.12(427) Methane gas conversion property
80.13(427B, 476B) Wind energy conversion property
80.14(427) Mobile home park storm shelter
80.15(427) Barn and one-room schoolhouse preservation
80.16(426) Agricultural land tax credit
80.17(427) Indian housing property
80.18(427) Property used in value-added agricultural product operations
80.19(427) Dwelling unit property within certain cities
80.20(427) Nursing facilities
80.21(368) Annexation of property by a city
80.22(427) Port authority
80.23(427A) Concrete batch plants and hot mix asphalt facilities
80.24(427) Airport property
80.25(427A) Car wash equipment
80.26(427) Web search portal and data center business property
80.27(427) Privately owned libraries and art galleries
80.28(404B) Disaster revitalization area
80.29(427) Geothermal heating and cooling systems installed on property classified as residential
80.30(426C) Business property tax credit
80.31 to 80.48 Reserved
80.49(441) Commercial and industrial property tax replacement—county replacement claims
80.50(427,441) Responsibility of local assessors
80.51(441) Responsibility of local boards of review
80.52(427) Responsibility of director of revenue
80.53(427) Application for exemption
80.54(427) Partial exemptions
80.55(427,441) Taxable status of property
80.56(427) Abatement of taxes

TITLE X
CIGARETTES AND TOBACCO

CHAPTER 81
ADMINISTRATION

81.1(453A) Definitions
81.2(453A) Credentials and receipts
81.3(453A) Examination of records
81.4(453A) Records
81.5(453A) Form of invoice
81.6(453A) Audit of records—cost, supplemental assessments and refund adjustments
81.7(453A) Bonds
81.8(98) Penalties
81.9(98) Interest
81.10(98) Waiver of penalty or interest
81.11(453A) Appeal—practice and procedure before the department
81.12(453A) Permit—license revocation
81.13(453A) Permit applications and denials
81.14(453A) Confidential information
81.15(98) Request for waiver of penalty
81.16(453A) Inventory tax

CHAPTER 82
CIGARETTE TAX

82.1(453A) Permits required
82.2(453A) Partial year permits—payment—refund—exchange
82.3(453A) Bond requirements
82.4(453A) Cigarette tax—attachment—exemption—exclusivity of tax
82.5(453A) Cigarette tax stamps
82.6(453A) Banks authorized to sell stamps—requirements—restrictions
82.7(453A) Purchase of cigarette tax stamps—discount
82.8(453A) Affixing stamps
82.9(453A) Reports
82.10(453A) Manufacturer’s samples
82.11(453A) Refund of tax—unused and destroyed stamps
CHAPTER 83
TOBACCO TAX
83.1(453A) Licenses
83.2(453A) Distributor bond
83.3(453A) Tax on tobacco products
83.4(453A) Tax on little cigars
83.5(453A) Distributor discount
83.6(453A) Distributor returns
83.7(453A) Consumer’s return
83.8(453A) Transporter’s report
83.9(453A) Free samples
83.10(453A) Credits and refunds of taxes
83.11(453A) Sales exempt from tax
83.12(81GA,HF339) Retail permits required
83.13(81GA,HF339) Permit issuance fee
83.14(81GA,HF339) Refunds of permit fee
83.15(81GA,HF339) Application for permit
83.16(81GA,HF339) Records and reports
83.17(81GA,HF339) Penalties

CHAPTER 84
UNFAIR CIGARETTE SALES
84.1(421B) Definitions
84.2(421B) Minimum price
84.3(421B) Combination sales
84.4(421B) Retail redemption of coupons
84.5(421B) Exempt sales
84.6(421B) Notification of manufacturer’s price increase
84.7(421B) Permit revocation

CHAPTER 85
TOBACCO MASTER SETTLEMENT AGREEMENT
DIVISION I
TOBACCO MASTER SETTLEMENT AGREEMENT
85.1(453C) National uniform tobacco settlement
85.2(453C) Definitions
85.3(453C) Report required
85.4(453C) Report information
85.5(453C) Record-keeping requirement
85.6(453C) Confidentiality
85.7 to 85.20 Reserved

DIVISION II
TOBACCO PRODUCT MANUFACTURERS’ OBLIGATIONS AND PROCEDURES
85.21(80GA,SF375) Definitions
85.22(80GA,SF375) Directory of tobacco product manufacturers

TITLE XI
INHERITANCE, ESTATE, GENERATION SKIPPING, AND FIDUCIARY INCOME TAX

CHAPTER 86
INHERITANCE TAX
86.1(450) Administration
86.2(450) Inheritance tax returns and payment of tax
86.3(450) Audits, assessments and refunds
86.4(450) Appeals
86.5(450) Gross estate
86.6(450) The net estate
86.7(450) Life estate, remainder and annuity tables—in general
86.8(450B) Special use valuation
86.9(450) Market value in the ordinary course of trade
86.10(450) Alternate valuation date
86.11(450) Valuation—special problem areas
86.12(450) The inheritance tax clearance
86.13(450) No lien on the surviving spouse’s share of the estate
86.14(450) Computation of shares
86.15(450) Applicability

CHAPTER 87
IOWA ESTATE TAX

87.1(451) Administration
87.2(451) Confidential and nonconfidential information
87.3(451) Tax imposed, tax returns, and tax due
87.4(451) Audits, assessments and refunds
87.5(451) Appeals
87.6(451) Applicable rules

CHAPTER 88
GENERATION SKIPPING TRANSFER TAX

88.1(450A) Administration
88.2(450A) Confidential and nonconfidential information
88.3(450A) Tax imposed, tax due and tax returns
88.4(450A) Audits, assessments and refunds
88.5(450A) Appeals
88.6(450A) Generation skipping transfers prior to Public Law 99-514
88.7(421) Applicability

CHAPTER 89
FIDUCIARY INCOME TAX

89.1(422) Administration
89.2(422) Confidentiality
89.3(422) Situs of trusts
89.4(422) Fiduciary returns and payment of the tax
89.5(422) Extension of time to file and pay the tax
89.6(422) Penalties
89.7(422) Interest or refunds on net operating loss carrybacks
89.8(422) Reportable income and deductions
89.9(422) Audits, assessments and refunds
89.10(422) The income tax certificate of acquittance
89.11(422) Appeals to the director

CHAPTER 90
Reserved
TITLE XII
MARIJUANA AND CONTROLLED SUBSTANCES STAMP TAX

CHAPTER 91
ADMINISTRATION OF MARIJUANA AND CONTROLLED SUBSTANCES STAMP TAX

91.1(453B) Marijuana and controlled substances stamp tax
91.2(453B) Sales of stamps
91.3(453B) Refunds pertaining to unused stamps

CHAPTERS 92 to 96
Reserved

TITLE XIII

CHAPTERS 97 to 101
Reserved

TITLE XIV
HOTEL AND MOTEL TAX

CHAPTER 102
Reserved

CHAPTER 103
STATE-IMPOSED AND LOCALLY IMPOSED HOTEL AND MOTEL TAXES—ADMINISTRATION

103.1(423A) Definitions, administration, and imposition
103.2(423A) Statute of limitations, supplemental assessments and refund adjustments
103.3(423A) Credentials and receipts
103.4(423A) Retailers required to keep records
103.5(423A) Audit of records
103.6(423A) Billings
103.7(423A) Collections
103.8(423A) No property exempt from distress and sale
103.9(423A) Information confidential
103.10(423A) Bonding procedure
103.11(423A) Sales tax
103.12(423A) Judicial review
103.13(423A) Registration
103.14(423A) Notification
103.15(423A) Certification of funds

CHAPTER 104
HOTEL AND MOTEL—FILING RETURNS, PAYMENT OF TAX, PENALTY, AND INTEREST

104.1(423A) Returns, time for filing
104.2(423A) Remittances
104.3(423A) Permits
104.4(423A) Sale of business
104.5(423A) Bankruptcy, insolvency or assignment for benefit of creditors
104.6(423A) Claim for refund of tax
104.7(423A) Application of payments
104.8(423A) Interest and penalty
104.9(423A) Request for waiver of penalty
104.10(423A) Extension of time for filing
104.11(421,423A) Personal liability of corporate officers and partners for unpaid tax
104.12(421,423A) Good faith exception for successor liability

CHAPTER 105
LOCALY IMPOSED HOTEL AND MOTEL TAX
105.1(423A) Local option
105.2(423A) Tax rate
105.3(423A) Tax base
105.4(423A) Imposition dates
105.5(423A) Adding or absorbing tax
105.6(423A) Termination dates

CHAPTER 106
Reserved

TITLE XV
LOCAL OPTION SALES AND SERVICE TAX

CHAPTER 107
LOCAL OPTION SALES AND SERVICE TAX
107.1(422B) Definitions
107.2(422B) Local option sales and service tax
107.3(422B) Transactions subject to and excluded from local option sales tax
107.4(422B) Transactions subject to and excluded from local option service tax
107.5(422B) Single contracts for taxable services performed partly within and partly outside of an area of a county imposing the local option service tax
107.6(422B) Motor vehicle, recreational vehicle, and recreational boat rental subject to local option service tax
107.7(422B) Special rules regarding utility payments
107.8(422B) Contacts with county necessary to impose collection obligation upon a retailer
107.9(422B) Sales not subject to local option tax, including transactions subject to Iowa use tax
107.10(422B) Local option sales and service tax payments to local governments
107.11(422B) Procedure if county of receipt’s origins is unknown
107.12(422B) Computation of local option tax due from mixed sales on excursion boats
107.13(421,422B) Officers and partners, personal liability for unpaid tax
107.14(422B) Local option sales and service tax imposed by a city
107.15(422B) Application of payments
107.16(422B) Construction contractor refunds
107.17(422B,422E) Discretionary application of local option tax revenues

CHAPTER 108
LOCAL OPTION SCHOOL INFRASTRUCTURE SALES AND SERVICE TAX
108.1(422E) Definitions
108.2(422E) Authorization, rate of tax, imposition, use of revenues, and administration
108.3(422E) Collection of the tax
108.4(422E) Similarities to the local option sales and service tax imposed in Iowa Code chapter 422B and 701—Chapter 107
108.5(422E) Sales not subject to local option tax, including transactions subject to Iowa use tax
108.6(422E) Deposits of receipts
108.7(422E) Local option school infrastructure sales and service tax payments to school districts
108.8(422E)  Construction contract refunds
108.9(422E)  28E agreements

CHAPTER 109
NEW SCHOOL INFRASTRUCTURE LOCAL OPTION SALES AND SERVICES TAX—
EFFECTIVE ON OR AFTER APRIL 1, 2003, THROUGH FISCAL YEARS
ENDING DECEMBER 31, 2022

109.1(422E)  Use of revenues and definitions
109.2(422E)  Imposition of tax
109.3(422E)  Application of law
109.4(422E)  Collection of tax and distribution
109.5(422E)  Insufficient funds
109.6(422E)  Use of revenues by the school district
109.7(422E)  Bonds
109.8(422E)  28E agreements

CHAPTERS 110 to 119
Reserved

TITLE XVI
REASSESSMENT EXPENSE FUND

CHAPTER 120
REASSESSMENT EXPENSE FUND

120.1(421)  Reassessment expense fund
120.2(421)  Application for loan
120.3(421)  Criteria for granting loan

CHAPTER 121
Reserved

TITLE XVII
ASSESSOR CONTINUING EDUCATION

CHAPTER 122
ADMINISTRATION

122.1(441)  Establishment
122.2(441)  General operation
122.3(441)  Location
122.4(441)  Purpose

CHAPTER 123
CERTIFICATION

123.1(441)  General
123.2(441)  Confidentiality
123.3(441)  Certification of assessors
123.4(441)  Certification of deputy assessors
123.5(441)  Type of credit
123.6(441)  Retaking examination
123.7(441)  Instructor credit
123.8(441)  Conference board and assessor notification
123.9(441)  Director of revenue notification
CHAPTER 124
COURSES
124.1(441) Course selection
124.2(441) Scheduling of courses
124.3(441) Petitioning to add, delete or modify courses
124.4(441) Course participation
124.5(441) Retaking a course
124.6(441) Continuing education program for assessors

CHAPTER 125
REVIEW OF AGENCY ACTION
125.1(441) Decisions final
125.2(441) Grievance and appeal procedures

CHAPTERS 126 to 149
Reserved

TITLE XVIII
DEBT COLLECTION

CHAPTER 150
FEDERAL OFFSET FOR IOWA INCOME TAX OBLIGATIONS
150.1(421,26USC6402) Purpose and general application of offset of a federal tax overpayment to collect an Iowa income tax obligation
150.2(421,26USC6402) Definitions
150.3(421,26USC6402) Prerequisites for requesting a federal offset
150.4(421,26USC6402) Procedure after submission of evidence
150.5(421,26USC6402) Notice by Iowa to the Secretary to request federal offset
150.6(421,26USC6402) Erroneous payments to Iowa
150.7(421,26USC6402) Correcting and updating notice to the Secretary

CHAPTER 151
COLLECTION OF DEBTS OWED THE STATE OF IOWA OR A STATE AGENCY
151.1(421) Definitions
151.2(421) Scope and purpose
151.3(421) Participation guidelines
151.4(421) Duties of the agency
151.5(421) Duties of the department—performance of collection
151.6(421) Payment of collected amounts
151.7(421) Reimbursement for collection of liabilities
151.8(421) Confidentiality of information
151.9(421) Subpoena of records from public or private utility companies

CHAPTER 152
DEBT COLLECTION AND SELLING OF PROPERTY TO COLLECT DELINQUENT DEBTS
152.1(421,422,626,642) Definitions
152.2(421,422,626,642) Sale of property
152.3(421,422,626,642) Means of sale
CHAPTER 153
LICENSE SANCTIONS FOR COLLECTION OF DEBTS OWED THE STATE OF IOWA OR A STATE AGENCY

153.1(272D) Definitions
153.2(272D) Purpose and use
153.3(272D) Challenge to issuance of certificate of noncompliance
153.4(272D) Use of information
153.5(272D) Notice to person of potential sanction of license
153.6(272D) Conference
153.7(272D) Issuance of certificate of noncompliance
153.8(272D) Stay of certificate of noncompliance
153.9(272D) Written agreements
153.10(272D) Decision of the unit
153.11(272D) Withdrawal of certificate of noncompliance
153.12(272D) Certificate of noncompliance to licensing authority
153.13(272D) Requirements of the licensing authority
153.14(272D) District court hearing

CHAPTER 154
CHALLENGES TO ADMINISTRATIVE LEVIES AND PUBLICATION OF NAMES OF DEBTORS

154.1(421) Definitions
154.2(421) Administrative levies
154.3(421) Challenges to administrative levies
154.4(421) Form and time of challenge
154.5(421) Issues that may be raised
154.6(421) Review of challenge
154.7(421) Actions where there is a mistake of fact
154.8(421) Action if there is not a mistake of fact
154.9 to 154.15 Reserved
154.16(421) List for publication
154.17(421) Names to be published
154.18(421) Release of information

CHAPTERS 155 to 210
Reserved

TITLE XIX
STREAMLINED SALES AND USE TAX RULES

CHAPTER 211
DEFINITIONS

211.1(423) Definitions

CHAPTER 212
ELEMENTS INCLUDED IN AND EXCLUDED FROM A TAXABLE SALE AND SALES PRICE

212.1(423) Tax not to be included in price
212.2(423) Finance charge
212.3(423) Retailers’ discounts, trade discounts, rebates and coupons
212.4(423) Excise tax included in and excluded from sales price
212.5(423) Trade-ins
212.6(423) Installation charges when tangible personal property is sold at retail
212.7(423) Service charge and gratuity
212.8(423) Payment from a third party

CHAPTER 213
MISCELLANEOUS TAXABLE SALES
213.1(423) Tax imposed
213.2(423) Athletic events
213.3(423) Conditional sales contracts
213.4(423) The sales price of sales of butane, propane and other like gases in cylinder drums, etc.
213.5(423) Antiques, curios, old coins, collector’s postage stamps, and currency exchanged for greater than face value
213.6(423) Communication services furnished by hotel to its guests
213.7(423) Consignment sales
213.8(423) Electrotypes, types, zinc etchings, halftones, stereotypes, color process plates, wood mounts and art productions
213.9(423) Explosives used in mines, quarries and elsewhere
213.10(423) Sales on layaway
213.11(423) Memorial stones
213.12(423) Creditors and trustees
213.13(423) Sale of pets
213.14(423) Redemption of meal tickets, coupon books and merchandise cards as a taxable sale
213.15(423) Rental of personal property in connection with the operation of amusements
213.16(423) Repossessed goods
213.17(423) Sales of signs at retail
213.18(423) Tangible personal property made to order
213.19(423) Used or secondhand tangible personal property
213.20(423) Carpeting and other floor coverings
213.21(423) Goods damaged in transit
213.22(423) Snowmobiles, motorboats, and certain other vehicles
213.23(423) Photographers and photostaters
213.24(423) Sale, transfer or exchange of tangible personal property or taxable enumerated services between affiliated corporations
213.25(423) Urban transit systems

CHAPTER 214
MISCELLANEOUS NONTAXABLE TRANSACTIONS
214.1(423) Corporate mergers which do not involve taxable sales of tangible personal property or services
214.2(423) Sales of prepaid merchandise cards
214.3(423) Demurrage charges
214.4(423) Beverage container deposits
214.5(423) Exempt sales by excursion boat licensees
214.6(423) Advertising agencies, commercial artists and designers as an agent or as a nonagent of a client

CHAPTERS 215 to 218
Reserved

CHAPTER 219
SALES AND USE TAX ON CONSTRUCTION ACTIVITIES
219.1(423) General information
219.2(423) Contractors—consumers of building materials, supplies, and equipment by statute
219.3(423) Sales of building materials, supplies, and equipment to contractors, subcontractors, builders or owners
219.4(423) Contractors, subcontractors or builders who are retailers
219.5(423) Building materials, supplies, and equipment used in the performance of construction contracts within and outside Iowa
219.6(423) Tangible personal property used or consumed by the manufacturer thereof
219.7(423) Prefabricated structures
219.8(423) Types of construction contracts
219.9(423) Machinery and equipment sales contracts with installation
219.10(423) Construction contracts with equipment sales (mixed contracts)
219.11(423) Distinguishing machinery and equipment from real property
219.12(423) Tangible personal property which becomes structures
219.13(423) Tax on enumerated services
219.14(423) Transportation cost
219.15(423) Start-up charges
219.16(423) Liability of subcontractors
219.17(423) Liability of sponsors
219.18(423) Withholding
219.19(423) Resale certificates
219.20(423) Reporting for use tax
219.21(423) Exempt sale, lease, or rental of equipment used by contractors, subcontractors, or builders

CHAPTERS 220 to 222
Reserved

CHAPTER 223
SOURCING OF TAXABLE SERVICES
223.1(423) Definitions
223.2(423) General sourcing rules for taxable services
223.3(423) First use of services performed on tangible personal property
223.4(423) Sourcing rules for personal care services

CHAPTER 224
TELECOMMUNICATION SERVICES
224.1(423) Taxable telecommunication service and ancillary service
224.2(423) Definitions
224.3(423) Imposition of tax
224.4(423) Exempt from the tax
224.5(423) Bundled transactions in telecommunication service
224.6(423) Sourcing telecommunication service
224.7(423) General billing issues
224.8(34A) Prepaid wireless E911 surcharge
224.9(423) State sales tax exemption for central office equipment and transmission equipment

CHAPTER 225
RESALE AND PROCESSING EXEMPTIONS PRIMARILY OF BENEFIT TO RETAILERS
225.1(423) Paper or plastic plates, cups, and dishes, paper napkins, wooden or plastic spoons and forks, and straws
225.2(423) A service purchased for resale
225.3(423) Services used in the repair or reconditioning of certain tangible personal property
Tangible personal property purchased by a person engaged in the performance of a service
Maintenance or repair of fabric or clothing
The sales price from the leasing of all tangible personal property subject to tax
Certain inputs used in taxable vehicle wash and wax services

CHAPTER 226
AGRICULTURAL RULES
Sale or rental of farm machinery and equipment and items used in agricultural production that are attached to a self-propelled implement of husbandry
Packaging material used in agricultural production
Irrigation equipment used in agricultural production
Sale of a draft horse
Veterinary services
Commercial fertilizer and agricultural limestone
Sales of breeding livestock
Domesticated fowl
Agricultural health promotion items
Drainage tile
Materials used for seed inoculations
Fuel used in agricultural production
Water used in agricultural production
Bedding for agricultural livestock or fowl
Sales by farmers
Sales of livestock (including domesticated fowl) feeds
Farm machinery, equipment, and replacement parts used in livestock or dairy production
Machinery, equipment, and replacement parts used in the production of flowering, ornamental, and vegetable plants
Nonexclusive lists

CHAPTERS 227 to 229
Reserved

CHAPTER 230
EXEMPTIONS PRIMARILY BENEFITING MANUFACTURERS AND OTHER PERSONS ENGAGED IN PROCESSING
Carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services used in processing
Services used in processing
Chemicals, solvents, sorbents, or reagents used in processing
Exempt sales of gases used in the manufacturing process
Sale of electricity to water companies
Wind energy conversion property
Exempt sales or rentals of core making and mold making equipment, and sand handling equipment
Chemical compounds used to treat water
Exclusive web search portal business and its exemption
Web search portal business and its exemption
Large data center business exemption
Data center business sales and use tax refunds
CHAPTER 231
EXEMPTIONS PRIMARILY OF BENEFIT TO CONSUMERS
231.1(423) Newspapers, free newspapers and shoppers’ guides
231.2(423) Motor fuel, special fuel, aviation fuels and gasoline
231.3(423) Sales of food and food ingredients
231.4(423) Sales of candy
231.5(423) Sales of prepared food
231.6(423) Prescription drugs, medical devices, oxygen, and insulin
231.7(423) Exempt sales of other medical devices which are not prosthetic devices
231.8(423) Prosthetic devices, durable medical equipment, and mobility enhancing equipment
231.9(423) Raffles
231.10(423) Exempt sales of prizes
231.11(423) Modular homes
231.12(423) Access to on-line computer service
231.13(423) Sale or rental of information services
231.14(423) Exclusion from tax for property delivered by certain media
231.15(423) Exempt sales of clothing and footwear during two-day period in August
231.16(423) State sales tax phase-out on energies

CHAPTERS 232 to 234
Reserved

CHAPTER 235
REBATE OF IOWA SALES TAX PAID
235.1(423) Sanctioned automobile racetrack facilities
235.2(423) Sanctioned baseball and softball tournament facility and movie site

CHAPTER 236
Reserved

CHAPTER 237
REINVESTMENT DISTRICTS PROGRAM
237.1(15J) Purpose
237.2(15J) Definitions
237.3(15J) New state tax revenue calculations
237.4(15J) State reinvestment district fund
237.5(15J) Reinvestment project fund
237.6(15J) End of deposits—district dissolution

CHAPTER 238
FLOOD MITIGATION PROGRAM
238.1(418) Flood mitigation program
238.2(418) Definitions
238.3(418) Sales tax increment calculation
238.4(418) Sales tax increment fund

CHAPTER 239
LOCAL OPTION SALES TAX URBAN RENEWAL PROJECTS
239.1(423B) Urban renewal project
239.2(423B) Definitions
239.3(423B) Establishing sales and revenue growth
239.4(423B) Requirements for cities adopting an ordinance
239.5(423B) Identification of retail establishments
239.6(423B) Calculation of base year taxable sales amount
239.7(423B) Determination of tax growth increment amount
239.8(423B) Distribution of tax base and growth increment amounts
239.9(423B) Examples
239.10(423B) Ordinance term

CHAPTER 240
RULES NECESSARY TO IMPLEMENT THE STREAMLINED SALES AND USE TAX AGREEMENT
240.1(423) Allowing use of the lowest tax rate within a database area and use of the tax rate for a five-digit area when a nine-digit zip code cannot be used
240.2(423) Permissible categories of exemptions
240.3(423) Requirement of uniformity in the filing of returns and remittance of funds
240.4(423) Allocation of bad debts
240.5(423) Purchaser refund procedures
240.6(423) Relief from liability for reliance on taxability matrix
240.7(423) Effective dates of taxation rate increases or decreases when certain services are furnished
240.8(423) Prospective application of defining “retail sale” to include a lease or rental

CHAPTER 241
EXCISE TAXES NOT GOVERNED BY THE STREAMLINED SALES AND USE TAX AGREEMENT
241.1(423A,423D) Purpose of the chapter
241.2(423A,423D) Director’s administration

DIVISION I
STATE-IMPOSED HOTEL AND MOTEL TAX
241.3(423A) Definitions
241.4(423A) Imposition of tax
241.5(423A) Exemptions

DIVISION II
EXCISE TAX ON SPECIFIC CONSTRUCTION MACHINERY AND EQUIPMENT
241.6(423D) Definitions
241.7(423D) Tax imposed
241.8(423D) Exemption
CHAPTER 12
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST
[Prior to 12/17/86, Revenue Department[730]]

701—12.1(422) Returns and payment of tax. Every retailer collecting more than $50 in tax in any one month shall make a monthly deposit with the department. A retailer collecting between $50 and $500 a month shall deposit the actual amount of tax collected during the month or an amount equal to not less than 30 percent of the amount of tax collected and paid during the preceding quarter. A retailer collecting $500 or more a month shall deposit the actual amount of tax collected. This deposit is due by the twentieth of the month following the month in which the tax is collected and applies only to the first two months in the quarter.

On the quarterly return, every retailer shall report the gross sales for the entire quarter, listing allowable deductions and figuring tax for the entire quarter. Space is provided on the return for a deduction of tax deposited the first and second months of the quarter. The quarterly return is due on or before the last day of the month following the end of the quarter.

Effective January 1, 1983, retailers collecting $50 a month and not more than $4000 in tax in a semimonthly period shall deposit the actual amount of tax collected during the month or an amount equal to one-third of the amount of tax collected and paid during the preceding quarter.

Every retailer collecting more than $4000 in tax in a semimonthly period shall make a semimonthly deposit with the department. A retailer collecting more than $4000 in a semimonthly period shall deposit (1) the actual amount of tax collected or an amount equal to not less than one-sixth of the amount of tax collected and paid during the preceding quarter or (2) the actual amount of tax collected or an amount equal to not less than one-sixth of the amount of tax collected and paid during the same quarter of the previous year. The method of reporting selected by the retailer, either option 1 or option 2, shall remain consistent for at least four quarters. The first semimonthly deposit is for the period from the first of the month through the fifteenth of the month and is due on or before the twenty-fifth of the month. The second semimonthly deposit is for the period from the sixteenth through the end of the month and is due on or before the tenth day of the month following the month of collection. A deposit is not required for the last semimonthly period of the calendar quarter.

Retailers required to make semimonthly or monthly deposits under any of the above methods of estimating tax based upon a period when the tax rate was 4 percent shall adjust deposits for periods beginning on or after July 1, 1992, to reflect the increase in the tax rate to 5 percent as provided in Iowa Code section 422.43.

On the quarterly return, every retailer shall report the gross sales for the entire quarter listing all allowable deductions and figuring tax for the entire quarter. Space is provided on the return for a deduction of tax deposited for the previous five semimonthly deposits. The quarterly return is due on or before the last day of the month following the end of the calendar quarter.

A seasonal business retailer with gross receipts in only one quarter during the year may request, and the director may grant, permission to file and remit sales tax for only that specific quarter in which the retailer conducted business.

Effective January 1, 1980, if it is expected that the total annual tax liability of a retailer will not exceed $120 for a calendar year, the retailer may request, and the director may grant, permission to file and remit sales tax on a calendar year basis. The returns and tax will be due and payable no later than January 31 following each calendar year in which the retailer carried on business.

Following are nonexclusive examples the department could reasonably expect to be within the guidelines for annual reporting:

1. A person selling tangible personal property or taxable services where a major portion of the business is the selling of tangible personal property or taxable services exempt from the imposition of tax; such as a wholesaler whose sales are primarily for resale, or a contractor whose business is primarily new construction.

2. A person whose business is primarily seasonal, or a person engaged in part-time selling of tangible personal property or taxable services.
3. A person whose sales are of a nontaxable service and who may, on occasion, sell tangible personal property incidental to the service.

When the due date falls on Saturday, Sunday, or a legal holiday, the return or deposit will be due the first business day following such Saturday, Sunday, or legal holiday. If a return or deposit is placed in the mails, properly addressed and postage paid, and postmarked on or before the due date for filing, no penalty will attach should the return or deposit not be received until after that date. Mailed returns should be addressed to Sales/Use Tax Processing, P.O. Box 10412, Des Moines, Iowa 50306.

This rule is intended to implement Iowa Code sections 421.14, 422.43, 422.47, 422.51, 422.52, and 423.2.

701—12.2(422.423) Remittances. The correct amount of tax collected and due shall accompany the forms prescribed by the department unless requirements for electronic transmission of remittances or deposits and related information specify otherwise. The name, address, and permit number of the sender and amount of tax for the quarterly remittance or a semimonthly or monthly deposit shall be stated unless requirements for electronic transmission of remittances or deposits and related information specify otherwise. Every return shall be signed and dated. Reporting forms and a self-addressed return envelope shall be furnished by the department to the taxpayer unless electronic transmission requirements apply; and, when feasible, the taxpayer shall use them when completing and mailing a return and remittance. All remittances shall be made payable to the Treasurer of the State of Iowa.

For tax periods starting on or after April 1, 1990, semimonthly deposits and quarterly remittances of taxpayers required to make semimonthly deposits shall be made electronically in a format and by means specified in the department. Deposit forms are not required to be filed when electronic transmission of deposits is done in the prescribed format by specified means. Quarterly returns shall be filed separately from the electronic transfer of remittances for taxpayers required to make semimonthly deposits. Deposits and remittances transmitted electronically are considered to have been made on the date that the deposit or remittance is added to the bank account designated by the treasurer of the state of Iowa. The filing of a return within the period prescribed by law and payment of the tax required to be shown thereon are simultaneous acts and if either condition is not met, a penalty shall be assessed.

This rule is intended to implement Iowa Code sections 422.16, 422.51, 422.52, 423.6, 423.13 and 423.14.

701—12.3(422) Permits and negotiated rate agreements. A person making retail sales in Iowa is required to obtain a sales tax permit from the department of revenue. Certain qualified purchasers, users, or consumers may obtain a direct pay permit which allows qualified purchasers, users, or consumers to remit tax directly to the department rather than to the retailer at the time of purchase or use. The following provisions govern the issuance of each type of permit.

12.3(1) Sales tax permits. Sales tax permits will be required of all resident and nonresident persons making retail sales at permanent locations within the state. A permit must be held for each location except that retailers conducting business at a permanent location who also make sales at a temporary location are not required to hold a separate permit for any temporary location. All tax collected from the temporary location shall be remitted with the tax collected at the permanent location. Persons who are registered retailers pursuant to rule 701—29.1(423) relating to use tax may remit sales taxes collected at a temporary location with their quarterly retailers use tax return. Retailers conducting a seasonal business shall also obtain a regular permit. However, returns will be filed on either a quarterly or annual basis depending upon the number of quarters in which sales are made. Sales tax permits will be required of all persons, except cities and counties, who have sales activity from gambling.

12.3(2) Direct pay permits. Effective January 1, 1998, qualified purchasers, users, and consumers of tangible personal property or enumerated services pursuant to Iowa Code chapters 422, 422B, and 423 may remit tax owed directly to the department of revenue instead of the tax being 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 of revenue.
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 or enumerated services.

(2) The applicant must have an accrual of sales and use tax liability on consumed goods of more than $4,000 in a semimonthly period. 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 $4,000 in sales and use tax liability in a semimonthly period 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 and service 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 make deposits and file returns pursuant to Iowa Code section 422.52. See subrule 12.3(2), paragraph “d.” for 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 section 422C.3 (sales tax on the rental receipts of qualifying rental motor vehicles), Iowa Code section 423.7 (use tax on the sale or use of motor vehicles), or Iowa Code section 423.7A (use tax on the lease price of qualifying leased motor vehicles).

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 of revenue and provide certification that the purchaser, user, or consumer has paid sales and use tax to the department of revenue or vendors over the last two years prior to application, an average of $4,000 in a semimonthly period.

Upon approval, 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(422,423).

d. Remittance and reporting. Sales, use, and local option tax that is to be reported and remitted to the department will be on a semimonthly basis. Remittance of tax due under a direct pay permit will begin with the first quarter after the direct pay permit is issued to the holder. The tax to be paid under a direct pay permit must 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 and service 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 and service 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 quarterly 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 422.52. 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 422.52.

e. Permit revocation and nontransferability. A direct pay permit may be used indefinitely unless it is revoked by the director. A direct pay permit is not transferable and it may not be assigned to a third party. The director 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 422.53. 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(422,423).

   2. **Vendor.** A vendor must retain a valid exemption certificate under rule 701—15.3(422,423) which 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(422,423). 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(422,423).

   **12.3(3) Negotiated rate agreements.** 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 subrule 12.3(2), paragraph ”b,” above, 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.

   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 E-mail 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 and 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 which will be excluded from the agreement, and any circumstances which will result in a changed rate or rates or changed composition of classes to which rates are applicable.
   5. Actions or circumstances which 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 sections 422.45(20) and 422.53 as amended by 1997 Iowa Acts, House File 266.

**701—12.4(422) Nonpermit holders.** Persons not regularly engaged in selling at retail and who do not have a permanent place of business but are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at state, county, district, or local fairs, carnivals and the like shall collect and remit tax on a nonpermit basis. In such cases, a nonpermit identification certificate will be issued by the department for record-keeping purposes and may be displayed in the same manner as a sales tax permit. If the department deems it necessary and advisable in order to secure the collection of tax, transient or itinerant sellers shall be required to post a bond or certificate of deposit. A cash bond or a surety bond issued by a solvent surety company authorized to do business in Iowa shall be acceptable, provided the
bonding company is approved by the insurance commissioner as to solvency and responsibility. The amount and type of bond shall be determined according to the rules promulgated by the director.

The department shall determine the due date of returns and payment of tax for temporary permit holders, giving due consideration to the type of business and frequency of sales. Persons holding nonpermit identification certificates may be required to remit tax upon demand or at the end of the event.

Persons regularly engaged in selling tangible personal property which is exempt from tax, making nontaxable transactions, or engaged in performing a service which is not enumerated in Iowa Code section 422.43 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 rule.

This rule is intended to implement Iowa Code section 422.53.

701—12.5(422,423) Regular permit holders responsible for collection of tax. A regular 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 regular permit holder is liable for reporting and paying tax on these sales. The person doing the selling for the regular 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 422.53 and 423.9.

701—12.6(422,423) Sale of business. A retailer selling the business shall file a return within the succeeding month thereafter 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.

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. See 701—subrule 18.28(2) regarding possible sales and use tax consequences relating to the sale of a business.

This rule is intended to implement Iowa Code sections 422.51(2) and 422.52.

701—12.7(422) 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 422.51(2).

701—12.8(422) Vending machines and other coin-operated devices. An operator who places machines on location shall file a return which includes gross receipts from all machines or devices operated by the retailer in Iowa during the 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 gross receipts.

This rule is intended to implement Iowa Code sections 422.42(16), 422.43, 422.51, and Iowa Code chapter 455C.

701—12.9(422) Claim for refund of tax. 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 the prescribed form furnished by the department.

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. See 1968 O.A.G. 879. If the claim for refund is denied, and the person wishes to protest the denial, the department will consider a protest to be timely if filed no later than 60 days following the date of denial. See rule 701—7.8(17A).
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 422.73(1). The claim must be filed requesting that it be held in abeyance pending the outcome of any action which 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:** X, an Iowa sales tax permit holder, is audited by the department for the period July 1, 1972, to June 30, 1977. A $10,000 tax, penalty and interest liability is assessed for 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, 1983.

X, on October 1, 1983, upon finding out about the decision of Y’s case, files a claim for refund relating to its audit completed in June 1977. The claim will be totally denied as beyond the five-year statute of limitations. However, if X had filed a claim along with payment of its audit in June 1977, and requested that the claim be held in abeyance pending Y’s litigation, then X would have received a full refund of their audit liability if the decision in Y’s case was also applicable to X.

**Example:** X, a utility company, filed a request for a rate increase with the commerce commission on June 30, 1967. The rate increase became effective January 1, 1968. However, a final decision of whether X was allowed this rate increase is not made until September 30, 1974. The rate increase was disallowed. X then had to refund to its customers all disallowed, but collected, rate increases plus sales tax. X files a claim for refund of the involved sales tax on December 30, 1974. Only the tax for the years 1970 to 1974 will be refunded. The tax for the years 1968 and 1969 will be denied as being beyond the five-year statute set forth in Iowa Code section 422.73(1). However, if X had filed a claim covering the rate increase any time before January 31, 1973, requesting it be held in abeyance pending the outcome of the commerce commission ruling, then X would have been allowed a full refund of all the sales tax that is refunded from the effective date of the rate increase, January 1, 1968, through September 30, 1974.

**Example:** X is audited by the department for the period July 1, 1973, to June 30, 1978, and assessed July 31, 1978. X pays the assessment on December 31, 1978. No protest was filed and no claim for refund or credit was filed requesting it be held in abeyance. On January 31, 1980, 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, 1975, through June 30, 1978, will be allowed as this is the only portion within the five-year statute of limitations set forth in section Iowa Code 422.73(1). If the claim had been filed on or before December 31, 1979, then the entire audit period July 1, 1973, to June 30, 1978, could have been considered for refund as the claim would have been filed within one year of payment.

This rule is intended to implement Iowa Code section 422.73.

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

**701—12.10(423) Audit limitation for certain services.**

12.10(1) **Definitions.** For purposes of this rule, the following definitions shall govern:

- "Landscaping" means the same as defined in rule 701—26.61(423).
- "Lawn care" means the same as defined in rule 701—26.61(423).
- "Tree trimming and removal" means the same as defined in rule 701—26.66(423).

12.10(2) **Audit limitation for lawn care, landscaping, and tree trimming and removal services.** Notwithstanding any other provision of the Iowa Code to the contrary, the department shall not attempt to collect delinquent sales tax or use tax on a transaction involving the furnishing of lawn care, landscaping, or tree trimming and removal services which occurred more than five years prior to
the date of an audit. The date an audit will begin is when the department presents notification that the
person is being contacted for an audit.

This rule is intended to implement Iowa Code section 423.31 as amended by 2008 Iowa Acts, Senate
File 2428, section 23.

701—12.11  Reserved.

701—12.12(422) Extension of time for filing. Upon a proper showing of the necessity for extending the
due date, the director is authorized to grant an extension of time in which to file a return. The extension
shall not be granted for a period longer than 30 days. The request for the extension must be received on
or before the original due date of the return. It will be granted only if the person requesting the extension
shall have paid by the twentieth day of the month following the close of such quarter, 90 percent of the
estimated tax due.

This rule is intended to implement Iowa Code section 422.51.


12.13(1) Prior to January 1, 2003. Iowa Code sections 422.51(4) and 422.52 provide, based on
the amount of tax collected, how often retailers file deposits or returns with the department (see rule
701—12.1(422)).

The department will determine if the retailer’s current filing status is correct by reviewing the most
recent four quarters of the retailer’s filing history.

The following criteria will be used by the department to determine if a change in filing status is
warranted.

<table>
<thead>
<tr>
<th>Filing Status</th>
<th>Statutory Requirement</th>
<th>Test Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Semimonthly</td>
<td>$4,000 in tax in a</td>
<td>Tax remitted in 3 of most recent 4 quarters</td>
</tr>
<tr>
<td></td>
<td>semimonthly period.</td>
<td>exceeds $24,000.</td>
</tr>
<tr>
<td>Monthly</td>
<td>$50 in tax in a month.</td>
<td>Tax remitted in 3 of most recent 4 quarters</td>
</tr>
<tr>
<td></td>
<td></td>
<td>exceeds $150.</td>
</tr>
<tr>
<td>Annual</td>
<td>$120 or less in tax in</td>
<td>Retailer remits $120 or less in tax for last</td>
</tr>
<tr>
<td></td>
<td>prior year.</td>
<td>4 quarters and requests annual filing.</td>
</tr>
<tr>
<td>Seasonal</td>
<td></td>
<td>Retailer remits tax for only 1 quarter</td>
</tr>
<tr>
<td></td>
<td></td>
<td>during the previous calendar year and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>requests filing for 1 quarter only.</td>
</tr>
<tr>
<td>Quarterly</td>
<td>All other filers.</td>
<td></td>
</tr>
</tbody>
</table>

When it is determined that a retailer’s filing status is to be changed, the retailer will be notified and
will be given 30 days to provide the department with a written request to prevent the change.

Retailers may request that they be allowed to file less frequently than the filing status selected by the
department but exceptions will only be granted in two instances:

a. Incorrect historical data is used in the conversion. A business may meet the criteria based on
initial information available, but, upon investigation, the filing history may prove that the business does
not meet the dollar criteria because of adjustments, amended returns, or requests for refunds.

b. Data available may have been distorted by the fact that it reflected an unusual pattern in tax
collection. The factors causing such a distortion must be documented and approved by department.

Exceptions will not be granted in instances where the retailer’s request is based on a decline in
business activity, reduction in employees or other potentially temporary business action which will affect
current and future reporting.
Retailers will be notified in writing of approval or denial of their request for reduced filing periods. Retailers may request that they be allowed to file more frequently than the filing status selected by the department. Approval will be granted based upon justification contained in the retailer’s request.

12.13(2) January 1, 2003, and after: Effective July 1, 2002, the department and the department of management have the authority to change the above-mentioned filing thresholds established by department rule. After review of these filing thresholds, the department has determined that new thresholds are necessary and are to be implemented January 1, 2003. Accordingly, this subrule sets forth the filing thresholds for each filer based on the amount of sales tax collected.

<table>
<thead>
<tr>
<th>Filing Status</th>
<th>Threshold</th>
<th>Test Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Semimonthly</td>
<td>Greater than $60,000 in annual state sales tax (more than $2,500 in a semimonthly period).</td>
<td>Tax remitted in 3 of most recent 4 quarters examined exceeds $15,000 per quarter.</td>
</tr>
<tr>
<td>Monthly</td>
<td>Between $6,000 and $60,000 in annual state sales tax (more than $500 in a monthly period).</td>
<td>Tax remitted in 3 of most recent 4 quarters examined exceeds $1,500 per quarter.</td>
</tr>
<tr>
<td>Quarterly</td>
<td>Between $120 and $6,000 in annual state sales tax.</td>
<td>Tax remitted in 3 of most recent 4 quarters examined exceeds $30 per quarter.</td>
</tr>
<tr>
<td>Annual</td>
<td>Less than $120 in state sales tax for the prior year.</td>
<td>Tax remitted in prior year is less than $120.</td>
</tr>
<tr>
<td>Seasonal</td>
<td>Retailer remits tax for only 1 quarter during the previous calendar year and requests filing for 1 quarter only.</td>
<td></td>
</tr>
</tbody>
</table>

A retailer shall be notified in writing when it is determined that a retailer’s filing status will be changed. A retailer has the option of requesting, within 30 days of the date of the department’s notice of a change in filing frequency, that the retailer file more or less frequently than required by the department. A request to file on a less frequent basis than assigned by the department must be in writing and submitted to the department. Once such a written request is filed by the retailer, the department will review the request and issue a written determination to the retailer.

A change in assigned filing status to file on a less frequent basis will be granted in only two instances:

a. Incorrect historical data is used in the conversion. A business may meet the criteria based on the original filing data, but, upon investigation, the filing history may prove that the business does not meet the dollar criteria because of adjustments, amended returns, or requests for refunds.

b. Data available may have been distorted by the fact that the data reflected an unusual pattern in tax collection. The factors causing such a distortion must be documented and approved by the department.

A retailer may also request to file more frequently than assigned by the department; the request may be made orally, in person, or by telephone. With the exception of those retailers who previously filed on a quarterly basis and have been changed to an annual filing frequency, any retailer seeking to file on a more frequent basis than assigned shall be required to deposit revenues by electronic funds transfer if the department allows the retailer to file more frequently.

The department and the department of management may perform review of filing thresholds every five years or as needed based on department discretion. Factors the departments will consider in determining if the filing thresholds need to be changed include, but are not limited to: tax rate changes, inflation, the need to maintain consistency with required multistate compacts, changes in law, and migration between filing brackets.

This rule is intended to implement Iowa Code sections 421.14, 422.51, and 422.52, and sections 422.54 as amended by 2002 Iowa Acts, House File 2622, section 11, and 423.13 as amended by 2002 Iowa Acts, House File 2622, section 14.
701—12.14(422,423) 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 do this, 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 which the retailer owes. Any immediate successor who intentionally fails to withhold sufficient of the purchase price to pay the delinquent tax, interest, and penalty is personally liable for the payment of the tax. 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.

12.14(1) Immediate successors having a duty to withhold. 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 is due and to withhold a portion of the purchase price if necessary. Persons who fail some aspect of this test, e.g., because they take by operation of law rather than by contract or provide no consideration, are not obligated to investigate or withhold. Nonexclusive examples of persons not so obligated are the following:

a. A person foreclosing on a valid security interest.
b. A person retaking possession of premises under a valid lease.
c. A spouse electing to take under a will.
d. A person taking by gift.
e. Any other person taking for what would legally be considered “for value” but without the payment of a recognizable “purchase price.”

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.

12.14(2) More than one immediate successor. If a retailer sells a business or stock of goods to two or more persons the following rules 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 $20,000 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 which 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 which A owes ($10,000); C is liable for $10,000, since 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 can proceed against any one, two, or all three of the immediate successors up to the amount of tax which each owes, as it chooses.

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.

12.14(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. People v. Gabriel, 135 P.2d 378 (Cal. App. 1943). 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 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 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.

12.14(4) “Good faith” characterized. An immediate successor to a retailer has purchased the
retailer’s business or stock of goods “in good faith” 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; or

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.
Immediate successors should not rely upon oral statements from department personnel that no tax,
interest, or penalty is unpaid. An immediate successor should request a written statement to this effect.

For information regarding delinquent tax, interest, or penalty and tax liens write to: Collections Section
Supervisor, Iowa Department of Revenue, P.O. Box 10471, Hoover State Office Building, Des Moines,
Iowa 50306. A “certified statement” from a retailer is a statement the truth of which is attested to before
a notary public or other officer authorized to take oaths. A certified statement has been taken from a
retailer “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 section 421.28.

701—12.15(422,423) 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.

12.15(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 which various officers have assumed in practice,
c. Which officers are empowered to sign checks for the corporation,
d. Which officers hire and fire employees, and
e. Which officers control the financial affairs of the corporation. 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 which had been selected for payment
will be paid. “Final control” means a significant control over which bills should or should not be paid
rather than exclusive control. The observations in this paragraph are applicable to partnerships as well
as corporations.

12.15(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 which is neither finally settled or 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.

12.15(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 sales taxes which are both due and unpaid on and after that date. See department rule 701—107.12(422B) for an explanation of officer and partner liability for unpaid local option sales tax.

701—12.16(422) Show sponsor liability. Persons sponsoring flea markets or craft, antique, coin, stamp shows, or similar events are, under certain circumstances, liable for payment of sales tax, interest, and penalty due and owing from any retailer selling property or services at the event. Included within the meaning of the term “similar event” is any show at which guns or collectibles, e.g., depression glassware or comic books, are sold or traded. To avoid liability, sponsors of these events must obtain from retailers appearing at the events proof that a retailer possesses a valid Iowa sales tax permit or a statement from the retailer, taken in good faith, that the property or service which the retailer offers for sale is not subject to sales tax. “Good faith” may demand that the sponsor inquire into the nature of the property or service sold or why the retailer believes the property or services for sale to be exempt from tax. A sponsor who fails to take these measures assumes all of the liabilities of a retailer. This includes not only the obligation to pay tax, penalty, and interest, but also to keep the records required of a retailer and to file returns.

Excluded from the requirements of this rule and from sponsor liability are organizations which sponsor events fewer than three times a year and state, county, or district agricultural fairs.

This rule is intended to implement the requirements of Iowa Code section 422.52.

701—12.17(422) Purchaser liability for unpaid sales tax. For sales occurring on and after March 13, 1986, if a purchaser fails to pay sales tax to a retailer required to collect the tax, the tax is payable by the purchaser directly to the department. The general rule is that the department may proceed against either the retailer or the purchaser for the entire amount of tax which the purchaser is, initially, obligated to pay the retailer. However, see 701—subrule 15.3(2) for a situation in which the obligation to pay the tax is imposed upon the purchaser alone.

This rule is intended to implement Iowa Code section 422.52.

701—12.18(423) Biodiesel production refund. A refund of sales or use tax is available for certain producers of biodiesel for calendar years 2012 to 2017.

12.18(1) Qualifications for the refund. A biodiesel producer must meet the following criteria to be eligible for the refund.

a. The producer must be engaged in the manufacture of biodiesel and have registered with the United States Environmental Protection Agency as a manufacturer in accordance with the requirements of 40 CFR Part 79.4.

b. The biodiesel produced must be for use in biodiesel blended fuel in accordance with Iowa Code section 214A.2.

c. The biodiesel must be produced in Iowa.

12.18(2) Calculation of the refund.

a. The refund is calculated by multiplying the total number of gallons produced by the biodiesel producer in this state during each quarter of the calendar year by the following rate:

(1) For the calendar year 2012, three cents.

(2) For the calendar year 2013, two and one-half cents.

(3) For the calendar years 2014 to 2017, two cents.

b. The refund is calculated on the first 25 million gallons of biodiesel produced at each facility during the calendar year. No refund will be allowed on gallons produced in excess of 25 million at a
facility during each of the calendar years 2012 to 2017. No refund will be allowed for gallons produced at a facility on or after January 1, 2018.

12.18(3) Claiming the tax credit. The refund shall be computed after subtracting any amount of sales or use tax imposed and paid upon purchases made by the biodiesel producer. The biodiesel producer must file and report the amount of sales or use tax upon purchases made during each calendar year quarter from 2012 to 2017 by filing a quarterly sales or use tax return. The biodiesel producer must then file Form IA 843, Claim for Refund, for each calendar quarter and report all of the following:

a. The amount of biodiesel produced during the quarter at each facility.

b. The calculation of the biodiesel production refund.

c. The amount of sales or use tax paid upon purchases during the quarter.

d. The amount of biodiesel production refund requested.

EXAMPLE: A biodiesel producer produced 5 million gallons during the first quarter of 2012. The producer owes $10,000 of Iowa consumers use tax based on purchases made during the first quarter of 2012. The producer will file an Iowa consumers use tax return and report $10,000 of tax due, but this amount will not be paid with the return. The producer will also file Form IA 843, Claim for Refund, to request a refund of $140,000 for the first quarter of 2012. This amount is calculated by multiplying 5 million gallons by three cents, or $150,000, less the $10,000 of Iowa consumers use tax due.

This rule is intended to implement Iowa Code section 423.4 as amended by 2014 Iowa Acts, Senate File 2344.

[ARC 9821B, IAB 11/2/11, effective 12/7/11; ARC 1665C, IAB 10/15/14, effective 11/19/14]

701—12.19(15) Sales and use tax refund for eligible businesses. For eligible businesses approved under the high quality jobs program, enterprise zone program, or housing enterprise zone program by the Iowa economic development authority, a refund of sales and use tax is available.

12.19(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, goods, wares, or merchandise, 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.

12.19(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 and furniture and fixtures is not eligible for the refund.

12.19(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 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, Claim for Refund, 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 goods, wares, or merchandise, or on services rendered, furnished, or performed to or 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.

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, Claim for Refund, 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.

[ARC 0414C; IAB 10/31/12, effective 12/5/12]

Filed 12/12/74
[Filed 11/5/76, Notice 9/22/76—published 12/1/76, effective 1/5/77]
[Filed 9/2/77, Notice 6/15/77—published 9/21/77, effective 10/26/77]
[Filed emergency 4/28/78—published 5/17/78, effective 4/28/78]
[Filed 4/28/78, Notice 3/22/78—published 5/17/78, effective 7/1/78]
[Filed 1/18/80, Notice 12/12/79—published 2/6/80, effective 3/12/80]
[Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]
[Filed 12/5/80, Notice 10/29/80—published 12/24/80, effective 1/28/81]
[Filed 9/11/81, Notice 8/5/81—published 9/30/81, effective 11/4/81]
[Filed 12/31/81, Notice 11/25/81—published 1/20/82, effective 2/24/82]
[Filed 3/25/82, Notice 2/17/82—published 4/14/82, effective 5/19/82]
[Filed 7/16/82, Notice 6/9/82—published 8/4/82, effective 9/8/82]
[Filed 8/13/82, Notice 7/7/82—published 9/1/82, effective 10/6/82]
[Filed 11/19/82, Notice 10/13/82—published 12/8/82, effective 1/12/83]
[Filed emergency 12/17/82—published 1/5/83, effective 1/1/83]
[Filed emergency 2/10/83—published 3/2/83, effective 3/1/83]
[Filed 2/10/83, Notice 1/5/83—published 3/2/83, effective 4/6/83]
[Filed 9/9/83, Notice 8/3/83—published 9/28/83, effective 11/2/83]
[Filed 10/19/84, Notice 9/12/84—published 11/7/84, effective 12/12/84]
[Filed 1/10/86, Notice 12/4/85—published 1/29/86, effective 3/5/86]
[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]
[Filed 10/3/86, Notice 8/13/86—published 10/22/86, effective 11/26/86]
[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
[Filed 1/23/87, Notice 12/17/86—published 2/11/87, effective 3/18/87]
[Filed 11/23/88, Notice 9/21/88—published 12/14/88, effective 1/18/89]
[Filed 11/22/89, Notice 10/18/89—published 12/13/89, effective 1/17/90]
[Filed 5/23/91, Notice 4/17/91—published 6/12/91, effective 7/17/91]
[Filed emergency 7/1/92—published 7/22/92, effective 7/1/92]
[Filed 8/28/92, Notice 7/22/92—published 9/16/92, effective 10/21/92]
[Filed 9/24/93, Notice 8/18/93—published 10/13/93, effective 11/17/93]
[Filed 11/14/97, Notice 10/8/97—published 12/3/97, effective 1/7/98]
[Filed 3/19/99, Notice 2/10/99—published 4/7/99, effective 5/12/99]
Two or more ARCs
701—38.1(422) Definitions.

38.1(1) When the word “department” appears herein, the word refers to and is synonymous with the “Iowa department of revenue”; the word “director” is the “director of revenue” or the director’s authorized assistants and employees.

The administration of the individual income tax is a responsibility of the department. The department is charged with the administration of the individual income tax, fiduciary tax, withholding of tax and individual estimate declarations, subject always to the rules, regulations and direction of the director.

38.1(2) The term “computed tax” means the amount of tax remaining before deductions of the personal exemption credit and other credits in Iowa Code chapter 422, division II, and before the computation of the school district surtax and the emergency medical services income surtax.

38.1(3) The word “taxpayer” includes under this division:

a. Every resident of the state of Iowa.

b. Every part-year resident of the state of Iowa.

c. Every estate and trust resident of this state whose income is in whole or in part subject to the state income tax.

d. Nonresident individuals, estates and trusts (those with a situs outside of Iowa) receiving taxable income from property in Iowa or from business, trade, or profession or occupation carried on in this state.

38.1(4) The term “fiduciary” shall mean one who acts in place of or for the benefit of another in accordance with the meaning of the term defined in Iowa Code section 422.4. The term includes, but is not limited to, the executor or administrator of an estate, a trustee, guardian or conservator, or a receiver.

38.1(5) The term “employer” means those who have a right to exercise control as to the performance of services as defined in Iowa Code section 422.4.

38.1(6) The term “employee” means and includes every individual who is a resident, or who is domiciled in Iowa, or any nonresident, or corporation performing services within the state of Iowa, the performance of which services constitutes, establishes, and determines the relationship between the parties as that of employer and employee. This includes officers of corporations, individuals, including elected officials performing services for the United States government or any agency or instrumentality thereof, or the state of Iowa, or any county, city, municipality or political subdivision thereof.

38.1(7) The term “wages” means any remuneration for services performed by an employee for an employer, including the cash value of all such remuneration paid in any medium or form other than cash. Wages have the same meaning as provided by the Internal Revenue Code as made applicable to Iowa income tax.

Wages subject to Iowa income tax withholding consist of all remuneration, whether in cash or other form, paid to an employee for services performed for the employer. For this purpose, the word “wages” includes all types of employee compensation, such as salaries, fees, bonuses, and commissions. It is immaterial whether payments are based on the hour, day, week, month, year or on a piecework or percentage plan.

Wages paid in any form other than money are measured by the fair market value of the goods, lodging, meals, or other consideration given in payment for services.

Where wages are paid in property other than money, the employer should make necessary arrangements to ensure that the tax is available for payment. Vacation allowances and back pay, including retroactive wage increases, are taxed as ordinary wages.

Tips or gratuities paid directly to an employee by a customer and not accounted for to the employer are not subject to withholding. However, the recipients must include them in their personal income tax returns.
Amounts paid specifically, either as advances or reimbursements, for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer are not wages and are not subject to these taxes. Traveling and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts where both wages and expense allowance are combined in a single payment.

Wages are to be considered as paid when they are actually paid or when they are constructively paid, that is, when they are credited to the account of, or set apart for the wage earner so that they may be drawn upon by the wage earner at any time, although not then actually reduced to possession.

38.1(8) The term “responsible party” shall have the same meaning as withholding agent as defined in Iowa Code section 422.4. A withholding agent includes an officer or employee of a corporation or association, or a member or employee of a partnership, who has the responsibility to perform acts covered by Iowa Code section 422.16. As of July 1, 1993, withholding agent also includes a member or a manager of a limited liability company who has the responsibility to perform acts covered by Iowa Code section 422.16 as amended by 1994 Iowa Acts, Senate File 2057. An individual who is a “responsible party” by law cannot shift that responsibility to someone else by attempting to delegate the responsibility to another corporate officer or employee.

Every business which is an employer must have some person who has the duty of withholding and paying those taxes which the law requires an employer to withhold and pay. There may be more than one person, but there must be at least one. The fact that any individual may not have been the only responsible person would not excuse that person from the responsibility of paying withholding taxes. Any withholding agent as defined in this subrule, who knowingly violates the statutory provisions of Iowa Code section 422.16, will be held liable for the tax due: Pacific National Insurance Co. v. United States, 1970, 9th Cir., 422 F.2d 26, cert. denied, 398 U.S. 937; R. E. Dougherty v. United States, 1971, 327 F. Supp. 202; Gefen v. United States, 5th Cir. 1968, 400 F.2d 476.

38.1(9) Domicile. Rescinded IAB 5/10/95, effective 6/14/95.

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

701—38.2(422) Statute of limitations.

38.2(1) Periods of audit.

a. The department has three years after a return has been filed or three years after the return became due, including any extensions of time for filing, whichever time is the later, to determine whether any additional tax other than that shown on the return is due and owing. This three-year statute of limitations does not apply in the instances specified in paragraphs “b,” “c,” “d,” “e,” “f” and “g.”

b. If a taxpayer fails to include in the taxpayer’s return items of gross income as defined in the Internal Revenue Code as amended, as will under that Code extend the statute of limitations for federal tax purposes to six years, the correct amount of tax due may be determined by the department within six years from the time the return is filed, or within six years after the return became due, including any extensions of time for filing, whichever time is the later.

c. If a taxpayer files a false or fraudulent return with intent to evade tax, the correct amount of tax due may be determined by the department at any time after the return has been filed.

d. If a taxpayer fails to file a return, the periods of limitations so specified in Iowa Code section 422.25 do not begin to run until the return is filed with the department.

e. While the burden of proof of additional tax owing under the six-year period or the unlimited period is upon the department, a prima facie case of omission of income, or of making a false or fraudulent return, shall be made upon a showing of a federal audit of the same income, a determination by federal authorities that the taxpayer omitted items of gross income or made a false or fraudulent return, and the payment by the taxpayer of the amount claimed by the federal government to be the correct tax or the admission by the taxpayer to the federal government of liability for that amount.

f. In addition to the periods of limitation set forth in paragraph “a,” “b,” “c,” “d,” or “e,” the department has six months after notification by the taxpayer of the final disposition of any matter between the taxpayer and the Internal Revenue Service with respect to any particular tax year to make an examination and determination. Final disposition of any matter between the taxpayer and
the Internal Revenue Service triggers the extension of the statute of limitations for the department to make an examination and determination, and the extension runs until six months after the department receives notification and a copy of the federal document showing the final disposition or final federal adjustments from the taxpayer. Van Dyke v. Iowa Department of Revenue and Finance, 547 N.W.2d 1. This examination and determination is limited to those matters between the taxpayer and the Internal Revenue Service which affect Iowa taxable income. Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review, 414 N.W.2d 113 (Iowa 1987). The notification shall be in writing in any form sufficient to inform the department of final disposition, and attached to the notification shall be a photo reproduction or carbon copy of the federal document which shows the final disposition and any schedules necessary to explain the federal adjustments. The notification and copy of the federal document shall be mailed, under separate cover, to the Examination Section, Compliance Division, P.O. Box 10456, Des Moines, Iowa 50306. Any notification and copy of the federal document which is included in, made a part of, or mailed with a current year Iowa individual income tax return will not be considered as proper notification for the purposes of beginning the running of the six-month period.

g. In lieu of the period of limitation for any prior year for which an overpayment of tax or an elimination or reduction of an underpayment of tax due for that prior year results from the carryback to such prior year of a net operating loss or net capital loss, the period shall be the period of limitation for the taxable year of the net operating loss or net capital loss which results in such carryback.

38.2(2) Waiver of statute of limitations. When the taxpayer and the department enter into an agreement to extend the period of limitation, interest continues to accrue on any deficiency or overpayment during the period of the waiver. The taxpayer may claim a refund during the period of the waiver.

38.2(3) Amended returns filed within 60 days of the expiration of the statute of limitations for assessment. If a taxpayer files an amended return on or after April 1, 1995, within 60 days prior to the expiration of the statute of limitations for assessment, the department has 60 days from the date the amended return is received to issue an assessment for applicable tax, interest, or penalty.

This rule is intended to implement Iowa Code section 422.25.

701—38.3(422) Retention of records.

38.3(1) Every individual subject to the tax imposed by Iowa Code section 422.5 (whether or not the individual incurs liability for the tax) and every withholding agent subject to the provisions of Iowa Code section 422.16 shall retain those books and records as required by Section 6001 of the Internal Revenue Code and federal income tax regulation 1.6001-1(e) including the federal income tax return and all supporting federal schedules. For taxpayers using an electronic data interchange process or technology also see 701—subrule 11.4(4).

38.3(2) In addition, records relating to other deductions or additions to federal adjusted income and Iowa tax credits shall be retained so long as the contents may be material in the administration of the Iowa Code under the statutes of limitations for audit specified in Iowa Code section 422.25.

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

[ARC 9104B, IAB 9/22/10, effective 10/27/10]

701—38.4(422) Authority for deductions. Whether and to what extent deductions shall be allowed depends upon specific legislative acts, and only where there is a clear provision can any particular deduction be allowed. Therefore, a deduction will be allowed only if the taxpayer can establish the validity and correctness of such deduction.

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

701—38.5(422) Jeopardy assessments.

38.5(1) A jeopardy assessment may be made in a case where a return has been filed, and the director believes for any reason that collection of the tax will be jeopardized by delay; or in a case where a taxpayer fails to file a return, whether or not formally called upon to do so, in which case the department
is authorized to estimate the income of the taxpayer upon the basis of available information, and to add penalty and interest.

38.5(2) A jeopardy assessment is due and payable when the notice of the assessment is served upon the taxpayer. Proceedings to enforce the payment of the assessment by seizure or sale of any property of the taxpayer may be instituted immediately.

This rule is intended to implement Iowa Code section 422.30.

701—38.6(422) Information deemed confidential. Iowa Code sections 422.20 and 422.72 apply generally to the director, deputies, auditors, agents, present or former officers and employees of the department. Disclosure of information from a taxpayer’s filed return or report or other confidential state information by department of revenue personnel to a third person is prohibited under the above sections. Other persons having acquired information disclosed in a taxpayer’s filed return or report or other confidential state information will be bound by the same rules of secrecy under these sections as any member of the department and will be subject to the same penalties for violations as provided by law. See rule 701—6.3(17A).

This rule is intended to implement Iowa Code sections 422.16, 422.20, and 422.72.

701—38.7(422) Power of attorney. For information regarding power of attorney, see rule 701—7.34(421).

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

701—38.8(422) Delegations to audit and examine. Pursuant to statutory authority, the director delegates to authorized assistants and employees the power to examine returns and make audits; and to determine the correct amount of tax due, subject to review by or appeal to the director.

This rule is intended to implement Iowa Code section 422.70.

701—38.9(422) Bonding procedure. The director may, when necessary and advisable in order to secure the collection of the tax required to be deducted and withheld or the amount actually deducted, whichever is greater, require an employer or withholding agent to file with the director a bond issued by a surety company authorized to conduct business in Iowa and approved by the insurance commissioner as to solvency and responsibility in an amount the director may fix, or in lieu of bond, securities approved by the director in an amount the director may prescribe and keep in the custody of the department. Pursuant to the statutory authorization in Iowa Code section 422.16, the director has determined that the following procedures will be instituted with regard to bonds. However, the bonding procedures were applicable only to nonresident employers or withholding agents for withholding taxes due prior to January 1, 1987. The penalty for failure of a withholding agent to file a bond, described in subrule 38.9(4) applies to taxes required to be withheld on or after January 1, 1990.

38.9(1) When required.

a. New applications by withholding agents. A new withholding agent applicant will be requested to post a bond or security if (1) it is determined upon a complete investigation of the applicant’s financial status that the applicant would be unable to timely remit the tax, or (2) the new applicant held a withholding agent’s identification number for a prior business and the remittance record of the tax under the prior identification number falls within one of the conditions in paragraph "b" below, or (3) the department experienced collection problems while the applicant was engaged in business under the prior identification number.

b. Existing withholding agents. Existing withholding agents shall be requested to post a bond or security when they have had two or more delinquencies in remitting the withholding tax during the last 24 months if filing returns on a quarterly basis or have had four or more delinquencies during the last 24 months if filing returns on a monthly basis. The simultaneous late filing of the return and the late payment of the tax will count as one delinquency. However, the late filing of the return or the late payment of the tax will not count as a delinquency if the withholding agent can satisfy one of the conditions set forth in Iowa Code section 421.27.
c. **Waiver of bond.** If a withholding agent has been requested to post a bond or security or if a withholding agent applicant has been requested to post a bond or security, upon the filing of the bond or security, if the withholding agent maintains a good filing record for a period of two years, the withholding agent may request that the department waive the continued bond or security requirement.

38.9(2) **Type of security or bond.** When it is determined that a withholding agent or withholding agent applicant is required to post collateral to secure the collection of the withholding tax, the following types of collateral will be considered as sufficient: surety bonds, securities or certificates of deposit. When the withholding agent is a corporation, an officer or employee of the corporation may assume personal liability as security for the payment of the withholding tax. The officer or employee will be evaluated as provided in 38.9(1) “a” as if the officer or employee applied as the withholding agent as an individual.

38.9(3) **Amount of bond or security.** When it is determined that a withholding agent or withholding agent applicant is required to post a bond or securities, the following guidelines will be used to determine the amount of the bond, unless the facts warrant a greater amount: If the withholding agent or applicant will be or is a monthly depositor, a bond or securities in an amount sufficient to cover five months’ withholding tax liability will be required. If the applicant or withholding agent will be or is a quarterly filer, the bond or securities which will be required is an amount sufficient to cover nine months or three quarters of tax liability.

38.9(4) **Penalty for failure of a withholding agent to file bond.** If the withholding agent is requested by the department to file a bond to secure collection of the state withholding tax and fails to file the bond, the withholding agent is subject to a penalty. The penalty for failure to file a bond is 15 percent of the tax the withholding agent is required to withhold on an annual basis. However, the penalty cannot exceed $5000.

This rule is intended to implement Iowa Code section 422.16.

701—38.10(422) **Indexation.** Iowa Code section 422.5 provides for the adjustment of the tax brackets by a cumulative inflation factor to be determined by the director. The requirement that provided that the state general fund balance on June 30 of the prior calendar year had to be $60 million or more before there was indexation of the tax rate brackets for the current year was repealed for tax years beginning on or after January 1, 1996.

This rule is intended to implement Iowa Code sections 422.4 and 422.21.

[ARC 1303C, IAB 2/5/14, effective 3/12/14]

701—38.11(422) **Appeals of notices of assessment and notices of denial of taxpayer’s refund claims.** A taxpayer may appeal to the director at any time within 60 days from the date of the notice of assessment of tax, additional tax, interest, or penalties. For assessments issued on or after January 1, 1995, if a taxpayer fails to timely appeal a notice of assessment, the taxpayer may pay the entire assessment and file a refund claim within the period provided by law for filing such claims. In addition, a taxpayer may appeal to the director at any time within 60 days from the date of notice from the department denying changes in filing methods, denying refund claims, or denying portions of refund claims. See rule 701—7.8(17A) for information on filing appeals or protests.

This rule is intended to implement Iowa Code sections 421.10 and 422.28.

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

701—38.12(422) **Indexation of the optional standard deduction for inflation.** Effective for tax years beginning on or after January 1, 1990, the optional standard deduction is indexed or increased by the cumulative standard deduction factor computed by the department of revenue. The cumulative standard deduction factor is the product of the annual standard deduction factor for the 1989 calendar year and all standard deduction factors for subsequent annual calendar years. The annual standard deduction factor is an index, to be determined by the department of revenue by October 15 of the calendar year, which reflects the purchasing power of the dollar as a result of inflation during the fiscal year ending in that calendar year preceding the calendar year for which the annual standard deduction factor is to apply. For tax years beginning on or after January 1, 1996, the department shall use the annual percentage change,
but not less than 0 percent, in the gross domestic product price deflator computed for the second quarter of the calendar year by the Bureau of Economic Analysis of the United States Department of Commerce and shall add all of that percentage change to 100 percent, rounded to the nearest one-tenth of 1 percent. The annual standard deduction factor shall not be less than 100 percent.

This rule is intended to implement Iowa Code section 422.4.

[ARC 7761B, IAB 5/6/09, effective 6/10/09]

701—38.13(422) Reciprocal tax agreements. Effective for tax years beginning on or after January 1, 2002, the department of revenue may, when the action has been approved by the general assembly and the governor, and when it is cost-efficient, administratively feasible, and of mutual benefit to Iowa and another state, enter into a reciprocal tax agreement with a tax administration agency of the other state. Under this agreement, income earned from personal services in Iowa by residents of the other state will be exempt from Iowa income tax if the other state provides an identical exemption from its state income tax for income earned in the other state from personal services by Iowa residents. For purposes of this rule, “income earned from personal services” includes wages, salaries, commissions, tips, deferred compensation, pensions, and annuities which were earned from personal services in Iowa by a resident of another state that had a reciprocal tax agreement with Iowa at the time the wages, salaries, commissions, tips, deferred compensation, pensions, or annuities were earned. See rule 701—40.45(422) for the treatment of deferred compensation, pensions, or annuities received by a nonresident of Iowa related to the documented retirement of a participant in a deferred compensation plan, a pensioner or an annuitant. The provisions of rule 701—40.45(422) supersede the definition of “income earned from personal services” under any reciprocal agreement as it relates to deferred compensation, pensions, or annuities.

38.13(1) Reciprocal tax agreement with Illinois. Pursuant to the authority of Iowa Code subsection 422.8(5), the department of revenue entered into a reciprocal tax agreement with tax administration officials of Illinois in November 1972 which went into effect for taxable years which began after December 31, 1972. The Iowa-Illinois reciprocal tax agreement cannot be terminated by the Iowa department of revenue unless the termination is authorized by a constitutional majority of each house of the general assembly and is approved by the governor. The Iowa-Illinois reciprocal tax agreement includes the following terms:

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

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

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

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

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

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

g. For purposes of the agreement, “compensation” means wages, salaries, commissions, tips, deferred compensation, pensions, and annuities and any other remuneration paid for personal services. In the case of deferred compensation, pensions, and annuities, those incomes are deemed to have been earned at the time of employment. Therefore, if an Illinois resident receives a pension or annuity from employment in Iowa at the time the reciprocal agreement was in effect, the pension or annuity income is not taxable to Iowa since it is “compensation” covered by the reciprocal agreement. See rule 701—40.45(422) for the treatment of deferred compensation, pensions, or annuities received by an Illinois resident related to the documented retirement of a participant in a deferred compensation plan.
plan, a pensioner or an annuitant. The provisions of rule 701—40.45(422) supersede the definition of “compensation” under the reciprocal agreement with Illinois. “Compensation” does not include unemployment compensation benefits which an Illinois resident receives due to employment in Iowa.

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

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

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

38.13(2) Reciprocal tax agreements with states other than Illinois. The Iowa department of revenue has not entered into reciprocal tax agreements with any state except the state of Illinois. See subrule 38.13(1).

This rule is intended to implement Iowa Code section 422.8 as amended by 2002 Iowa Acts, House File 2116, and section 422.15.

[ARC 1665C, IAB 10/15/14, effective 11/19/14]

701—38.14(422) Information returns for reporting income payments to the department of revenue. Effective January 1, 1993, every person, every corporation, or agent of a person or corporation, lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state or of any political subdivision of the state, having control, receipt, custody, or disposal of any of the income items described in subrule 38.14(1), shall file information returns with the department of revenue by the last day of February following the end of the year in which the payments were made. For purposes of this rule, “every person” is every individual who is a resident of this state. For purposes of this rule, “every corporation” includes all corporations that have a place of business in this state.

38.14(1) Incomes to be included in information returns. The entities described in rule 701—38.14(422) are required to file information returns to the department of revenue on income payments of interest (other than interest coupons payable to the bearer), rents, salaries, wages, premiums, annuities, compensation, remunerations, emoluments, unemployment compensation, royalties, patronage dividends, or other fixed or determinable annual or periodic gains, profits, and income to the extent that the amount of income is great enough so that an information return on the income is required to be filed with the Internal Revenue Service (IRS) under provisions of the Internal Revenue Code. However, no reporting is required for payments of deferred compensation, pensions, and annuities to nonresidents of Iowa. In addition, no reporting is required for any type of income payment where information on the income payment is available to the department from the Internal Revenue Service.

38.14(2) Information on income payments available from the Internal Revenue Service. The department can obtain information from the Internal Revenue Service on many income payments made to individuals in the tax year. The following is a list of federal reporting forms and the types of information available on those forms from the Internal Revenue Service for residents of Iowa:

a. 1065 K-1

1. Dividends.
2. Interest.
3. Tax withheld.
4. Royalties.
5. Ordinary income or (loss).
6. Real estate income or (loss).
7. Other rental income or (loss).
8. Other portfolio income or (loss).
b. K-1 1041.
   1. Dividends.
   2. Interest.
   3. Other taxable income or (loss).
   4. Tax withheld.

c. K-1 1120-S.
   1. Dividends.
   2. Interest.
   3. Tax withheld.
   4. Royalties.
   5. Ordinary income.
   6. Real estate.
   7. Other rental.
   8. Other portfolio.

d. 1099-S.
   1. Real estate sales.

e. 1099-B.
   1. Aggregate profit and loss.
   2. Realized profit and loss.

f. 1098.
   1. Mortgage interest.

g. 1099-G.
   1. Tax withheld.
   2. Taxable grant.
   3. Unemployment compensation.
   4. Agricultural subsidies.

h. 1099-DIV.
   1. Dividends.
   2. Tax withheld.
   5. Noncash liquid distribution.
   6. Investment expense.
   7. Ordinary dividends.
701—38.15(422) Relief of innocent spouse for substantial understatement of tax attributable to other spouse. A husband and wife are generally jointly and severally liable for the total tax, penalty, and interest from a joint return or from a return where they file separately on the combined return form. However, effective for tax years beginning on or after January 1, 1994, a married person who meets the criteria for an innocent spouse established in Section 6015 of the Internal Revenue Code may be relieved of liability for a substantial understatement of tax that is attributable to grossly erroneous items of the other spouse. For purposes of determining if an individual is an innocent spouse for state income tax purposes, the provisions in Section 6015 of the Internal Revenue Code will be followed as well as federal court cases, letter rulings, and revenue rulings which deal with innocent spouse. In addition, for tax years beginning on or after January 1, 2002, the provisions of Sections 6015(c) and 6015(f) of the Internal Revenue Code regarding relief for separation of liabilities and equitable relief, respectively, are applicable for Iowa income tax purposes. The following are the criteria that must be considered for purposes of determining if an individual is an innocent spouse for Iowa income tax purposes:

1. Understatement of tax attributable to grossly erroneous items of the other spouse. An understatement of the tax is the excess of the tax required to be shown over the tax actually shown on the return. The understatement must be entirely attributable to grossly erroneous items of one spouse in order for the other spouse to be eligible for status as an innocent spouse. As an innocent spouse, the individual will not be liable for the substantial understatement of tax of the other spouse. The tax liability attributable to the understatement is computed by adding penalties and interest that accrued by the date of the deficiency notice. Grossly erroneous items may include any omission from gross income such as income from embezzled funds. Grossly erroneous items may also include deductions or Iowa tax credits that are without factual or legal foundation.

2. Filing status for return with an innocent spouse. For state income tax purposes, a married taxpayer filing a return with a spouse can qualify as an innocent spouse only if the taxpayers file a joint return or file separately on the combined return form. A married taxpayer who files a separate state return will not be eligible for innocent spouse status.

3. Innocent spouse must establish lack of knowledge of other spouse’s substantial understatement. Innocent spouse relief applies only if the individual claiming to be an innocent spouse can establish that in signing the state return, the individual did not know and had no reason to know that there was a substantial understatement of tax. The innocent spouse’s lack of knowledge must exist until the time the return is filed and not just until the end of the year (or period) covered by the return. The U.S. Tax Court has provided that the standard for determining if a taxpayer had reason to know of an omission is whether a reasonable person under the particular circumstances at the time of signing the return could be expected to know of the omission.

In many cases in which innocent spouse relief is sought, the following factors play a role: business background or education of person claiming innocent spouse relief, involvement in family financial affairs by the person claiming innocent spouse relief, involvement in the family business or the transaction giving rise to the understatement by the person claiming innocent spouse relief, whether or not there were lavish or unusual expenditures in the family or increase in standard of living of the family and knowledge of embezzlement activities of the other spouse.

4. Whether or not it would be equitable to hold the innocent spouse for the substantial understatement. Innocent spouse relief applies only if, taking into account all facts and circumstances, it
would be inequitable to hold the claimed innocent spouse liable for the deficiency in tax for the taxable year attributable to the substantial understatement. Factors taken into account in determining whether it is inequitable to hold a spouse liable for a tax deficiency include whether the spouse seeking relief has been deserted, divorced, separated, or widowed or has been the subject of abuse or financial control by the other spouse. See Internal Revenue Service Notice 2012-8.

Another important factor in determining equitable treatment for the person claiming innocent spouse relief is whether the person received a benefit attributable to the substantial understatement of taxes. The fact that the spouse received a benefit in the nature of “ordinary support” does not support a finding of significant benefit to deny the spouse relief. In addition, ordinary family support may include maintaining an affluent lifestyle if the standard of living is not enhanced by the tax understatement.

Where the taxpayer participated in the financial affairs of the other spouse and enjoyed the benefits from the activities of the other spouse, innocent spouse relief will not be granted.

5. Time period for requesting innocent spouse relief. For tax periods beginning on or after January 1, 2004, innocent spouse relief must be requested within two years after the date the department initiates collection action on an income tax deficiency or assessment against the person claiming innocent spouse relief. However, an extended time period to request innocent spouse relief can be granted under the provisions of Internal Revenue Service Notice 2011-70, which became effective July 25, 2011.

This rule is intended to implement Iowa Code section 422.21 as amended by 2002 Iowa Acts, House File 2116.

[ARC 1303C, IAB 2/5/14, effective 3/12/14]

701—38.16(422) Preparation of taxpayers’ returns by department employees. A department employee can assist a taxpayer in the preparation and completion of the taxpayer’s individual income tax returns and other state tax returns during the employee’s hours of employment for the department in either of the following situations:

1. At the time the department employee is conducting an audit of the taxpayer.

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

This rule is intended to implement Iowa Code section 421.17.

701—38.17(422) Resident determination. For Iowa individual income tax purposes, an individual is a “resident” if: (1) the individual maintains a permanent place of abode within the state, or (2) the individual is domiciled in the state. An individual who is determined to be a “resident” of Iowa is subject to Iowa income tax on all the individual’s income for the taxable year, no matter whether the income is earned within Iowa or outside of Iowa, except when an item of income is specifically exempted from taxation by a provision of federal or Iowa law.

38.17(1) Permanent place of abode. The establishment of a permanent place of abode requires the maintenance of a place of abode over a sufficient period of time to create a well-settled physical connection with a given locality. Significant factors, among others, to be considered in determining whether an individual maintains such a permanent place of abode are: (1) the amount of time the individual spends in the locality; (2) the nature of the individual’s place of abode; (3) the individual’s activities in the locality; and (4) the individual’s intentions with regard to the length and nature of the individual’s stay.

There is a rebuttable presumption that an individual is maintaining a “permanent place of abode” if the individual maintains a place of abode within this state and spends more than 183 days of the tax year within this state. The term “place of abode” includes a house, apartment, condominium, mobile home, or other dwelling place maintained or occupied by the individual whether or not owned or rented by the individual. Situations where presence in the state for 183 days of the tax year may not cause an individual to be considered to be maintaining a “permanent place of abode” would include situations where presence in the state is not voluntary, such as confinement to a correctional facility or an extended hospital stay.
38.17(2) Domicile. An individual is “domiciled” in this state if the individual intends to permanently or indefinitely reside in Iowa and intends to return to Iowa whenever the individual may be absent from this state. Individuals who have moved into this state are domiciled in Iowa if the following three elements exist: (1) a definite abandonment of a former domicile; (2) actual removal to, and physical presence in this state; and (3) a bona fide intention to change domicile and to remain in this state permanently or indefinitely. Julson v. Julson, 255 Iowa 301, 122 N.W.2d 329, 331 (1963).

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

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

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

b. There is a rebuttable presumption that an individual is not domiciled in Iowa if the individual meets all of the following factors:
   (1) Does not claim a homestead credit or military exemption on a home in Iowa,
   (2) Is not registered to vote in Iowa,
   (3) Does not maintain an Iowa driver’s license,
   (4) Is in Iowa less than 183 days of the tax year; and
   (5) The individual maintains a place of abode outside of Iowa where the individual resides for at least 183 days of the tax year.

c. In addition to the factors listed for the above rebuttable presumptions for “permanent place of abode” or “domicile,” some of the nonexclusive factors to consider in determining whether an individual is a resident of Iowa are as follows:
   (1) Maintains a place of abode in Iowa, whether owned, rented, or occupied.
   (2) Maintains an Iowa driver’s license.
   (3) Maintains active membership in an Iowa church, club, or professional organization and participates as a result of such membership.
   (4) Documents, such as tax forms, legal documents, and correspondence, initiated during tax periods, use an Iowa address. Legal documents could include wills, deeds, or other contracts.
   (5) Immediate family members residing in Iowa who are claimed as dependents or rely, in whole or in part, on the taxpayer for their support.
   (6) Vehicles registered in Iowa.
   (7) Location of employment or active participation in a business within Iowa.
   (8) Active checking or savings accounts or use of safe deposit boxes located in Iowa.
(9) Claims a benefit on the federal income tax return based upon an Iowa home being the principal place of residence. Examples include mortgage interest on principal residence and travel expenses while away from the principal place of residence.

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

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

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

38.17(3) Resident determination for individuals on active duty military service. The Soldiers and Sailors Civil Relief Act provides in 50 U.S.C. Appx § 574(1) that members of the armed forces of the United States shall not be deemed to have lost a residence or domicile in any state, solely by being absent from that state in compliance with military or naval orders, or to have acquired a residence or domicile in another state while being absent from the state of residence. Thus, residents of Iowa who enter military service will retain their Iowa residence during the tenure of their military service or until they take positive action to change their state of residence.

For tax years beginning prior to January 1, 2011, residents of Iowa in military service will have Iowa income tax withheld from their military pay except when the military pay is earned in a combat zone and is totally or partially exempt from both federal and state income tax. An Iowa resident in military service can change state of residence for purposes of withholding of state income tax by completing Form DD2058 and designating a state other than Iowa as the individual’s new state of residence. The military payroll officer of the service person will accept the DD2058 form and stop withholding Iowa income tax from the service person’s military pay and start withholding the state income tax of the state of new residence of the service person (assuming the new state of residence has an income tax and assuming the new state of residence requires withholding of income tax from wage payments to its residents in military service). However, the completion of the DD2058 form by the “former Iowa resident” will not be considered as a valid change of residence for Iowa income tax purposes unless the service person was physically residing in the new state of residence at the time the DD2058 form was completed and the service person took other actions to show intent to change state of residence. Other actions to show intent to change state of residence would include: (1) registering to vote in the new state; (2) purchasing real property in the new state; (3) titling and registering vehicles in the new state; (4) notifying the state of previous residence of the state of residence change; (5) preparing a new last will and testament which indicates the new residence; and (6) complying with the tax laws of the state of new residence. For tax years beginning on or after January 1, 2011, see rule 701—40.76(422) regarding the exemption of active duty pay for both resident and nonresident members of the armed forces, armed forces military reserve, or the national guard.

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

Military personnel who are not residents of the state of Iowa and who receive military pay for service in Iowa shall not be considered to have received this income for services performed within Iowa or from sources within Iowa. These nonresidents of Iowa will be taxable on nonmilitary wages for personal services in Iowa they receive while stationed in Iowa. These individuals will also be taxable to Iowa on incomes they receive from businesses, trades, professions, or occupations operated in Iowa during the time they are stationed in Iowa as well as on nonmilitary incomes from any other sources within Iowa.

Since military nonresidents of Iowa cannot be taxed on their military pay while they are stationed in Iowa, the military pay cannot be considered for purposes of Iowa’s taxation of nonresidents in accordance with the Servicemembers Civil Relief Act, Public Law 108-189. The military pay of the nonresident of Iowa must be excluded from the computation of the nonresident credit set forth in rule 701—42.5(422).
This exclusion from the computation of the nonresident credit applies to military pay of nonresident servicemembers who are in an active duty status as defined under Title 10 of the United States Code.

For tax years beginning before January 1, 2009, spouses of military personnel who earn wages and other incomes from Iowa sources are taxed on these incomes similarly to other nonresidents of Iowa. Spouses of Iowa resident military personnel who were nonresidents of Iowa at the time of the marriages with the Iowa residents will not be considered to be residents of Iowa until they actually reside in Iowa with their husbands or wives. For tax years beginning on or after January 1, 2009, spouses who earn wages from Iowa sources are not subject to Iowa income tax on these wages if one spouse who is present in Iowa is a member of the armed forces, the other spouse is present in Iowa solely to be with the military spouse, and the spouse who is a member of the armed forces maintains a domicile in another state. This treatment for tax years beginning on or after January 1, 2009, is required by the Military Spouses Residency Relief Act, Public Law No. 111-97.

38.17(4) Examples of resident determination.

a. Fred and Mary were domiciled in Iowa when Fred retired in 1994. They have a house in Iowa and a condominium in Florida. Prior to 1994, Fred and Mary spent approximately four months in Florida and the remaining eight months in Iowa. Fred owned a small business when he retired and was retained as a consultant and remained a member of the board of directors after retirement. Fred and Mary have friends and family in both Iowa and Florida. They are also involved in the activities of the local country club as well as other civic and service organizations in both locations. When Fred retired, he and Mary decided to spend more time in Florida, especially during the winter months. They usually leave for Florida in late October and return to Iowa in early April. They have transferred their automobile registrations to Florida and they have acquired Florida driver’s licenses. They have registered to vote in Florida and have voted in Florida elections. They visit doctors and dentists in both locations as the need arises. They maintain bank accounts in both locations and have mail sent to the location at which they are physically residing. Fred and Mary usually return to Iowa for the Thanksgiving and Christmas holidays and Fred returns once a month to attend board meetings. They do not claim a homestead credit or military tax exemption on their Iowa home, but they do use their Iowa address on most of their legal documents and on their federal tax return. They also travel and vacation during the winter months and oftentimes leave Florida to vacation.

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

b. Susan takes an apartment in Des Moines when her employer assigns her to the region office of a large accounting firm for a temporary period. She spends more than 183 days in Iowa, but she returns to her apartment in Ohio once a month to visit her friends and to check her mail. She intends to return to Ohio when her assignment in Des Moines is terminated. She has retained her Ohio driver’s license and she is registered to vote in Ohio.

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

c. John is an over-the-road truck driver and his job takes him out of Iowa for approximately 240 days a year. He is married and his wife, Mary, lives in Marshalltown, Iowa. His two school-age children attend school in that community and Mary also has a part-time job as a nurse for the neighborhood clinic. John gets home for most weekends and for the holidays. He is registered to vote in Iowa and utilizes the Iowa homestead and military tax exemptions. He does not own any other real property except a lakeside cabin in Minnesota, where the family vacations during the summer.

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

d. Wilber, who is a resident of Idaho, has a heart attack while vacationing in Iowa. He is hospitalized in the University Hospitals in Iowa City. While there, the doctors also discover that he has
a rare blood disorder and Wilber is confined to the hospital for nearly nine months, during which time he receives treatment.

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

e. Chuck and Linda both worked for a major manufacturing company in Iowa and both of them decided to take advantage of an early retirement package offered by their employer. They do not have any children, but Chuck has a brother who lives in Davenport, Iowa, and Linda has a sister who lives in Phoenix, Arizona. After retirement, Chuck and Linda sell their house and purchase a motor home. They spend their time traveling the United States and Canada. They do not have a place of abode in any state as they live in their new vehicle. They do not spend more than 183 days in any state during the year. They retained their Iowa driver’s licenses and their motor home is registered in Iowa. They also have bank accounts in both Iowa and Arizona, and they have their mail sent to Chuck’s brother as well as Linda’s sister. They show Iowa as their state of residence for federal income tax purposes. They are not registered to vote in any state.

Chuck and Linda would be considered residents of Iowa. They have not shown an intention to change domicile and remain in another state permanently or indefinitely.

This rule is effective for tax years beginning on or after January 1, 1995.

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

701—38.18(422) Tax treatment of income repaid in current tax year which had been reported on prior Iowa individual income tax return. For tax years beginning on or after January 1, 1992, if a taxpayer repays in the current tax year an amount of income that had been reported on the taxpayer’s Iowa individual income tax return for a prior year that had been filed with the department and the taxpayer would have been eligible for a tax benefit under similar circumstances under Section 1341 of the Internal Revenue Code, the taxpayer will be eligible for a tax benefit on the Iowa return for the current tax year. The tax benefit will be either the reduced tax on the Iowa return for the current tax year due to the deduction of the repaid income or the reduction in tax on the Iowa return or returns for the prior year(s) due to the exclusion of the repaid income. The reduction in tax from the return for the prior year may be claimed as a refundable credit on the return for the current tax year.

EXAMPLE A: A taxpayer reported $7,000 in unemployment benefits on the taxpayer’s 1994 Iowa return that the taxpayer had received in 1994. In early 1995 the taxpayer was notified that $4,000 of the unemployment benefits had to be repaid. The benefits were repaid by the end of 1995. The taxpayer claimed a deduction on the 1995 Iowa return for the amount of unemployment benefits repaid during 1995 which had been reported on the taxpayer’s 1994 Iowa return as that action gave the taxpayer a greater reduction in Iowa income tax liability than the taxpayer would have received from a reduction in tax on the 1994 return by recomputing the liability by excluding the repaid income.

EXAMPLE B: A taxpayer had received a $5,000 bonus in 1994 which was reported on the taxpayer’s 1994 Iowa return. In 1995 the taxpayer’s employer advised the employee that the bonus was awarded in error and to be repaid. The $5,000 bonus was repaid to the employer by the end of 1995. The taxpayer claimed a credit of $440 on the 1995 Iowa return for repayment of the bonus in 1995. This represented the reduction in tax for 1994 from recomputing the tax liability for that year without the $5,000 bonus. This provided the taxpayer a greater tax benefit than the taxpayer would have received from claiming a deduction on the 1995 Iowa return from repayment of the bonus.

This rule is intended to implement Iowa Code section 422.5 as amended by 1996 Iowa Acts, Senate File 2168.

701—38.19(422) Indication of dependent child health care coverage on tax return. For tax years beginning on or after January 1, 2008, but before January 1, 2010, an individual who is an Iowa resident
as of December 31 of the tax year who files an Iowa individual income tax return may report on the return the presence or absence of health care coverage for each dependent child as of December 31 of the tax year for which the exemption credit described in 701—subrule 42.2(1), paragraph “c.” is claimed. For tax years beginning on or after January 1, 2008, but before January 1, 2010, it is not mandatory that a taxpayer indicate on the tax return the presence or absence of health care coverage for each dependent, and there is no penalty if this information is not provided on the tax return. For tax years beginning on or after January 1, 2010, it is mandatory that a taxpayer indicate on the tax return the presence or absence of health care coverage for each dependent. The Iowa return will not be considered complete until the indication of the presence or absence of health care coverage for each dependent is made on the return.

38.19(1) Definition of health care coverage. Health care coverage includes the following:
   a. Private health care coverage provided through an employer, a relative’s employer, or through a union.
   b. Private health care coverage purchased by an individual from a private company.
   c. Government health care coverage provided through the state Medicaid program set forth in Iowa Code chapter 249A, or the HAWK-I (healthy and well kids in Iowa) program set forth in Iowa Code chapter 514I.
   d. Government health care coverage provided by the military including the Civilian Health and Medical Program of the Uniformed Services (TRICARE/CHAMPUS) and the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA).
   e. Government health care coverage provided by the United States Department of Health and Human Services to eligible American Indians under the Indian Health Service program.

38.19(2) Notification to the taxpayer. If the taxpayer indicates on the return that a dependent child does not have health care coverage and the taxpayer’s income reflected on the tax return is within the eligibility requirements for either the Medicaid program or the HAWK-I program, the department will send a letter to the taxpayer indicating that the dependent may be eligible for health care coverage under either the Medicaid or HAWK-I program. The letter will also provide the address for a Web site which has an online application for health care coverage under either the Medicaid or HAWK-I program which can be completed and sent to the Iowa department of human services. The letter will also include the telephone number to call to request a paper application. The taxpayer must submit the application to the Iowa department of human services within 90 days of receipt of the enrollment information from the department of revenue. The department of human services will make the final determination on whether the taxpayer is eligible under the Medicaid or HAWK-I program. A dependent child must be under the age of 21 to be eligible for the Medicaid program, and a dependent child must be under the age of 19 to be eligible for the HAWK-I program.

38.19(3) Reporting requirements. The department, in cooperation with the department of human services, must submit an annual report to the governor and the general assembly which will include the following:
   a. Number of Iowa families, by income level, who claim the personal exemption credit for dependent children described in 701—subrule 42.2(1), paragraph “c.”
   b. The number of Iowa families, by income level, who claim the personal exemption credit and whether they indicated the presence or absence of health care coverage for their dependent children.
   c. The number of Iowa families, by income level, claiming the personal exemption credit who received enrollment information from the department of revenue and who subsequently applied and were enrolled in either the Medicaid or HAWK-I program.

This rule is intended to implement Iowa Code section 422.12M as amended by 2009 Iowa Acts, Senate File 389, section 15.

[ARC 8605B, IAB 3/10/10, effective 4/14/10; ARC 9820B, IAB 11/2/11, effective 12/7/11]
[Filed 12/12/74]
[Filed 12/10/76, Notice 9/22/76—published 12/29/76, effective 2/2/77]
[Filed 9/18/78, Notice 7/26/78—published 10/18/78, effective 11/22/78]
[Filed 12/7/79, Notice 10/31/79—published 12/26/79, effective 1/30/80]
[Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]
[Filed 12/5/80, Notice 10/29/80—published 12/24/80, effective 1/28/81]
[Filed 5/8/81, Notice 4/1/81—published 5/27/81, effective 7/1/81]
[Filed 11/20/81, Notice 10/14/81—published 12/9/81, effective 1/13/82]
[Filed 7/16/82, Notice 6/9/82—published 8/4/82, effective 9/8/82]
[Filed 12/3/82, Notice 10/27/82—published 12/22/82, effective 1/26/83]
[Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]
[Filed 5/31/85, Notice 4/24/85—published 6/19/85, effective 7/24/85]
[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]
[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
[Filed emergency 12/23/87—published 1/13/88, effective 12/23/87]
[Filed 2/19/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 8/19/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]
[Filed 1/19/90, Notice 12/13/89—published 2/7/90, effective 3/14/90]
[Filed 3/30/90, Notice 2/21/90—published 4/18/90, effective 5/23/90]
[Filed 11/20/92, Notice 10/14/92—published 12/9/92, effective 1/13/93]
[Filed 11/18/94, Notice 10/12/94—published 12/7/94, effective 1/11/95]
[Filed 4/21/95, Notice 3/1/95—published 5/10/95, effective 6/14/95]
[Filed 1/12/96, Notice 12/6/95—published 1/31/96, effective 3/6/96]
[Filed 8/23/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
[Filed 9/20/96, Notice 8/14/96—published 10/9/96, effective 11/13/96]
[Filed 12/12/97, Notice 11/5/97—published 12/31/97, effective 2/4/98]
[Filed 10/11/02, Notice 9/4/02—published 10/30/02, effective 12/4/02]
[Filed 1/30/04, Notice 12/24/03—published 2/18/04, effective 3/24/04]
[Filed 7/28/06, Notice 6/21/06—published 8/16/06, effective 9/20/06]
[Filed 3/7/08, Notice 1/30/08—published 3/26/08, effective 4/30/08]
[Filed 10/31/08, Notice 9/24/08—published 11/19/08, effective 12/24/08]
[Filed ARC 7761B (Notice ARC 7632B, IAB 3/11/09), IAB 5/6/09, effective 6/10/09]
[Filed ARC 8605B (Notice ARC 8481B, IAB 1/13/10), IAB 3/10/10, effective 4/14/10]
[Filed ARC 8702B (Notice ARC 8512B, IAB 2/10/10), IAB 4/21/10, effective 5/26/10]
[Filed ARC 9103B (Notice ARC 8944B, IAB 7/28/10), IAB 9/22/10, effective 10/27/10]
[Filed ARC 9104B (Notice ARC 8954B, IAB 7/28/10), IAB 9/22/10, effective 10/27/10]
[Filed ARC 9822B (Notice ARC 9739B, IAB 9/7/11), IAB 11/2/11, effective 12/7/11]
[Filed ARC 9820B (Notice ARC 9740B, IAB 9/7/11), IAB 11/2/11, effective 12/7/11]
[Filed ARC 0251C (Notice ARC 0145C, IAB 5/30/12), IAB 8/8/12, effective 9/12/12]
[Filed ARC 1303C (Notice ARC 1231C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 1665C (Notice ARC 1590C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]

◊ Two or more ARCs
CHAPTER 40
DETERMINATION OF NET INCOME
[Prior to 12/17/86, Revenue Department[730]]

701—40.1(422) Net income defined. Net income for state individual income tax purposes shall mean federal adjusted gross income as properly computed under the Internal Revenue Code and shall include the adjustments in 701—40.2(422) to 701—40.9(422). The remaining provisions of this rule and 701—40.12(422) to 701—40.79(422) shall also be applicable in determining net income.

This rule is intended to implement Iowa Code section 422.7.
[ARC 8605B, IAB 3/10/10, effective 4/14/10; ARC 9103B, IAB 9/22/10, effective 10/27/10; ARC 9820B, IAB 11/2/11, effective 12/7/11]

701—40.2(422) Interest and dividends from federal securities. For individual income tax purposes, the state is prohibited by federal law from taxing dividends from corporations owned or sponsored by the federal government, or interest derived from obligations of the United States and its possessions, agencies, and instrumentalities. Therefore, if the federal adjusted gross income of an individual, taxable by Iowa, includes dividends or interest of this type, an adjustment must be made by deducting the amount of the dividend or interest. If the inclusion of an amount of income or the amount of a deduction is based upon federal adjusted gross income and federal adjusted gross income includes dividends from corporations owned or sponsored by the federal government, or interest derived from obligations of the United States and its possessions, agencies, and instrumentalities, a recomputation of the amount of income or deduction must be made excluding dividends or interest of this type from the calculations.

A federal statute exempts stocks and obligations of the United States Government, as well as the interest on the obligations, from state income taxation (see 31 USCS Section 3124(a)).


Tax-exempt credit instruments possess the following characteristics:
1. They are written documents,
2. They bear interest,
3. They are binding promises by the United States to pay specified sums at specified dates, and
4. They have Congressional authorization which also pledges the faith and credit of the United States in support of the promise to pay. Smith v. Davis, supra.

A governmental obligation that is secondary, indirect, or contingent, such as a guaranty of a nongovernmental obligor’s primary obligation to pay the principal amount of and interest on a note, is not an obligation of the type exempted under 31 USCS Section 3124(1). Rockford Life Ins. Co. v. Department of Revenue, 107 S.Ct. 2312 (1987).

The following list contains widely held United States Government obligations, but is not intended to be all-inclusive.

This noninclusive listing indicates the position of the department with respect to the income tax status of the listed securities. It is based on current federal law and the interpretation thereof by the department. Federal law or the department’s interpretation is subject to change. Federal law precludes all states from imposing an income tax on the interest income from direct obligations of the United States Government. Also, preemptive federal law may preclude state taxation of interest income from the securities of federal government-sponsored enterprises and agencies and from the obligations of U.S. territories. Any profit or gain on the sale or exchange of these securities is taxable.

40.2(1) Federal obligations and obligations of federal instrumentalities the interest on which is exempt from Iowa income tax.

a. United States Government obligations: United States Treasury—Principal and interest from bills, bonds, and notes issued by the United States Treasury exempt under 31 U.S.C. Section 3124[a].
1. Series E, F, G, H, and I bonds
2. United States Treasury bills
5. U.S. Government notes
6. Original issue discount (OID) on a United States Treasury obligation
d. 

b. Territorial obligations:
   1. Guam—Principal and interest from bonds issued by the Government of Guam (48 USCS Section 1423[a]).
   2. Puerto Rico—Principal and interest from bonds issued by the Government of Puerto Rico (48 USCS Section 745).
   3. Virgin Islands—Principal and interest from bonds issued by the Government of the Virgin Islands (48 USCS Section 1403).
   4. Northern Mariana Islands—Principal and interest from bonds issued by the Government of the Northern Mariana Islands (48 USCS Section 1681(c)).

c. Federal agency obligations:
   1. Commodity Credit Corporation—Principal and interest from bonds, notes, debentures, and other similar obligations issued by the Commodity Credit Corporation (15 USCS Section 713a-5).
   2. Banks for Cooperatives—Principal and interest from notes, debentures, and other obligations issued by Banks for Cooperatives (12 USCS Section 2134).
   3. Farm Credit Banks—Principal and interest from systemwide bonds, notes, debentures, and other obligations issued jointly and severally by Banks of the Federal Farm Credit System (12 USCS Section 2023).
   4. Federal Intermediate Credit Banks—Principal and interest from bonds, notes, debentures, and other obligations issued by Federal Intermediate Credit Banks (12 USCS Section 2079).
   5. Federal Land Banks—Principal and interest from bonds, notes, debentures, and other obligations issued by Federal Land Banks (12 USCS Section 2055).
   6. Federal Land Bank Association—Principal and interest from bonds, notes, debentures, and other obligations issued by the Federal Land Bank Association (12 USCS Section 2098).
   7. Financial Assistance Corporation—Principal and interest from notes, bonds, debentures, and other obligations issued by the Financial Assistance Corporation (12 USCS Section 2278b-10[b]).
   8. Production Credit Association—Principal and interest from notes, debentures, and other obligations issued by the Production Credit Association (12 USCS Section 2077).
   9. Federal Deposit Insurance Corporation (FDIC)—Principal and interest from notes, bonds, debentures, and other such obligations issued by the Federal Deposit Insurance Corporation (12 USCS Section 1825).
   10. Federal Financing Bank—Interest from obligations issued by the Federal Financing Bank. Considered to be United States Government obligations (12 USCS Section 2288, 31 USCS Section 3124[a]).
   11. Federal Home Loan Bank—Principal and interest from notes, bonds, debentures, and other such obligations issued by any Federal Home Loan Bank and consolidated Federal Home Loan Bank bonds and debentures (12 USCS Section 1433).
   12. Federal Savings and Loan Insurance Corporation (FSLIC)—Principal and interest from notes, bonds, debentures, and other such obligations issued by the Federal Savings and Loan Insurance Corporation (12 USCS Section 1725[e]).
   13. Federal Financing Corporation—Principal and interest from notes, bonds, debentures, and other such obligations issued by the Federal Financing Corporation (12 USCS Section 2288(b)).
   14. Financing Corporation (FICO)—Principal and interest from any obligation of the Financing Corporation (12 USCS Sections 1441[e][7] and 1433).
   15. General Services Administration (GSA)—Principal and interest from General Services Administration participation certificates. Considered to be United States Government obligations (31 USCS Section 3124[a]).
16. Housing and Urban Development (HUD).
   • Principal and interest from War Housing Insurance debentures (12 USCS Section 1739[d]).
   • Principal and interest from Rental Housing Insurance debentures (12 USCS Section 1747g[g]).
   • Principal and interest from Armed Services Mortgage Insurance debentures (12 USCS Section 1748b[f]).
   • Principal and interest from National Defense Housing Insurance debentures (12 USCS Section 1750c[d]).
   • Principal and interest from Mutual Mortgage Insurance Fund debentures (12 USCS Section 1710[d]).
17. National Credit Union Administration Central Liquidity Facility—Income from notes, bonds, debentures, and other obligations issued on behalf of the National Credit Union Administration Central Liquidity Facility (12 USCS Section 1795k[b]).
18. Resolution Funding Corporation—Principal and interest from obligations issued by the Resolution Funding Corporation (12 USCS Sections 1441[f][7] and 1433).
19. Student Loan Marketing Association (Sallie Mae)—Principal and interest from obligations issued by the Student Loan Marketing Association. Considered to be United States Government obligations (20 USCS Section 1087-2[1], 31 USCS Section 3124[a]).
20. Tennessee Valley Authority—Principal and interest from bonds issued by the Tennessee Valley Authority (16 USCS Section 831n-4[d]).
21. United States Postal Service—Principal and interest from obligations issued by the United States Postal Service (39 USCS Section 2005[d][4]).
22. Treasury Investment Growth Receipts.
23. Certificates on Government Receipts.

40.2(2) Taxable securities. There are a number of securities issued under the authority of an Act of Congress which are subject to the Iowa income tax. These securities may be guaranteed by the United States Treasury or supported by the issuing agency’s right to borrow from the Treasury. Some may be backed by the pledge of full faith and credit of the United States Government. However, it has been determined that these securities are not direct obligations of the United States Government to pay a specified sum at a specified date, nor are the principal and interest from these securities specifically exempted from taxation by the respective authorizing Acts. Therefore, income from such securities is subject to the Iowa income tax. Examples of securities which fall into this category are those issued by the following agencies and institutions:
   a. Federal agency obligations:
      1. Federal or State Savings and Loan Associations
      2. Export-Import Bank of the United States
      3. Building and Loan Associations
      4. Interest on federal income tax refunds
      5. Postal Savings Account
      6. Farmers Home Administration
      7. Small Business Administration
      8. Federal or State Credit Unions
      9. Mortgage Participation Certificates
      10. Federal National Mortgage Association
      11. Federal Home Loan Mortgage Corporation (Freddie Mac)
      12. Federal Housing Administration
      13. Federal National Mortgage Association (Fannie Mae)
      14. Government National Mortgage Association (Ginnie Mae)
      15. Merchant Marine (Maritime Administration)
      16. Federal Agricultural Mortgage Corporation (Fanner Mac)
   b. Obligations of international institutions:
      1. Asian Development Bank
      2. Inter-American Development Bank
3. International Bank for Reconstruction and Development (World Bank)
c. Other obligations:
   Washington D.C. Metro Area Transit Authority

   For tax years beginning on or after January 1, 1987, interest from Mortgage Backed Certificate Guaranteed by Government National Mortgage Association (“Ginnie Maes”) is subject to Iowa income tax. See *Rockford Life Insurance Company v. Illinois Department of Revenue*, 96 L.Ed.2d 152.

   For the treatment of interest or dividends from regulated investment companies (mutual funds) that invest in obligations of the type discussed in this rule, see rule 701—40.52(422).

   This rule is intended to implement Iowa Code section 422.7.

   [ARC 7761B, IAB 5/6/09, effective 6/10/09; ARC 1101C, IAB 10/16/13, effective 11/20/13]

701—40.3(422) Interest and dividends from foreign securities and securities of state and other political subdivisions. Interest and dividends from foreign securities and from securities of state and other political subdivisions are to be included in Iowa net income. Certain types of interest and dividends, because of specific exemption, are not includable in income for federal tax purposes. To the extent such income has been excluded for federal income tax purposes, unless the item of income is specifically exempted from state taxation by the laws or constitution of Iowa or of the United States, it must be added to Iowa taxable income.

   The following is a noninclusive listing of bonds issued by the state of Iowa and its political subdivisions, interest on which is exempt from both federal and state income taxes.
   2. Urban renewal: Bonds issued under Iowa Code section 403.9(2).
   7. County health center: Bonds issued under Iowa Code section 331.441(2)"c”(7).
   8. Iowa finance authority, water pollution control works and drinking water facilities financing: Bonds issued under Iowa Code section 16.131(5).
   10. Iowa finance authority, Iowa comprehensive petroleum underground storage tank fund: Bonds issued under Iowa Code section 455G.6(14).
   13. Prison infrastructure revenue bonds: Bonds issued under Iowa Code sections 12.80(3) and 16.177(8).
   17. Iowa higher education loan authority: Obligations issued by the authority pursuant to Iowa Code section 261A.27.
   18. Vision Iowa program: Bonds issued pursuant to Iowa Code section 12.71(8).
20. Honey Creek premier destination park bonds: Bonds issued under Iowa Code section 463C.12(8).

21. Iowa utilities board and Iowa consumer advocate building project bonds: Bonds issued under Iowa Code section 12.91(9).

22. Iowa jobs program revenue bonds: Bonds issued under Iowa Code section 12.87(8).


For the treatment of interest or dividends from regulated investment companies (mutual funds) that invest in obligations of the type discussed in this rule, see rule 701—40.52(422).

Gains and losses from the sale or other disposition of bonds issued by the state of Iowa or its political subdivisions, as distinguished from interest income, shall be taxable for state income tax purposes.

This rule is intended to implement Iowa Code section 422.7 as amended by 2014 Iowa Acts, House File 2438.

[ARC 8605B, IAB 3/10/10, effective 4/14/10; ARC 1101C, IAB 10/16/13, effective 11/20/13; ARC 1665C, IAB 10/15/14, effective 11/19/14]


701—40.5(422) Military pay.


40.5(2) For income received for services performed prior to January 1, 1969, and for services performed for tax periods beginning on or after January 1, 1977, but before January 1, 2011. An Iowa resident who is on active duty in the armed forces of the United States, as defined in Title 10, United States Code, Section 101, shall include all income received for such service performed prior to January 1, 1969, and for services performed during tax periods beginning on or after January 1, 1977, but before January 1, 2011. For tax years beginning on or after January 1, 2011, see rule 701—40.76(422).

However, the taxability of this active duty military income shall be terminated for any income received for services performed effective the day after either of the two following conditions:

a. When universal compulsory military service is reinstated by the United States Congress.

“Compulsory military service” is defined to be the actual act of drafting individuals into the military service and not just the registration of individuals under the Military Selective Service Act (50 App, U.S.C. 453); or

b. When a state of war is declared to exist by the United States Congress.

Federal active duty does not include a member of the national guard when called for training by order of the governor through order of the adjutant general. These members are in the service of the state and not on active duty of the United States. Federal active duty also does not include members of the various military reserve programs. A taxpayer must be on active federal duty to qualify for exemption. National guard and reservists who undergo voluntary training are not on active duty in a federal status. National guard and reservist pay does not qualify for the military exemption and such pay is taxable by the state of Iowa.

Compensation received from the United States Government by nonresident members of the armed forces who are temporarily present in the state of Iowa pursuant to military orders is exempt from Iowa income tax.

This rule is intended to implement Iowa Code section 422.5.

[ARC 9822B, IAB 11/2/11, effective 12/7/11]

701—40.6(422) Interest and dividend income. This rule applies to interest and dividends from foreign securities and securities of state and other political subdivisions. Interest and dividends from foreign securities and from securities of state and other political subdivisions are to be included in Iowa taxable income. Certain types of interest and dividends, because of specific exemption, are not included in income for federal tax purposes. To the extent such income has been excluded for federal income
tax purposes, unless the term of income is specifically exempted from state taxation by the laws or constitutions of Iowa or of the United States, it must be added to Iowa taxable income.

This rule is intended to implement Iowa Code section 422.7.

701—40.7(422) Current year capital gains and losses. In determining short-term or long-term capital gain or loss the provisions of the Internal Revenue Code are to be followed.

This rule is intended to implement Iowa Code section 422.7.

701—40.8(422) Gains and losses on property acquired before January 1, 1934. When property was acquired prior to January 1, 1934, the basis as of January 1, 1934, for determining capital or other gains or losses is the higher of cost, adjusted for depreciation allowed or allowable to January 1, 1934, or fair market value as of that date.

If, as a result of this provision, a basis is to be used for purposes of Iowa individual income tax which is different from the basis used for purposes of federal income tax, appropriate adjustment must be made and detailed schedules supplied in the computation of Iowa taxable income.

This rule is intended to implement Iowa Code section 422.7.

701—40.9(422) Work opportunity tax credit and alcohol and cellulosic biofuel fuels credit. Where an individual claims the work opportunity tax credit under Section 51 of the Internal Revenue Code or the alcohol and cellulosic biofuel fuels credit under Section 40 of the Internal Revenue Code, the amount of credit allowable must be used to increase federal taxable income. The amount of credit allowable used to increase federal adjusted gross income is deductible in determining Iowa net income. The work opportunity tax credit applies to eligible individuals who begin work before January 1, 2012. The adjustment for the alcohol and cellulosic biofuel fuels credit is applicable for tax years beginning on or after January 1, 1980.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate File 2328.

[ARC 0337C; IAB 9/19/12, effective 10/24/12]

701—40.10(422) Exclusion of interest or dividends. Rescinded IAB 11/24/04, effective 12/29/04.


701—40.12(422) Income from partnerships or limited liability companies. Residents engaged in a partnership or limited liability company, even if located or doing business outside the state of Iowa, are taxable upon their distributive share of net income of such partnership or limited liability company, whether distributed or not, and are required to include such distributive share in their return. A nonresident individual who is a member of a partnership or limited liability company doing business in Iowa is taxable on that portion of net income which is applicable to the Iowa business activity whether distributed or not. See 701—Chapter 45.

This rule is intended to implement Iowa Code sections 422.7, 422.8, and 422.15.

701—40.13(422) Subchapter “S” income. Where a corporation elects, under Sections 1371-1379 of the Internal Revenue Code, to distribute the corporation’s income to the shareholders, the corporation’s income, in its entirety, is subject to individual reporting whether or not actually distributed. Both resident and nonresident shareholders shall report their share of the corporation’s net taxable income on their respective Iowa returns. Isaacson v. Iowa State Tax Commission, 183 N.W.2d 693, Iowa Supreme Court, February 9, 1971. Residents shall report their distributable share in total while nonresidents shall report only their portion of their distributable share which was earned in Iowa. For tax years beginning on or after January 1, 1996, residents should refer to 701—Chapter 50 to determine if they qualify to compute Iowa taxable income by allocation and apportionment. See 701—Chapter 54 for allocation and apportionment of corporate income.

This rule is intended to implement Iowa Code sections 422.7, 422.8, 422.15, and 422.36.
701—40.14(422) Contract sales. Interest derived as income from a land contract is intangible personal property and is assignable to the recipient’s domicile. Gains received from the sale or assignment of land contracts are considered to be gains from real property in this state and are assignable to this state. As to nonresidents, see 701—40.16(422).

This rule is intended to implement Iowa Code sections 422.7 and 422.8.

701—40.15(422) Reporting of incomes by married taxpayers who file a joint federal return but elect to file separately for Iowa income tax purposes. Married taxpayers who have separate incomes and have filed jointly for federal income tax purposes can elect to file separate Iowa returns or to file separately on the combined Iowa return form. Where married persons file separately, both must use the optional standard deduction if either elects to use it, or both must claim itemized deductions if either elects to claim itemized deductions. The provisions of Treasury Regulation § 1.63-1 are equally applicable regarding the election to use the standard deduction or itemized deductions for Iowa income tax purposes. The spouses’ election to file separately for Iowa income tax purposes is subject to the condition that incomes received by the taxpayers and the deductions for business expenses are allocated between the spouses as the incomes and deductions would have been allocated if the taxpayers had filed separate federal returns. Any Iowa additions to net income and any deductions to net income which pertain to taxpayers filing separately for Iowa income tax purposes must also be allocated accurately between the spouses. Thus, if married taxpayers file a joint federal return and elect to file separate Iowa returns or separately on the combined Iowa return, the taxpayers are required to compute their separate Iowa net incomes as if they had determined their federal adjusted gross incomes on separate federal returns with the Iowa adjustments to net income.

However, the fact that the taxpayers file separately for Iowa income tax purposes does not mean that the spouses will be subject to limitations that would apply if the taxpayers had filed separate federal returns. Instead, tax provisions that are applicable for taxpayers filing joint federal returns are also applicable to the taxpayers when they file separate Iowa returns unless the tax provisions are superseded by specific provisions in Iowa income tax law.

For example, married taxpayers that file separate federal returns cannot take the child and dependent care credit (in most instances) and cannot take the earned income credit. Taxpayers that file a joint federal return and elect to file separately for Iowa income tax purposes can take the child and dependent care credit and the earned income credit on their Iowa returns assuming they meet the qualifications for claiming these credits on the joint federal return.

The following paragraphs and examples are provided to clarify some issues and provide some guidance for taxpayers who filed a joint federal income tax return and elect to file separate Iowa returns or separately on the combined Iowa return form.

1. Election to expense certain depreciable business assets. When married taxpayers who have filed a joint federal return elect to file separate Iowa returns or separately on the combined Iowa return form, the taxpayers may claim the same deduction for the expensing of depreciable business assets as they were allowed on their joint federal return of up to $100,000 (for the tax year beginning on or after January 1, 2003, and which is adjusted annually for inflation for subsequent tax years) as authorized under Section 179 of the Internal Revenue Code. In a situation where one spouse is a wage earner and the second spouse has a small business, the second spouse may claim the same deduction for expensing depreciable assets of up to $100,000 (for the tax year beginning on or after January 1, 2003) that was allowable on the taxpayers’ joint federal return. The fact that a spouse elects to file a separate Iowa return or separately on the combined return form after filing a joint federal return does not mean the spouse is limited to the same deduction for expensing of depreciable business assets of up to $50,000 (for the tax year beginning on or after January 1, 2003) that would have applied if the spouse had filed a separate federal return.

In situations where a married couple has ownership of a business, the deduction for the expensing of depreciable assets which is allowable on the spouses’ joint federal return should be allocated between the spouses in the same ratio as incomes and losses from the business are reported by the spouses. Subrule 40.15(4) sets out criteria for allocation of incomes and losses of businesses in which married couples have an ownership interest.
2. Capital losses. Except for the Iowa capital gains deduction for limited amounts of net capital gains from certain types of assets described in rule 701—40.38(422), the federal income tax provision for reporting capital gains and losses and for the carryover of capital losses in excess of certain amounts are applicable for Iowa individual income tax purposes. When married taxpayers file a joint federal income tax return and elect to file separate Iowa returns or separately on the combined return form, the spouses must allocate capital gains and losses between them on the basis of the ownership of the assets that were sold or exchanged. That is, the spouses must allocate the capital gains and losses between them on the separate Iowa returns as the capital gains and losses would have been allocated if the taxpayers had filed separate federal returns instead of a joint federal return. However, each spouse is not subject to the $1,500 capital loss limitation on the separate Iowa return which is applicable to a married taxpayer that files a separate federal return. Instead, the spouses are collectively subject to the same $3,000 capital loss limitation for married taxpayers filing joint federal returns which is authorized under Section 1211(b) of the Internal Revenue Code. In circumstances where both spouses have net capital losses, each of the spouses can claim a capital loss of up to $1,500 on the separate Iowa return. In a situation where one spouse has a net capital loss of less than $1,500 and the other spouse has a capital loss greater than $1,500, the first spouse can claim the entire capital loss, while the second spouse can claim the portion of the net capital loss on the joint federal return that was not claimed by the first spouse. In no case can the net capital losses claimed on separate Iowa returns by married taxpayers exceed the $3,000 maximum capital loss that is allowed on the joint federal return. In a circumstance where one spouse has a net capital loss and the other spouse has a net capital gain, the amounts of capital gains and losses claimed by the spouses on their separate Iowa returns must conform with the net capital gain amount or net capital loss amount claimed on the joint federal return for the taxpayers. The following examples illustrate how capital gains and losses are to be allocated between spouses filing separate Iowa returns or separately on the combined Iowa return form for married taxpayers who filed joint federal returns.

EXAMPLE 1. A married couple filed a joint federal return which showed a net capital loss of $3,000. All of the capital loss was attributable to the husband, as the wife had no capital gains or losses. Therefore, when the taxpayers filed separate Iowa returns, the husband’s return showed a $3,000 capital loss and the wife’s return showed no capital gains or losses.

EXAMPLE 2. A married couple filed a joint federal return showing a net capital loss of $3,000, which was the maximum loss they could claim, although they had aggregate capital losses of $8,000. The husband had a net capital loss of $6,000 and the wife had a net capital loss of $2,000. When the taxpayers filed their separate Iowa returns each spouse claimed a net capital loss of $1,500, since each spouse had a capital loss of up to $1,500. The husband had a net capital loss carryover of $4,500 and the wife had a net capital loss carryover of $500.

EXAMPLE 3. A married couple filed a joint federal return showing a net capital loss of $2,500. The husband had a net capital gain of $7,500 and the wife had a net capital loss of $10,000. The wife claimed a net capital loss of $10,000 on her separate Iowa return, while the husband reported a net capital gain of $7,500 on his separate Iowa return.

EXAMPLE 4. A married couple filed a joint federal return showing a net capital loss of $3,000. The wife had a net capital loss of $800 and the husband had a net capital loss of $2,500. The wife claimed a $800 net capital loss on her separate Iowa return. The husband claimed a net capital loss on his separate Iowa return of $2,200 which was the portion of the net capital loss claimed on the joint federal return that was not claimed by the wife. The husband had a net capital loss carryover of $300.

3. Unemployment compensation benefits. When a husband and wife have filed a joint federal return and elect to file separate Iowa returns or separately on the Iowa combined return form, the spouses are to report the same amount of unemployment compensation benefits on their Iowa returns as was reported for federal income tax purposes as provided in Section 85 of the Internal Revenue Code. When unemployment compensation benefits are received in the tax year the benefits are to be reported by the spouse or spouses who received the benefits as a result of employment of the spouse or spouses. Nonresidents of Iowa, including nonresidents covered by the reciprocal agreement with Illinois, are to report unemployment compensation benefits on the Iowa income tax return as Iowa source income to the extent the benefits pertain to the individual’s employment in Iowa. In a situation where the
unemployment compensation benefits are the result of employment in Iowa and in one or more other states, the unemployment compensation benefits should be allocated to Iowa on the basis of the individual’s Iowa salaries and wages for the employer to the total salaries and wages for the employer. However, to the extent that unemployment compensation benefits pertain to a person’s employment in Iowa for a railroad and the benefits are paid by the railroad retirement board, the benefits are totally exempt from Iowa income tax pursuant to 45 U.S.C. Section 352(e).

40.15(1) Income from property in which only one spouse has an ownership interest but which is not used in business. If ownership of property not used in a business is in the name of only one spouse and each files a separate state return, income derived from such property may not be divided between husband and wife but must be reported by only that spouse possessing the ownership interest.

40.15(2) Income from property in which both husband and wife have an ownership interest but which is not used in a business. A husband and wife who file a joint federal return and elect to file separate Iowa returns must each report the share of income from jointly or commonly owned real estate, stocks, bonds, bank accounts, and other property not used in a business in the same manner as if their federal adjusted gross incomes had been determined separately. The rules for determining the manner of reporting this income depend upon the nature of the ownership interest and, in general, may be summarized as follows:

a. Joint tenants. A husband and wife owning property as joint tenants with the right of survivorship, a common example of which is a joint savings account, should each report on separate returns one-half of the income from the savings account held by them in joint tenancy.

b. Tenants in common. Income from property held by husband and wife as tenants in common is reportable by them in proportion to their legally enforceable ownership interests in the property.

40.15(3) Salary and wages derived from personal or professional services performed in the course of employment. A husband and wife who file a joint federal return and elect to file separate Iowa returns must report on each spouse’s state return the salary and wages which are attributable to services performed pursuant to each individual’s employment. The income must be reported on Iowa separate returns in the same manner as if their federal adjusted gross incomes had been determined separately. The manner of reporting wages and salaries by spouses is dependent upon the nature of the employment relationship and is subject to the following rules:

a. Interspousal employment—salary or wages paid by one spouse to the other. Wages or compensation paid for services or labor performed by one spouse with respect to property or business owned by the other spouse may be reported on a separate return if the amount of the payment is reasonable for the services or labor actually performed. It is presumed that the compensation or wages paid by one spouse to the other is not reasonable nor allowable for purposes of reporting the income separately unless a bona fide employer-employee relationship exists. For example, unless actual services are rendered, payments are actually made, working hours and standards are set and adhered to, unemployment compensation and workers’ compensation requirements are met, the payments may not be separately reported by the salaried spouse.

b. Wages and salaries received by a husband or wife pursuant to an employment agreement with an employer other than a spouse. Wages or compensation paid for services or labor performed by a husband or wife pursuant to an employment agreement with some other employer is presumed income of only that spouse that is employed and must be reported separately only by that spouse.

40.15(4) Income from a business in which both husband and wife have an ownership interest. Income derived from a business the ownership of which is in both spouses’ names, as evidenced by record title or by the existence of a bona fide partnership agreement or by other recognized method of establishing legal ownership, may be allocated between spouses and reported on separate individual state income tax returns provided that the interest of each spouse is allocated according to the capital interest of each, the management and control exercised by each, and the services performed by each with respect to such business. Compliance with the conditions contained in paragraphs “a” or “b” of this subrule and consideration of paragraphs “c,” “d,” and “e” of this subrule must be made in allocating income from a business in which both husband and wife have an ownership interest.

a. Allocation of partnership income. Allocation of partnership income between spouses is presumed valid only if partnership information returns, as required for income tax purposes, have
currently been filed with respect to the federal self-employment tax law. An oral understanding does not constitute a bona fide partnership implied merely from a common ownership of property.

b. Allocation of income derived from a business other than a partnership in which both husband and wife claim an ownership interest. In the case of a business owned by a husband and wife who filed a joint federal income tax return in which one of them claimed all of the income therefrom for federal self-employment tax purposes, it will be presumed for purposes of administering the state income tax law, unless expressly shown to the contrary by the taxpayer, that the spouse who claimed that income for federal self-employment tax purposes did, thereby, with the consent of the other spouse, claim all right to such income and that therefore such income must be included in the state income tax return of the spouse who claimed it for federal self-employment tax purposes if the husband and wife file separate state income tax returns.

c. Capital contribution. In determining the weight to be attributed to the capital contribution of each spouse to a business, consideration may be given only to that invested capital which is legally traceable to each individual spouse. Capital existing under the right, dominion, and control of one spouse which is invested in the business is presumed to be a capital contribution of that spouse. Sham transactions which do not affect real changes of ownership in capital between spouses in that such transactions do not legally disturb the right, dominion, and control of the assignor or the donor over the capital must be disregarded in determining capital contribution of the recipient spouse.

d. Management and control. Participation in the control and management of a business must be distinguished from the regular performance of nonmanagerial services. Contribution of management and control with respect to the business must be of a substantial nature in order to accord it weight in making an allocation of income. Substantial participation in management does not necessarily involve continuous or even frequent presence at the place of business, but it does involve genuine consultation with respect to at least major business decisions, and it presupposes substantial acquaintance with an interest in the operations, problems, and policies of the business, along with sufficient maturity and background of education or experience to indicate an ability to grasp business problems that are appreciably commensurate with the demands of the enterprise concerned. Vague or general statements as to family discussions at home or elsewhere will not be accepted as a sufficient showing of actual consultation.

e. Services performed. The amount of services performed by each spouse is a factor to be considered in determining proper allocation of income from a business in which each spouse has an ownership interest. In order to accord weight to services performed by an individual spouse, the services must be of a beneficial nature in that they make a direct contribution to the business. For example, for a business operation, whether it is a retail sales enterprise, farming operation or otherwise, in which both husband and wife have an ownership interest, the services contributed by the spouses must be directly connected with the business operation. Services for the family such as planting and maintaining family gardens, domestic housework, cooking family meals, and routine errands and shopping, are not considered to be services performed or rendered as an incident of or a contribution to the particular business; such activities by a spouse must be disregarded in determining the allocable income attributable to that spouse.

This rule is intended to implement Iowa Code section 422.7.

[ARC 83568, IAB 12/2/09, effective 1/6/10]

701—40.16(422) Income of nonresidents. Except as otherwise provided in this rule all income of nonresidents derived from sources within Iowa is subject to Iowa income tax.

Net income received by a nonresident taxpayer from a business, trade, profession, or occupation in Iowa must be reported.

Income from the sale of property, located in Iowa, including property used in connection with the trade, profession, business or occupation of the nonresident, is taxable to Iowa even though the sale is consummated outside of Iowa, and provided that the property was sold before subsequent use outside of Iowa. Any income from the property prior to its sale is also Iowa taxable income.
Income received from a trust or an estate, where the income is from Iowa sources, is taxable, regardless of the situs of the estate or trust. Dividends received in lieu of, or in partial or full payment of, an amount of wages or salary due for services performed in Iowa by a nonresident shall be considered taxable Iowa income. Annuities, interest on bank deposits and interest-bearing obligations, and dividends are not allocated to Iowa except to the extent to which they are derived from a business, trade, profession, or occupation carried on within the state of Iowa by the nonresident.

Interest received from the sale of property, on an installment contract even though the gain from the sale of the property is subject to Iowa taxation, is not allocable to Iowa if the property is not part of the nonresident’s trade, profession, business or occupation. As to residents, see 701—40.14(422).

40.16(1) Nonresidents exempt from paying tax. See 701—subrules 39.5(10) and 39.5(11) for the net income exemption amounts for nonresidents.

These provisions for reducing tax in 701—subrule 39.5(10), paragraph “c,” and 701—subrule 39.5(11), paragraph “b,” do not apply to the Iowa minimum tax which must be paid irrespective of the amount of Iowa income that an individual has.

40.16(2) Compensation for personal services of nonresidents. The Iowa income of a nonresident must include compensation for personal services rendered within the state of Iowa. The salary or other compensation of an employee or corporate officer who performs services related to businesses located in Iowa, or has an office in Iowa, are not subject to Iowa tax, if the services are performed while the taxpayer is outside of Iowa. However, the salary earned while the nonresident employee or officer is located within the state of Iowa would be subject to Iowa taxation. The Iowa taxable income of the nonresident shall include that portion of the total compensation received from the employer for personal services for the tax year which the total number of working days that the individual was employed within the state of Iowa bears to the total number of working days within and without the state of Iowa.

Compensation paid by an Iowa employer for services performed wholly outside of Iowa by a nonresident is not taxable income to the state of Iowa. However, all services performed within Iowa, either part-time or full-time, would be taxable to the nonresident and must be reported to this state.

Compensation received from the United States Government by a nonresident member of the armed forces is explained in 701—40.5(422).

Income from commissions earned by a nonresident traveling salesperson, agent or other employee for services performed or sales made and whose compensation depends directly on the volume of business transacted by the nonresident will include that proportion of the compensation received which the volume of business transacted by the employee within the state of Iowa bears to the total volume of business transacted by the employee within and without the state. Allowable deductions will be apportioned on the same basis. However, where separate accounting records are maintained by a nonresident or the employer of the business transacted in Iowa, then the amount of Iowa compensation can be reported based upon separate accounting.

Nonresident actors, singers, performers, entertainers, wrestlers, boxers (and similar performers), must include as Iowa income the gross amount received for performances within this state.

Nonresident attorneys, physicians, engineers, architects (and other similar professions), even though not regularly employed in this state, must include as Iowa income the entire amount of fees or compensation received for services performed in this state.

If nonresidents are employed in this state at intervals throughout the year, as would be the case if employed in operating trains, planes, motor buses, or trucks and similar modes of transportation, between this state and other states and foreign countries, and who are paid on a daily, weekly or monthly basis, the gross income from sources within this state is that portion of the total compensation for personal services which the total number of working days employed within the state bears to the total number of working days both within and without the state. If paid on a mileage basis, the gross income from sources within this state is that portion of the total compensation for services which the number of miles traveled in Iowa bears to the total number of miles traveled both within and without the state. If paid on some other basis, the total compensation for personal services must be apportioned between this state and other states and foreign countries in such a manner as to allocate to Iowa that portion of the total compensation which is reasonably attributable to personal services performed in this state. Any alternative method of allocation
is subject to review and change by the director. However, pursuant to federal law, nonresidents who earn compensation in Iowa and one or more other states for a railway company, an airline company, a merchant marine company, or a motor carrier are only subject to the income tax laws of their state of residence, and the compensation would not be considered gross income from sources within Iowa.

40.16(3) Income from business sources within and without the state. When income is derived from any business, trade, profession, or occupation carried on partly within and partly without the state only such income as is fairly and equitably attributable to that portion of the business, trade, profession, or occupation carried on in this state, or to services rendered within the state shall be included in the gross income of a nonresident taxpayer. In any event, the entire amount of such income both within and without the state is to be shown on the nonresident’s return.

40.16(4) Apportionment of business income from business carried on both within and without the state.

a. If a nonresident, or a partnership or trust with a nonresident member, transacts business both within and without the state, the net income must be so apportioned as to allocate to Iowa a portion of the income on a fair and equitable basis, in accordance with approved methods of accounting.

b. The amount of net income attributable to the manufacture or sale of tangible personal property shall be that portion which the gross sales made within the state bears to the total gross sales. The gross sales of tangible personal property are in the state if the property is delivered or shipped to a purchaser within this state, regardless of the F.O.B. point or other conditions of the sale.

c. Income derived from business other than the manufacture or sale of tangible personal property shall be attributed to Iowa in that portion which the Iowa gross receipts bear to the total gross receipts. Gross receipts are attributable to this state in the portion which the recipient of the service receives benefit of the service in this state.

d. If the taxpayer believes that the gross sales or gross receipts methods subjects the taxpayer to taxation on a greater portion of net income than is reasonably attributable to the business within this state the taxpayer may request the use of separate accounting or another alternative method which the taxpayer believes to be proper under the circumstances. In any event, the entire income received by the taxpayer and the basis for a special method of allocation shall be disclosed in the taxpayer’s return.

40.16(5) Income from intangible personal property. Business income of nonresidents from rentals or royalties for the use of, or the privilege of using in this state, patents, copyrights, secret processes and formulas, goodwill, trademarks, franchises, and other like property is income from sources within the state.

Income of nonresidents from intangible personal property such as shares of stock in corporations, bonds, notes, bank deposits and other indebtedness is not taxable as income from sources within this state except where such income is derived from a business, trade, profession, or occupation carried on within this state by the nonresident. If a nonresident buys or sells stocks, bonds, or other such property, so regularly, systematically and continuously as to constitute doing business in this state, the profit or gain derived from such activity is taxable as income from a business carried on within Iowa.

Following are examples to illustrate when intangible income may or may not be subject to the allocation provisions of Iowa Code section 422.8 and rules 701—40.15(422) and 701—42.5(422):

EXAMPLE A - An Illinois resident is a laborer at a factory in Davenport. A $50 payroll deduction is made each week from the laborer’s paycheck to the company’s credit union. The Illinois resident will earn $600 in interest income from the Iowa credit union account in 1983. The interest income would not be included in the net income allocated to Iowa since the interest income is not derived from the taxpayer’s business or utilized for business purposes.

EXAMPLE B - A Nebraska resident is a self-employed plumber, who has a plumbing business in Council Bluffs. The plumber has an interest-bearing checking account in an Iowa bank which the plumber uses to pay bills for the plumbing business. The plumber will earn $200 in interest income from the checking account in 1982. The plumber will have a net income of $25,000 from the plumbing business which will be reported on the plumber’s 1982 Iowa return. The interest income earned by this nonresident would be taxable to Iowa since it is derived from the business and is utilized in the business.
EXAMPLE C - An Illinois resident has a farm in Illinois. The Illinois resident has an account in an Iowa savings and loan association and invests earnings from the Illinois farm in the Iowa savings and loan account. In 1982, the Illinois farmer will earn $1,000 in interest income from the account in the Iowa savings and loan. The interest income is not included in the net income allocable to Iowa since the interest income is not derived from the taxpayer’s trade or business.

EXAMPLE D - An Illinois resident has Iowa farms. The Illinois resident invests the profits from the farms in a savings account in an Iowa bank. Several times a year, the taxpayer transfers part of the funds from the savings account to the taxpayer’s checking account to purchase machinery to be used in the farming operations. The interest income would not be included in income allocated to Iowa since the interest income is not derived from the taxpayer’s trade or business nor is the savings account utilized as a business account.

EXAMPLE E - An Illinois resident is a physician, whose practice is in Iowa. The physician has a business checking account in an Iowa bank that is used to pay the bills relating to the physician’s practice. In the same bank, the physician has a personal savings account where all the physician’s receipts for a given month are deposited. On the first working day of the month, funds are transferred from the savings account to the checking account to pay the bills that have accrued during the month. The interest income from the savings account would be included in net income allocated to Iowa since it is derived from and utilized in the business.

EXAMPLE F - A nonresident has a farm in Iowa which is the nonresident’s principal business, although this person is an Illinois resident. The nonresident has an interest-bearing checking account in an Iowa bank. This checking account is used to pay personal expenditures as well as to pay expenses incurred in operation of the farm. In 1982, the taxpayer will earn $550 in interest from the checking account. The interest would be included in net income allocated to Iowa since the interest is derived from the business, generated from a business account, and utilized in the business.

Income of a nonresident beneficiary from an estate or trust, distributed or distributable to the beneficiary out of income from intangible personal property of the estate or trust, is not income from sources in this state and is not taxable to the nonresident beneficiary unless the property is so used by the estate or trust as to create a business, trade, profession, or occupation in this state.

Whether or not the executor or administrator of an estate or the trustee of a trust is a resident of this state is immaterial, insofar as the taxation of income of beneficiaries from the estate or trust are concerned.

EXAMPLE G - A nonresident is a partner in a family investment partnership in which the other partners are members of the same family. The other partners are residents of Iowa. The partnership invests in mutual funds, interest-bearing securities and stocks which produce interest, dividend and capital gain income for the partnership. The partners who are Iowa residents make occasional decisions in Iowa on what investments should be made by the partnership. The distributive share of interest, dividend and capital gain income reported by the nonresident would not be included in net income allocated to Iowa since it was not derived from a business carried on within the state.

40.16(6) Distributive shares of nonresident partners. When a partnership derives income from sources within this state as determined in 40.16(3) to 40.16(5), the nonresident members of the partnership are taxable only upon that portion of their distributive share of the partnership income which is derived from sources within this state.

40.16(7) Interest and dividends from government securities. Interest and dividends from federal securities subject to the federal income tax under the Internal Revenue Code are not to be included in determining the Iowa net income of a nonresident, but any interest and dividends from securities and from securities of state and other political subdivisions exempt for federal income tax under the Internal Revenue Code are to be included in the Iowa net income of a nonresident to the extent that same are derived from a business, trade, profession, or occupation carried on within the state of Iowa by the nonresident.

40.16(8) Gains or losses from sales or exchanges of real property and tangible personal property by a nonresident of Iowa. If a nonresident realizes any gains or losses from sales or exchanges of real property or tangible personal property within the state of Iowa, such gains or losses are subject to the
Iowa income tax and shall be reported to this state by the nonresident. Gains or losses attributable to Iowa will be determined as follows:

1. Gains or losses from sales or exchanges of real property located in this state are allocable to this state.

2. Capital gains and losses from sales or exchanges of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale.

In determining whether a short-term or long-term capital gain or a capital loss is involved in a sale or exchange, and determining the amount of a gain from the sale of real or tangible property in Iowa, the provisions of the Internal Revenue Code are to be followed.

40.16(9) Capital gains or losses from sales or exchanges of ownership interests in Iowa business entities by nonresidents of Iowa. Nonresidents of Iowa who sell or exchange ownership interests in various Iowa business entities will be subject to Iowa income tax on capital gains and capital losses from those transactions for different entities as described in the following paragraphs:

a. Capital gains from sales or exchanges of stock in C corporations and S corporations. When a nonresident of Iowa sells or exchanges stock in a C corporation or an S corporation, that shareholder is selling or exchanging the stock, which is intangible personal property. The capital gain received by a nonresident of Iowa from the sale or exchange of capital stock of a C corporation or an S corporation is taxable to the state of the personal domicile or residence of the owner of the capital stock unless the stock attains an independent business situs apart from the personal domicile of the individual who sold the capital stock. The stock may acquire an independent business situs in Iowa if the stock had been used as an integral part of some business activity occurring in Iowa in the year in which the sale or exchange of the stock had taken place. Whether the stock has attained an independent business status is determined on a factual basis.

For example, a situation in which capital stock owned by a nonresident of Iowa was used as collateral to secure a loan to remodel a retail store in Iowa, regardless of the ownership of the store, would meet the test for the stock being used as an integral part of some business activity in Iowa.

Assuming that the gain from the sale or exchange of stock is attributable to Iowa, the next step is to determine how much of the gain is attributable to Iowa. This is computed on the basis of the Iowa allocation and apportionment rules applicable to the separate business the stock has become an integral part of for the year in which the sale or exchange occurred. For example, if the business was subject to Iowa income tax on 40 percent of its income in the year of the sale or exchange, then 40 percent of the capital gain would be attributable or taxable by Iowa.

However, the fact that the gain from the sale or exchange of stock is taxable or partially taxable to Iowa does not mean that the dividends received by the nonresident in the year of sale are taxable to Iowa. Dividends from stock used in an Iowa specific business activity would not be taxable to Iowa except under special circumstances. An illustration of these special circumstances would be when the dividends are from capital stock from a business where the purchase and sale of stock constitute a regular business in Iowa. In this situation the dividends would be taxable to Iowa. See subrule 40.16(5).

b. Capital gains from sales or exchanges of interests in partnerships. When a nonresident of Iowa sells or exchanges the individual’s interest in a partnership, the nonresident is actually selling an intangible since the partnership can continue without the nonresident partner and the assets used by the partnership are legally owned by the partnership and an individual retains only an equitable interest in the assets of the partnership by virtue of the partner’s ownership interest in the partnership. However, because of the unique attributes of partnerships, the owner’s interest in a partnership is considered to be localized or “sourced” at the situs of the partnership’s activities as a matter of law. Arizona Tractor Co. v. Arizona State Tax Com’n., 566 P.2d 1348, 1350 (Ariz. App. 1977); Iowa Code chapter 486 (unique attributes of a partnership defined). Therefore, if a partnership conducts all of its business in Iowa, 100 percent of the gain on the sale or exchange of a partnership interest would be attributable to Iowa. On the other hand, if the partnership conducts 100 percent of its business outside of Iowa, none of the gain would be attributable to Iowa for purposes of the Iowa income tax. In the situation where a partnership conducts business both in and out of Iowa, the capital gain from the sale or exchange of an interest in the
partnership would be allocated or apportioned in and out of Iowa based upon the partnership’s activities in and out of Iowa in the year of the sale or exchange.

Note that if a partnership is a publicly traded partnership and is taxed as a corporation for federal income tax purposes, any capital gains realized on the sale or exchange of a nonresident partner’s interest in the partnership will receive the same tax treatment as the capital gain from the sale or exchange of an interest in a C corporation or an S corporation as specified in paragraph “a” of this subrule.

c. Capital gains from sales or exchanges of sole proprietorships. When a nonresident sells or exchanges the individual’s interest in a sole proprietorship, the nonresident is actually selling or exchanging tangible and intangible personal property used in this business because the sole proprietor is the legal and equitable owner of all such assets. Therefore, the general source or situs rules governing the gain from the sale or exchange of tangible property and intangible property by a nonresident individual control. Thus, if the sole proprietorship is located in Iowa, the gain from the sale or exchange of the proprietorship by a nonresident would be taxable to Iowa.

d. Capital gains from sales or exchanges of interests in limited liability companies. Limited liability companies are hybrid business entities containing elements of both a partnership and a corporation. If a limited liability company properly elected to file or would have been required to file a federal partnership tax return, a capital gain from the sale or exchange of an ownership interest in the limited liability company by a nonresident member of the company would be taxable to Iowa to the same extent as if the individual were selling a similar interest in a partnership as described in paragraph “b” of this subrule. However, if the limited liability company properly elected or would have been required to file a federal corporation tax return, a nonresident member who sells or exchanges an ownership interest in the limited liability company would be treated the same as if the nonresident were selling a similar interest in a C corporation or an S corporation as described in paragraph “a” of this subrule.

e. Taxation of corporate liquidations. As a matter of Iowa law, the proceeds from corporate liquidating distributions are not considered to be the proceeds from the sale or exchange of corporate stock. Rather, such proceeds represent the transfer back to the shareholder of that shareholder’s pro-rata share of the actual assets of the corporation in which each shareholder held only an equitable ownership interest prior to the dissolution. Lynch v. State Board of Assessment and Review, 228 Iowa 1000, 1003-1004, 291 N.W. 161 (1940). The amount of such gain is calculated by subtracting the distribution realized from the shareholder’s basis in the stock. Id. Thus, any gain realized by the shareholder upon such distribution is considered a capital gain from a sale or exchange of the assets by the shareholder for purposes of sourcing the shareholder’s liquidating distribution gain. Consequently, the gain, whether it is from a distribution of cash or other property, is controlled by the general source or situs rules in subrule 40.16(8) governing the taxation of the sale or exchange of tangible personal property by a nonresident and subrule 40.16(10) governing the sale or exchange of intangible personal property by a nonresident.

f. Capital losses realized by a nonresident of Iowa from the sale or exchange of an ownership interest in an Iowa business entity. In a situation where a nonresident of Iowa sells the ownership interest in an Iowa business entity and has a capital loss from the transaction, the nonresident can claim the loss on the Iowa income tax return under the same circumstances that a capital gain would have been reported as described in paragraphs “a” through “e” of this subrule. The federal income tax provisions for netting Iowa source capital gains and losses are applicable as well as the federal provisions for limiting the net capital loss in the tax year to $3,000, with the carryover of the portion of net capital losses that exceed $3,000.

40.16(10) Capital gains and losses from sales or exchanges of intangible personal property other than ownership interests in business entities. Capital gains and losses realized by a nonresident of Iowa from the sale or exchange of intangible personal property (other than interests in business entities) are taxable to Iowa if the intangible property was an integral part of some business activity occurring regularly in Iowa prior to the sale or exchange. In the case of an intangible asset which was an integral part of a business activity of a business entity occurring regularly within and without Iowa, a capital
gain or loss from the sale or exchange of the intangible asset by a nonresident of Iowa would be reported to Iowa in the ratio of the Iowa business activity to the total business activity for the year of the sale.

This rule is intended to implement Iowa Code sections 422.5, 422.7, and 422.8. [ARC 7761B, IAB 5/6/09, effective 6/10/09; ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9103B, IAB 9/22/10, effective 10/27/10]

701—40.17(422) Income of part-year residents. A taxpayer who was a resident of Iowa for only a portion of the taxable year is subject to the following rules of taxation:

1. For that portion of the taxable year for which the taxpayer was a nonresident, the taxpayer shall allocate to Iowa only the income derived from sources within Iowa.

2. For that portion of the taxable year for which the taxpayer was an Iowa resident, the taxpayer shall allocate to Iowa all income earned or received whether from sources within or without Iowa.

A taxpayer moving into Iowa may adjust the Iowa-source gross income on Schedule IA 126 by the amount of the moving expense to the extent allowed by Section 217 of the Internal Revenue Code. Any reimbursement of moving expense shall be included in Iowa-source gross income. A taxpayer moving from Iowa to another state or country may not adjust the Iowa-source gross income by the amount of moving expense, nor should any reimbursement of moving expense be allocated to Iowa.

This rule is intended to implement Iowa Code sections 422.5, 422.7, and 422.8.

701—40.18(422) Net operating loss carrybacks and carryovers. Net operating losses shall be allowed or allowable for Iowa individual income tax purposes and will be computed using a method similar to the method used to compute losses allowed or allowable for federal income tax purposes. In determining the applicable amount of Iowa loss carrybacks and carryovers, the adjustments to net income set forth in Iowa Code section 422.7 and the deductions from net income set forth in Iowa Code section 422.9 must be considered.

40.18(1) Treatment of federal income taxes.

a. Refund of federal income taxes due to net operating loss carrybacks or carryovers shall be reflected in the following manner:

(1) Accrual basis taxpayers shall accrue refunds of federal income taxes to the year in which the net operating loss occurs.

(2) Cash basis taxpayers shall reflect refunds of federal income taxes in the return for the year in which the refunds are received.

(3) Refunds reported in the year in which the net operating loss occurs which contain both business and nonbusiness components shall be analyzed and separated accordingly. The amount of refund attributable to business income shall be that amount of federal taxes paid on business income which are being refunded.

b. Federal income taxes paid in the year of the loss which contain both business and nonbusiness components shall be analyzed and separated accordingly. Federal income taxes paid in the year of the loss shall be reflected as a deduction to business income to the extent that the federal income tax was the result of the taxpayer’s trade or business. Federal income taxes paid which are not attributable to a taxpayer’s trade or business shall also be allowed as a deduction but will be limited to the amount of gross income which is not derived from a trade or business.

40.18(2) Nonresidents doing business within and without Iowa. If a nonresident does business both within and without Iowa, the nonresident shall make adjustments reflecting the apportionment of the operating loss on the basis of business done within and without the state of Iowa, according to rule 701—40.16(422). The apportioned income or loss shall be added or deducted, as the case may be, to any amount of other income attributable to Iowa for that year.

40.18(3) Loss carryback and carryforward. The net operating loss attributable to Iowa as determined in rule 701—40.18(422) shall be subject to the federal 2-year carryback and 20-year carryover provisions if the net operating loss was for a tax year beginning after August 5, 1997, or subject to the federal 3-year carryback and the 15-year carryforward provisions if the net operating loss was for a tax year beginning prior to August 6, 1997. However, in the case of a casualty or theft loss for an individual taxpayer or for a net operating loss in a presidentially declared disaster area incurred
by a taxpayer engaged in a small business or in the trade or business of farming, the net operating loss is to be carried back 3 taxable years and forward 20 taxable years if the loss is for a tax year beginning after August 5, 1997. The net operating loss or casualty or theft loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the taxable income attributable to Iowa for that year. However, a net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 20 taxable years if the net operating loss is for a tax year beginning after August 5, 1997, or the net operating loss shall be carried forward 15 taxable years if the loss is for a tax year beginning before August 6, 1997. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa individual return filed with the department.

40.18(4) Loss not applicable. No part of a net loss for a year for which an individual was not subject to the imposition of Iowa individual income tax shall be included in the Iowa net operating loss deduction applicable to any year prior to or subsequent to the year of the loss.

40.18(5) Special adjustments applicable to net operating losses. Section 172(d) of the Internal Revenue Code provides for certain modifications when computing a net operating loss. These modifications refer to, but are not limited to, such things as considerations of other net operating loss deductions, treatment of capital gains and losses, and the limitation of nonbusiness deductions. Where applicable, the modifications set forth in Section 172 of the Internal Revenue Code shall be considered when computing the net operating loss carryover or carryback for Iowa income tax purposes.

40.18(6) Distinguishing business or nonbusiness items. In computing a net operating loss, nonbusiness deductions may be claimed only to the extent of nonbusiness income. Therefore, it is necessary to distinguish between business and nonbusiness income and expenses. For Iowa net operating loss purposes, an item will retain the same business or nonbusiness identity which would be applicable for federal income tax purposes.

40.18(7) Examples. The computation of a net operating loss deduction for Iowa income tax purposes is illustrated in the following examples:

a. Individual A had the following items of income for the taxable year:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross income from retail sales business</td>
<td>$125,000</td>
</tr>
<tr>
<td>Interest income from federal securities</td>
<td>2,000</td>
</tr>
<tr>
<td>Salary from part-time job</td>
<td>12,500</td>
</tr>
</tbody>
</table>

Individual A’s federal return showed the following deductions:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business deductions (retail sales)</td>
<td>$150,000</td>
</tr>
<tr>
<td>Itemized (nonbusiness) deductions:</td>
<td></td>
</tr>
<tr>
<td>Interest</td>
<td>$400</td>
</tr>
<tr>
<td>Real estate tax</td>
<td>600</td>
</tr>
<tr>
<td>Iowa income tax</td>
<td>800</td>
</tr>
</tbody>
</table>

| Total                                      | $1,800  |

Individual A paid $3,000 federal income tax during the year which consisted of $2,500 federal withholding (business) and a $500 payment (nonbusiness) which was for the balance of the prior year’s federal tax liability.

The federal computations are as follows:
Income:

<table>
<thead>
<tr>
<th>Description</th>
<th>Per Return</th>
<th>Computed NOL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Sales</td>
<td>$125,000</td>
<td>$125,000</td>
</tr>
<tr>
<td>Interest income-federal securities</td>
<td>2,000</td>
<td>2,000</td>
</tr>
<tr>
<td>Salary</td>
<td>12,500</td>
<td>12,500</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>$139,500</strong></td>
<td><strong>$139,500</strong></td>
</tr>
</tbody>
</table>

Deductions:

<table>
<thead>
<tr>
<th>Description</th>
<th>Per Return</th>
<th>Computed NOL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business</td>
<td>$150,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Itemized deductions</td>
<td>1,800</td>
<td>1,800</td>
</tr>
<tr>
<td>(Loss) per federal</td>
<td>($12,300)</td>
<td>($12,300)</td>
</tr>
<tr>
<td><strong>Computed net operating loss</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Since the nonbusiness deductions do not exceed the nonbusiness income, the loss per the federal return and the computed net operating loss are the same.

The Iowa computations are as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Per Return</th>
<th>Computed NOL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail sales</td>
<td>$125,000</td>
<td>$125,000</td>
</tr>
<tr>
<td>Salary</td>
<td>12,500</td>
<td>12,500</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>$137,500</strong></td>
<td><strong>$137,500</strong></td>
</tr>
</tbody>
</table>

Deductions:

<table>
<thead>
<tr>
<th>Description</th>
<th>Per Return</th>
<th>Computed NOL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business</td>
<td>$150,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Federal tax deductions</td>
<td>3,000</td>
<td>2,500</td>
</tr>
<tr>
<td>Itemized deductions</td>
<td>1,000</td>
<td>-</td>
</tr>
<tr>
<td>(Loss) per return</td>
<td>($16,500)</td>
<td></td>
</tr>
<tr>
<td><strong>Computed Iowa NOL</strong></td>
<td></td>
<td>($15,000)</td>
</tr>
</tbody>
</table>

**NOTE:** Itemized (nonbusiness deductions) are eliminated due to the lack of nonbusiness income. The only nonbusiness income, interest from federal securities, is not taxable for Iowa income tax purposes under Iowa Code section 422.7. The only federal tax deduction allowable is that related to business activity.

b. Individual B had the following items of income for the taxable year:

Gross income from restaurant business $300,000
Wages 12,000
Business long-term capital gain @100% 1,000
Municipal bond interest (nonbusiness) 1,000
Federal tax refund of prior year taxes 500
Iowa tax refund of prior year taxes 100

Individual B’s federal return showed the following deductions:

Business deductions from restaurant $333,000
Itemized deductions:
Interest (nonbusiness) $590  
Real estate tax (nonbusiness) 780  
Iowa income tax* 520  
Alimony (nonbusiness) 600  
Union dues (business) 100 2,590  

*Iowa estimated payments totaled $220 of which $70 related to nonbusiness income and $150 related to business capital gains and business profits. $300 in Iowa tax was withheld from his wages.

Individual B paid $2,000 in federal income taxes during the tax year. $1,500 of this amount was withholding on wages and $500 was a federal estimated payment based on capital gains and projected business profits.

In the previous year 75 percent of B’s income was from business sources and 25 percent was from nonbusiness sources.

The federal computations are as follows:

<table>
<thead>
<tr>
<th>Income:</th>
<th>Per Return</th>
<th>Computed NOL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail sales</td>
<td>$300,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Wages</td>
<td>12,000</td>
<td>12,000</td>
</tr>
<tr>
<td>Capital gains</td>
<td>500(a)</td>
<td>1,000(a)</td>
</tr>
<tr>
<td>Iowa refund</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>$312,600</strong></td>
<td><strong>$313,100</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Deductions:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Business deductions</td>
<td>$333,000</td>
<td>$333,000</td>
</tr>
<tr>
<td>Itemized deductions</td>
<td>2,590</td>
<td>575(b)</td>
</tr>
<tr>
<td>(Loss) per federal</td>
<td>($22,990)</td>
<td></td>
</tr>
<tr>
<td><strong>Computed net operating loss</strong></td>
<td>($20,475)</td>
<td></td>
</tr>
</tbody>
</table>

(a) Capital gains are reduced by 50 percent in computing adjusted gross income, but must be reported in full in computing a net operating loss.

(b) Itemized deductions are limited to business deductions consisting of $100 for union dues, $450 for Iowa tax on business income, and nonbusiness deductions to the extent of nonbusiness income which amounts to $25. The only nonbusiness income is 25 percent of the $100 Iowa refund.

The Iowa computations are as follows:

<table>
<thead>
<tr>
<th>Income:</th>
<th>Per Return</th>
<th>Computed NOL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail sales</td>
<td>$300,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Wages</td>
<td>12,000</td>
<td>12,000</td>
</tr>
<tr>
<td>Capital gains</td>
<td>500</td>
<td>1,000</td>
</tr>
<tr>
<td>Municipal bond interest</td>
<td>1,000</td>
<td>1,000</td>
</tr>
<tr>
<td>Federal refund</td>
<td>500</td>
<td>500</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>$314,000</strong></td>
<td><strong>$314,500</strong></td>
</tr>
</tbody>
</table>
Deductions:

<table>
<thead>
<tr>
<th></th>
<th>Business</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal tax</td>
<td>$333,000</td>
<td>$333,000</td>
</tr>
<tr>
<td>Itemized deductions</td>
<td>2,000</td>
<td>2,000</td>
</tr>
<tr>
<td>(Loss) per return</td>
<td>2,070(c)</td>
<td>1,225(d)</td>
</tr>
<tr>
<td>Computed Iowa NOL</td>
<td>($23,070)</td>
<td>($21,725)</td>
</tr>
</tbody>
</table>

(c) Iowa income tax is not an itemized deduction for Iowa income tax purposes.

(d) Itemized deductions are limited to business deductions of $100 for union dues and nonbusiness deductions to the extent of nonbusiness income of $1,125. Nonbusiness income includes $1,000 of municipal bond interest and 25 percent ($125) of the federal tax refund.

40.18(8) Net operating losses for nonresidents and part-year residents for tax years beginning on or after January 1, 1982. For tax years beginning on or after January 1, 1982, nonresidents and part-year residents may carryback/carryforward only those net operating losses from Iowa sources. Nonresidents and part-year residents may not carryback/carryforward net operating losses which are from all sources.

Before the Iowa net operating loss of a nonresident or part-year resident is available for carryback/carryforward to another tax year, the loss must be decreased or increased by a number of possible adjustments depending on which adjustments are applicable to the taxpayer for the year of the loss. Iowa Net Operating Loss (NOL) Worksheet (41-123) may be used to make the adjustments to the net operating loss and compute the net operating loss deduction available for carryback/carryforward.

If the net operating loss was increased by an adjustment for an individual retirement account or H.R.10 retirement plan, the net operating loss should be decreased by the amount of the adjustment. The net operating loss should also be decreased by the amount of any capital loss or by the capital gain deduction to the extent the capital loss or capital gain deduction was from the sale or exchange of an asset from an Iowa source.

In a situation where the nonresident or part-year resident taxpayer received a federal income tax refund in the year of the NOL, the refund should reduce the loss in the ratio of the Iowa source income to the all source income for the tax year in which the refund was generated.

The net operating loss should be increased by any federal income tax paid in the loss year for a prior year in the ratio of the Iowa income for the prior year to the all source income for the prior year. Federal income tax withheld from wages or other compensation received in the loss year may be used to increase the Iowa net operating loss to the extent the tax is withheld from wages or other compensation earned in Iowa.

Federal estimate tax payments would be allocated to Iowa and increase the net operating loss on the basis of the Iowa income not subject to withholding to total income not subject to withholding. In any case where this method of allocation of federal estimate payments to Iowa is not considered to be equitable, the taxpayer may allocate the payments using another method as long as this method is disclosed on the taxpayer’s Iowa individual income tax return for the year of the loss. However, the burden of proof is on the taxpayer to show that an alternate method of allocation is equitable.

Nonbusiness deductions included in the itemized deductions paid during the year of the net operating loss may be used to increase the NOL to the extent of nonbusiness income which is reported to Iowa in computation of the net operating loss. In most instances of net operating losses for nonresidents, no itemized deductions will be allowed in computing the net operating loss deduction. This is because most nonresidents will have no nonbusiness income reported to Iowa. Business deductions included in the federal itemized deductions may be used to increase the net operating loss deduction to the extent the deductions pertain to a business, trade, occupation or profession conducted in Iowa.

EXAMPLE A. A nonresident taxpayer had the following all source income and Iowa source income for 1982:
The nonresident taxpayer did not have an Iowa net operating loss available for carryback/carryforward for Iowa income tax purposes because the taxpayer’s Iowa source income was not negative. The taxpayer’s all source loss of ($20,000) does not qualify for carryback/carryforward on the Iowa return. However, since the taxpayer’s all source income is negative, the taxpayer will not have an Iowa income tax liability for the year of the all source loss.

**EXAMPLE B.** A nonresident taxpayer received a federal refund of $1,000 in 1983. The refund was from the taxpayer’s 1981 federal return where the taxpayer’s Iowa income was 20% of the total income. $2,000 of federal income tax was withheld from the taxpayer’s Iowa wages in 1982. The taxpayer had $10,000 in itemized deductions in 1982. However, the taxpayer had no Iowa nonbusiness income in 1982. In addition, no Iowa business deductions were included in the itemized deductions available on the federal return. The individual had the following all source income and Iowa source income in 1982:

<table>
<thead>
<tr>
<th>Category</th>
<th>All Source Income</th>
<th>Iowa Source Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wages</td>
<td>$20,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>Interest</td>
<td>5,000</td>
<td>0</td>
</tr>
<tr>
<td>Rental income</td>
<td>5,000</td>
<td>5,000</td>
</tr>
<tr>
<td>Business loss</td>
<td>(50,000)</td>
<td>(10,000)</td>
</tr>
<tr>
<td>Iowa net income (loss)</td>
<td>($20,000)</td>
<td>$15,000</td>
</tr>
</tbody>
</table>

The taxpayer’s Iowa source loss of ($13,000) was decreased by $200 of the federal refund since 20% of the refund was considered to be from Iowa income. The loss was decreased by $3,000 which was the capital gain deduction of the Iowa source asset sold in 1982. The loss was increased by the federal income tax withheld of $2,000 from Iowa wages. Because there is no Iowa source nonbusiness income nor Iowa source business deductions, the taxpayer’s itemized deductions will not affect the net operating loss deduction.

Shown below is a recap of the net operating loss deduction for the nonresident taxpayer.

Iowa source net loss ........................................ ($13,000)
Iowa portion of federal refund .............................. 200
Federal tax withheld on Iowa wages ........................ (2,000)
Capital gain deduction ...................................... 3,000
Total .................................................................... ($11,800)

The taxpayer’s net operating loss deduction available for carryback/carryforward to another tax year is ($11,800).

After all adjustments are made to the Iowa net operating loss to compute the net operating loss deduction available for carryback/carryforward, the NOL deduction is applied to the carryback/carryforward tax year as described in paragraph “a” and paragraph “b” below:

a. **Application of net operating losses to tax years beginning prior to January 1, 1982.** In cases where a net operating loss deduction for a nonresident or part-year resident for a tax year beginning on
or after January 1, 1982, is applied to a tax year beginning prior to January 1, 1982, the net operating loss deduction is applied to the taxable income for the carryback/carryforward year unless the NOL deduction is greater than the taxable income. If the NOL deduction is greater than the taxable income, the taxable income is increased by any Iowa source capital loss or any Iowa source capital gain deduction before the NOL deduction is applied against the taxable income.

EXAMPLE 1. A nonresident taxpayer has an Iowa net operating loss deduction of ($15,000) from the taxpayer’s 1982 Iowa return. The taxpayer is carrying the NOL deduction back to 1979 where taxpayer’s Iowa taxable income was $14,000. The taxpayer had a net capital loss of $3,000 in 1979. Because the taxpayer’s 1979 taxable income of $14,000 was $1,000 less than the NOL deduction, the taxable income was increased by $1,000 of the net capital loss so there would be no carryover of the NOL to 1980. However, since the NOL deduction erased all the taxable income for 1979, the taxpayer would be granted a refund of all the Iowa income tax paid for the carryback year of 1979, plus applicable interest.

b. **Application of net operating losses to tax years beginning on or after January 1, 1982.** In situations where a net operating loss of a nonresident or part-year resident for a tax year beginning on or after January 1, 1982, is carried back/carryed forward for application to a tax year beginning on or after January 1, 1982, the net operating loss deduction is applied to the Iowa source income of the taxpayer for the carryback/carryforward year. The Iowa source income is the income on line 25 of Section B of Schedule IA-126 for the 1982 and 1983 Iowa returns and line 26 of Section B of Schedule IA-126 for the 1984 Iowa return and the incomes on similar corresponding lines of Section B of Schedule IA-126 for tax years after 1984. In situations where the net operating loss deductions are larger than the Iowa source incomes, the Iowa source incomes are increased by any Iowa source capital gains or capital losses that are applicable, not to exceed the NOL deduction.

The Iowa source net income after reduction by the NOL deduction is divided by the all source income for the taxpayer. The resulting percentage is the adjusted Iowa income percentage. This percentage is subtracted from 100 percent to arrive at the revised nonresident/part-year resident credit for the taxpayer. The taxpayer’s overpayment as a result of the net operating loss is the amount by which the revised nonresident/part-year credit exceeds the nonresident/part-year credit prior to application of the net operating loss deduction.

EXAMPLE 1. A nonresident taxpayer had a net operating loss deduction of $11,800 for the 1996 tax year. When the 1996 Iowa return was filed, the taxpayer elected to carry the loss forward to the 1997 tax year. The taxpayer’s all source net income and Iowa source net income for 1997 were as shown below. The net operating loss carryforward from 1996 is deducted only from the Iowa source income for 1997:

<table>
<thead>
<tr>
<th>Category</th>
<th>All Source Income</th>
<th>Iowa Source Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wages</td>
<td>$60,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>Interest</td>
<td>3,000</td>
<td>0</td>
</tr>
<tr>
<td>Rental income</td>
<td>10,000</td>
<td>3,000</td>
</tr>
<tr>
<td>Farm income</td>
<td>25,000</td>
<td>25,000</td>
</tr>
<tr>
<td>Capital gain</td>
<td>2,000</td>
<td>2,000</td>
</tr>
<tr>
<td>Net operating loss carryforward</td>
<td>—</td>
<td>(11,800)</td>
</tr>
<tr>
<td>Iowa net income</td>
<td>$100,000</td>
<td>$38,200</td>
</tr>
</tbody>
</table>

The Iowa source income of $38,200 after reduction by the NOL carryforward is divided by the all source income of $100,000 which results in an Iowa income percentage of 38.2. This percentage is subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage of 61.8. When the tax after credit amount of $7,364 is multiplied by the nonresident/part-year credit percentage of 61.8, this results in a credit of $4,551. This credit is $869 greater than the nonresident/part-year credit of $3,682 would have been for 1997 without application of the net operating loss deduction which was carried forward from 1996.
40.18(9) Net operating loss carryback for a taxpayer engaged in the business of farming. Notwithstanding the net operating loss carryback periods described in subrule 40.18(3), a taxpayer who is engaged in the trade or business of farming as defined in Section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in Section 172(b)(1)(F) of the Internal Revenue Code for a tax year beginning on or after January 1, 1998, this loss from farming is a net operating loss which the taxpayer may carry back five taxable years prior to the year of the loss. Therefore, if a taxpayer has a net operating loss from the trade or business of farming for the 1998 tax year, the net operating loss from farming can be carried back to the taxpayer’s 1993 Iowa return and can be applied to the income shown on that return. The farming loss is the lesser of (1) the amount that would be the net operating loss for the tax year if only income and deductions from the farming business were taken into account, or (2) the amount of the taxpayer’s net operating loss for the tax year. Thus, if a taxpayer has a $10,000 loss from a grain farming business and the taxpayer had wages in the tax year of $7,000, the taxpayer’s loss for the year is only $3,000. Therefore, the taxpayer has a net operating loss from farming of $3,000 that may be carried back five years.

However, if a taxpayer has a net operating loss from the trade or business of farming for a taxable year beginning in 1998 or for a taxable year after 1998 and makes a valid election for federal income tax purposes to carry back the net operating loss two years, or three years if the loss was in a presidentially declared disaster area or related to a casualty or theft loss, the net operating loss must be carried back two years or three years for Iowa income tax purposes. A copy of the federal election made under Section 172(i)(3) for the two-year or three-year carryback in lieu of the five-year carryback may be attached to the Iowa return or the amended Iowa return to show why the carryback was two years or three years instead of five years.

This rule is intended to implement Iowa Code sections 422.5 and 422.7 and Iowa Code Supplement section 422.9(3).

701—40.19(422) Casualty losses. Casualty losses may be treated in the same manner as net operating losses and may be carried back three years and forward seven years in the event said casualty losses exceed income in the loss year.

This rule is intended to implement Iowa Code section 422.7.

701—40.20(422) Adjustments to prior years. When Iowa requests for refunds are filed, they shall be allowed only if filed within three years after the tax payment upon which a refund or credit became due, or one year after the tax payment was made, whichever time is the later. Even though a refund may be barred by the statute of limitations, a loss shall be carried back and applied against income on a previous year to determine the correct amount of loss carryforward.

This rule is intended to implement Iowa Code section 422.73.

701—40.21(422) Additional deduction for wages paid or accrued for work done in Iowa by certain individuals. For tax years beginning on or after January 1, 1984, but before January 1, 1989, a taxpayer who operates a business which is considered to be a small business as defined in subrule 40.21(2) is allowed an additional deduction for 50 percent of the first 12 months of wages paid or accrued during the tax years for work done in Iowa by employees first hired on or after January 1, 1984, or after July 1, 1984, where the taxpayer first qualifies as a small business under the expanded definition of a small business effective July 1, 1984, and meets one of the following criteria.

A handicapped individual domiciled in this state at the time of hiring.

An individual domiciled in this state at the time of hiring who meets any of the following conditions:
1. Has been convicted of a felony in this or any other state or the District of Columbia.
2. Is on parole pursuant to Iowa Code chapter 906.
3. Is on probation pursuant to Iowa Code chapter 907 for an offense other than a simple misdemeanor.
4. Is in a work release program pursuant to Iowa Code chapter 247A.
An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under Iowa Code section 913.40 applies.

For tax years beginning on or after January 1, 1989, the additional deduction for wages paid or accrued for work done in Iowa by certain individuals is 65 percent of the wages paid for the first 12 months of employment of the individuals, not to exceed $20,000 per individual. Individuals must meet the same criteria to qualify their employers for this deduction for tax years beginning on or after January 1, 1989, and for tax years beginning before January 1, 1989.

For tax years ending after July 1, 1990, a taxpayer who operates a business which does not qualify as a small business specified in subrule 40.21(2) may claim an additional deduction for wages paid or accrued for work done in Iowa by certain convicted felons provided the felons are described in the four numbered paragraphs above and the following unnumbered paragraph and provided the felons are first hired on or after July 1, 1990. The additional deduction is 65 percent not to exceed $20,000 for the first 12 months of wages paid for work done in Iowa.

The qualifications mentioned in subrules 40.21(1), 40.21(4), 40.21(5) and 40.21(6) and in subrule 40.21(3), paragraphs “f” and “g,” apply to the additional deduction for work done in Iowa by a convicted felon in situations where the taxpayer is not a small business as well as in situations where the taxpayer is a small business.

The additional deduction applies to any individual hired on or after July 1, 2001, whether or not domiciled in Iowa at the time of hiring, who is on parole or probation and to whom either the interstate probation and parole compact under Iowa Code section 907A.1 or the compact for adult offenders under Iowa Code chapter 907B applies. The amount of additional deduction for hiring this individual is equal to 65 percent of the wages paid, but the additional deduction is not to exceed $20,000 for the first 12 months of wages paid for work done in Iowa.

40.21(1) The additional deduction shall not be allowed for wages paid to an individual who was hired to replace an individual whose employment was terminated within the 12-month period preceding the date of first employment. However, if the individual being replaced left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct in connection with the individual’s employment as determined by the department of workforce development, the additional deduction shall be allowed.

The determination of whether an individual left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct is a factual determination which must be made on a case-by-case basis.

40.21(2) The term “small business” means a business entity organized for profit including but not limited to an individual proprietorship, partnership, joint venture, association or cooperative. It includes the operation of a farm, but not the practice of a profession. The following conditions apply to a business entity which is a small business for purposes of the additional deduction for wages:

a. The small business shall not have had more than 20 full-time equivalent employee positions during each of the 26 consecutive weeks within the 52-week period immediately preceding the date on which an individual for whom an additional deduction for wages is taken was hired. Full-time equivalent position means any of the following:

1. An employment position requiring an average work week of 40 or more hours;
2. An employment position for which compensation is paid on a salaried full-time basis without regard to hours worked; or
3. An aggregation of any number of part-time positions which equal one full-time position. For purposes of this subrule each part-time position shall be categorized with regard to the average number of hours worked each week as a one-quarter, half, three-quarter, or full-time position, as set forth in the following table:
b. The small business shall not have more than $1 million in annual gross revenues, or after July 1, 1984, $3 million in annual gross revenues or as the average of the three preceding tax years. “Annual gross revenues” means total sales, before deducting returns and allowances but after deducting corrections and trade discounts, sales taxes and excise taxes based on sales, as determined in accordance with generally accepted accounting principles.

c. The small business shall not be an affiliate or subsidiary of a business which is dominant in its field of operation. “Dominant in its field of operation” means having more than 20 full-time equivalent employees and more than $1 million of annual gross revenues, or after July 1, 1984, $3 million of annual gross revenues or as the average of the three preceding tax years. “Affiliate or subsidiary of a business dominant in its field of operations” means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

d. “Operation of a farm” means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Operation of a farm shall not include the production of timber, forest products, nursery products, or sod and operation of a farm shall not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

e. “The practice of a profession” means a vocation requiring specialized knowledge and preparation including but not limited to the following: medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, psychiatry, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, mortuary science, law, architecture, engineering and surveying, and accounting.

40.21(3) Definitions.

a. The term “handicapped person” means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment.

The term handicapped does not include any person who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the person from performing the duties of employment or whose employment, by reason of current use of alcohol or drugs, would constitute a direct threat to the property or the safety of others.

b. The term “physical or mental impairment” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

c. The term “major life activities” means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

d. The term “has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

e. The term “is regarded as having such an impairment” means:

1. Has a physical or mental impairment that does not substantially limit major life activities but that is perceived as constituting such a limitation;
2. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
3. Has none of the impairments defined as physical or mental impairments, but is perceived as having such an impairment.

f. The term “successfully completing a probationary period” includes those instances where the employee quits without good cause attributable to the employer during the probationary period or was discharged for misconduct during the probationary period.

g. The term “probationary period” means the period of probation for newly hired employees, if the employer has a written probationary policy. If the employer has no written probationary policy for newly hired employees, the probationary period shall be considered to be six months from the date of hire.

40.21(4) If a newly hired employee has been certified as either a vocational rehabilitation referral or an economically disadvantaged ex-convict for purposes of qualification for the work opportunity tax credit under Section 51 of the Internal Revenue Code, that employee shall be considered to have met the qualifications for the additional wage deduction.

A vocational rehabilitation referral is any individual certified by a state employment agency as having a physical or mental disability which, for the individual constitutes or results in a substantial handicap to employment. In addition, the individual must have been referred to the employer after completion or while receiving rehabilitation services pursuant to either a state or federal approved vocational rehabilitation program.

For all other newly hired employees, the employer has the burden of proof to show that the employees meet the qualifications for the additional wage deduction.

40.21(5) The taxpayer shall include a schedule with the filing of its tax return showing the name, address, social security number, date of hiring and wages paid of each employee for which the taxpayer claims the additional deduction for wages.

40.21(6) If the employee for which an additional deduction for wages was allowed fails to successfully complete a probationary period and the taxpayer has already filed an Iowa individual income tax return taking the additional deduction for wages, the taxpayer shall file an amended return adding back the additional deduction for wages. The amended return shall state the name and social security number of the employee who failed to successfully complete a probationary period.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate File 2247.

[ARC 7761B, IAB 5/6/09, effective 6/10/09; ARC 0337C, IAB 9/19/12, effective 10/24/12]

701—40.22(422) Disability income exclusion.

40.22(1) Effective for tax years beginning on or after January 1, 1984, a taxpayer who is permanently and totally disabled and has not attained age 65 by the end of the tax year or reached mandatory retirement age can exclude a maximum of $100 per week of payments received in lieu of wages. In order for the payments to qualify for the exclusion, the payments must be made under a plan providing payment of such amounts to an employee for a period during which the employee is absent from work on account of permanent and total disability.

40.22(2) In the case of a married couple where both spouses meet the qualifications for the disability exclusion, each spouse may exclude $5,200 of income received on account of disability.

40.22(3) There is a reduction in the exclusion, dollar for dollar, to the extent that a taxpayer’s federal adjusted gross income (determined without this exclusion and without the deduction for the two-earner married couple) exceeds $15,000. In the case of a married couple, both spouses’ incomes must be considered for purposes of determining if the disability income exclusion is to be reduced for income that exceeds $15,000. The taxpayers’ disability income exclusion is eliminated when the taxpayers’ federal adjusted gross income is equal to or exceeds $20,200. The deduction of the taxpayers’ disability income exclusion because the taxpayers’ federal adjusted gross income is greater than $15,000 is illustrated in the following example:
A married couple is filing their 1984 Iowa return. The husband retired during the year and received $8,000 in disability income during the 40-week period in 1984 that he was retired. The husband’s other income in 1984 was $2,500 and the wife’s income was $7,500.

Of the $8,000 in disability payments received by the husband in the 40-week period he was retired in 1984, only $4,000 is eligible for the exclusion. This is because the maximum amount that can be excluded on a weekly basis as a result of the disability exclusion is $100.

However, the $4,000 that qualifies for the exclusion must be reduced to the extent that the taxpayer’s federal adjusted gross income exceeds $15,000. In this example, the taxpayer’s federal adjusted gross income is $18,000, which exceeds $15,000 by $3,000. Therefore, the amount eligible for exclusion of $4,000 must be reduced by $3,000. This gives the taxpayers an exclusion of $1,000.

40.22(4) For purposes of the disability income exclusion, “permanent and total disability” means the individual is unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which (a) can be expected to last for a continuous period of 12 months or more or (b) can be expected to result in death. A certificate from a qualified physician must be attached to the individual’s tax return attesting to the taxpayer’s permanent and total disability as of the date the individual claims to have retired on disability. The certificate must include the name and address of the physician and contain an acknowledgment that the certificate will be used by the taxpayer to claim the exclusion. In an instance where an individual has been certified as permanently and totally disabled by the Veterans Administration, Form 6004 may be attached to the return instead of the physician’s certificate. Form 6004 must be signed by a physician on the VA disability rating board.

40.22(5) Mandatory retirement age is the age at which the taxpayer would have been required to retire under the employer’s retirement program.

40.22(6) The disability income exclusion is not applicable to federal income tax for tax years beginning after 1983. There are many revenue rulings, court cases and other provisions which were relevant to the disability income exclusion for the tax periods when the exclusion was available on federal returns. These provisions, court cases and revenue rulings concerning the disability income exclusion are equally applicable to the disability income exclusion on Iowa returns for tax years beginning on or after January 1, 1984.

This rule is intended to implement Iowa Code section 422.7.

701—40.23(422) Social security benefits. For tax years beginning on or after January 1, 1984, but before January 1, 2014, social security benefits received are taxable on the Iowa return. Although Tier 1 railroad retirement benefits were taxed similarly as social security benefits for federal income tax purposes beginning on or after January 1, 1984, these benefits are not subject to Iowa income tax. 45 U.S.C. Section 231m prohibits taxation of railroad retirement benefits by the states.

The following subrules specify how social security benefits are taxed for Iowa individual income tax purposes for tax years beginning on or after January 1, 1984, but prior to January 1, 1994; for tax years beginning on or after January 1, 1994, but prior to January 1, 2007; and for tax years beginning on or after January 1, 2007, but prior to January 1, 2014:

40.23(1) Taxation of social security benefits for tax years beginning on or after January 1, 1984, but prior to January 1, 1994. For tax years beginning on or after January 1, 1984, but prior to January 1, 1994, social security benefits are taxable on the Iowa return to the same extent as the benefits are taxable for federal income tax purposes. When both spouses of a married couple receive social security benefits and file a joint federal income tax return but separate returns or separately on the combined return form, the taxable portion of the benefits must be allocated between the spouses. The following formula should be used to compute the amount of social security benefits to be reported by each spouse on the Iowa return:

\[
\text{Taxable Social Security Benefits on the Federal Return} \times \frac{\text{Total Social Security Benefit Received by Husband (or Wife)}}{\text{Total Social Security Benefits Received by Both Spouses}}
\]
The example shown below illustrates how taxable social security benefits are allocated between spouses:

A married couple filed a joint federal income tax return for 1984. They filed separately on the combined return form for Iowa income tax purposes. During the tax year the husband received $6,000 in social security benefits and the wife received $3,000 in social security benefits. $2,000 of the social security benefits was taxable on the federal return.

The $2,000 in taxable social security benefits is allocated to the spouses on the following basis:

\[
\text{Husband} = \frac{\$6,000}{\$9,000} \times \text{Wife} = \frac{\$3,000}{\$9,000}
\]

\[
\frac{\$2,000}{\$9,000} = \frac{\$1,333.40}{\$666.60}
\]

In situations where taxpayers have received both social security benefits and Tier 1 railroad retirement benefits and are taxable on a portion of those benefits, the formula which follows should be used to determine the social security benefits to be included in net income:

\[
\frac{\text{Taxable Social Security Benefits and Railroad Retirement Benefits on Federal Return}}{\text{Total Social Security Benefit Received}} \times \frac{\text{Total Social Security Benefits and Railroad Retirement Benefits Received}}{\text{Taxable Social Security Benefits on Federal Return}}
\]

\[
40.23(2) \text{ Taxation of social security benefits for tax years beginning on or after January 1, 1994, but prior to January 1, 2007. } \text{ For tax years beginning on or after January 1, 1994, but prior to January 1, 2007, although up to 85 percent of social security benefits received may be taxable for federal income tax purposes, no more than 50 percent of social security benefits will be taxable for state individual income tax purposes. Thus, in the case of Iowa income tax returns for 1994 through 2006, social security benefits will be taxed as the benefits were taxed from 1984 through 1993 as described in subrule 40.23(1). }

The amount of social security benefits that is subject to tax is the lesser of one-half of the annual benefits received in the tax year or one-half of the taxpayer’s provisional income over a specified base amount. The provisional income is the taxpayer’s modified adjusted gross income plus one-half of the social security benefits and one-half of the railroad retirement benefits received. Although railroad benefits are not taxable, one-half of the railroad retirement benefits received may be used to determine the amount of social security benefits that is taxable for state income tax purposes. Modified adjusted gross income is the taxpayer’s federal adjusted gross income, plus interest that is tax-exempt on the federal return, plus any of the following incomes:

1. Savings bond proceeds used to pay expenses of higher education excluded from income under Section 135 of the Internal Revenue Code.
2. Foreign source income excluded from income under Section 911 of the Internal Revenue Code.
3. Income from Guam, American Samoa, and the Northern Mariana Islands excluded under section 931 of the Internal Revenue Code.
4. Income from Puerto Rico excluded under Section 933 of the Internal Revenue Code.

A taxpayer’s base amount is: (a) $32,000 if married and a joint federal return was filed, (b) $0 if married and separate federal returns were filed by the spouses and (c) $25,000 for individuals who filed federal returns and used a filing status other than noted in (a) and (b).

The IA 1040 booklet and instructions for 1994 through 2006 will include a worksheet to compute the amount of social security benefits that is taxable for Iowa income tax purposes. An example of the social security worksheet follows. Similar worksheets will be used for computing the amount of social security benefits that is taxable for years 1995 through 2006. An example of the social security worksheet follows:
1. Enter amount(s) from box 5 of all of Form(s) SSA-1099. If a joint return was filed, enter totals from box 5 of Form(s) SSA-1099 for both spouses. Do not include railroad retirement benefits from RRB-1099 here. See line 3.

2. Divide line 1 amount above by 2.

3. Add amounts of the following incomes from Form 1040: wages, taxable interest income, dividend income, taxable state and local income tax refunds, alimony, business income or loss, capital gain or loss, capital gain distributions, other gains, taxable IRA distributions, taxable pensions and annuities, incomes from Schedule E, farm income or loss, unemployment compensation, other income and 1/2 of railroad retirement benefits from RRB 1099.

4. Enter amount from Form 1040, line 8b for interest that is federally tax-exempt.

5. Add lines 2, 3 and 4.

6. Enter total adjustment to income from Form 1040.

7. Subtract line 6 from line 5.

8. Enter on line 8 one of the following amounts based on the filing status used on Form 1040: Single, Head of Household, or Qualifying Widow(er), enter $25,000. Married filing jointly, enter $32,000. Married filing separately, enter $0 ($25,000 if you did not live with spouse any time in 1994).

9. Subtract line 8 from line 7. If zero or less enter 0. If line 9 is zero, none of the social security benefits are taxable. If line 9 is more than zero, go to line 10.

10. Divide line 9 amount above by 2.

11. Taxable social security benefits enter smaller of line 2 or line 10 here and on line 14 IA 1040.

*If applicable, include on line 3 the following incomes excluded from federal adjusted gross income: foreign earned income, income excluded by residents of Puerto Rico, American Samoa, and Guam and proceeds from savings bonds used for higher education.

Married taxpayers who filed a joint federal return and are filing separate Iowa returns or separately on the combined return form can allocate taxable social security benefits between them with the following formula.

\[
\text{Total Social Security Benefit Received by Husband (or Wife)} = \text{Taxable Social Security Benefits From Worksheet} \times \frac{\text{Total Social Security Benefits Received by Both Spouses}}{100}
\]

40.23(3) Taxation of social security benefits for tax years beginning on or after January 1, 2007, but prior to January 1, 2014. For tax years beginning on or after January 1, 2007, but prior to January 1, 2014, the amount of social security benefits subject to Iowa income tax will be computed as described in subrule 40.23(2), but will be further reduced by the following percentages:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007 and 2008</td>
<td>32%</td>
</tr>
<tr>
<td>2009</td>
<td>43%</td>
</tr>
<tr>
<td>2010</td>
<td>55%</td>
</tr>
<tr>
<td>2011</td>
<td>67%</td>
</tr>
<tr>
<td>2012</td>
<td>77%</td>
</tr>
<tr>
<td>2013</td>
<td>89%</td>
</tr>
</tbody>
</table>
The Iowa individual income tax booklet and instructions for 2007 through 2013 will include a worksheet to compute the amount of social security benefits that is taxable for Iowa income tax purposes. An example of the social security worksheet follows:

1. Enter amount(s) from box 5 of Form(s) SSA-1099. If a joint return was filed, enter totals from box 5 of Form(s) SSA-1099 for both spouses. Do not include railroad retirement benefits from RRB-1099 here. See line 3.

2. Divide line 1 amount above by 2.

*3. Add amounts of the following incomes from Form 1040: wages, taxable interest income, dividend income, taxable state and local income tax refunds, alimony, business income or loss, capital gain or loss, capital gain distributions, other gains, taxable IRA distributions, taxable pensions and annuities, incomes from Schedule E, farm income or loss, unemployment compensation, other income and 1/2 of railroad retirement benefits from RRB 1099.

4. Enter amount from Form 1040, line 8b for interest that is federally tax-exempt.

5. Add lines 2, 3 and 4.

6. Enter total adjustment to income from Form 1040.

7. Subtract line 6 from line 5.

8. Enter on line 8 one of the following amounts based on the filing status used on Form 1040: Single, Head of Household, or Qualifying Widow(er), enter $25,000. Married filing jointly, enter $32,000. Married filing separately, enter $0 ($25,000 if you did not live with spouse anytime during the year).

9. Subtract line 8 from line 7. If zero or less enter 0. If line 9 is zero, none of the social security benefits are taxable. If line 9 is more than zero, go to line 10.

10. Divide line 9 amount above by 2.

11. Taxable social security benefits before phase-out exclusion. Enter smaller of line 2 or line 10.

12. Multiply line 11 by applicable exclusion percentage.

13. Taxable social security benefits. Subtract line 12 from line 11.

*If applicable, include on line 3 the following incomes excluded from federal adjusted gross income: foreign earned income, income excluded by residents of Puerto Rico, American Samoa, and Guam and proceeds from savings bonds used for higher education and employer-provided adoption benefits.

Married taxpayers who filed a joint federal return and are filing separate Iowa returns or separately on the combined return form can allocate taxable social security benefits between them with the following formula.

\[
\text{Taxable Social Security Benefits from Worksheet} \times \frac{\text{Total Social Security Benefit Received by Spouse 1 (or Spouse 2)}}{\text{Total Social Security Benefits Received by Both Spouses}}
\]

The amount on line 12 of this worksheet is the phase-out exclusion of social security benefits which must be included in net income in determining whether an Iowa return must be filed in accordance with rules 701—39.1(422) and 701—39.5(422), and this amount must also be included in net income in calculating the special tax computation in accordance with rule 701—39.15(422).

40.23(4) Taxation of social security benefits for tax years beginning on or after January 1, 2014. For tax years beginning on or after January 1, 2014, no social security benefits are taxable on the Iowa return. However, the 100 percent phase-out exclusion of social security benefits must still be included in net income in determining whether an Iowa return must be filed in accordance with rules 701—39.1(422) and
701—39.5(422), and the 100 percent phase-out exclusion of social security benefits must also be included in net income in calculating the special tax computation in accordance with rule 701—39.15(422).

This rule is intended to implement Iowa Code section 422.7 as amended by 2006 Iowa Acts, Senate File 2408.

701—40.24(99E) Lottery prizes. Prizes awarded under the Iowa Lottery Act are Iowa earned income. Therefore, individuals who win lottery prizes are subject to Iowa income tax in the aggregate amount of prizes received in the tax year, even if the individuals were not residents of Iowa at the time they received the prizes.

This rule is intended to implement Iowa Code section 99E.19.


701—40.26(422) Contributions to the judicial retirement system. Rescinded IAB 11/24/04, effective 12/29/04.

701—40.27(422) Incomes from distressed sales of qualifying taxpayers. For tax years beginning on or after January 1, 1986, taxpayers with gains from sales, exchanges, or transfers of property must exclude those gains from net income, if the gains are considered to be distressed sale transactions.

40.27(1) Qualifications that must be met for transactions to be considered distressed sales. There are a number of qualifications that must be met before a transaction can be considered to be a distressed sale. The transaction must involve forfeiture of an installment real estate contract, the transfer of real or personal property securing a debt to a creditor in cancellation of that debt, or from the sale or exchange of property as a result of actual notice of foreclosure. The following three additional qualifications need to have been met.

a. The forfeiture, transfer, or sale or exchange was done for the purpose of establishing a positive cash flow.

b. Immediately before the forfeiture, transfer, or sale or exchange, the taxpayer’s debt-to-asset ratio exceeded 90 percent as computed under generally accepted accounting principles.

c. The taxpayer’s net worth at the end of the tax year was less than $75,000.

In determining the taxpayer’s debt-to-asset ratio immediately before the forfeiture, transfer, or sale or exchange and at the end of the tax year, the taxpayer must include any asset transferred within 120 days prior to the transaction or within 120 days prior to the end of the tax year without adequate and full consideration in money or money’s worth.

Proof of forfeiture of the installment real estate contract, proof of transfer of property to a creditor in cancellation of a debt, or a copy of the notice of foreclosure constitutes documentation of the distressed sale and must be made a part of the return. Balance sheets showing the taxpayer’s debt-to-asset ratio immediately before the distressed sale transaction and the taxpayer’s net worth at the end of the tax year must also be included with the income tax return. The balance sheets supporting the debt-to-asset ratio and the net worth must list the taxpayer’s personal assets and liabilities as well as the assets and liabilities of the taxpayer’s farm or other business.

For purposes of this provision, in the case of married taxpayers, except in the instance when the husband and wife live apart at all times during the tax year, the assets and liabilities of both spouses must be considered in determining the taxpayers’ net worth or the taxpayers’ debt-to-asset ratio.

40.27(2) Losses from distressed sale transactions of qualifying taxpayers. Losses from distressed sale transactions meeting the qualifications described above were disallowed prior to the time that the provision for disallowing these losses was repealed in the 1990 session of the General Assembly. Taxpayers whose Iowa income tax liabilities were increased because of disallowance of losses from distressed sales transactions may file refund claims with the department to get refunds of the taxes paid due to disallowance of the losses. Refund claims will be honored by the department to the extent that
the taxpayers provide verification of the distressed sale losses and the claims are filed within the statute of limitations for refund given in Iowa Code subsection 422.73(2).

This rule is intended to implement Iowa Code section 422.7.

701—40.28(422) Losses from passive farming activities. Rescinded IAB 2/18/04, effective 3/24/04.

701—40.29(422) Intangible drilling costs. For tax years beginning on or after January 1, 1986, but before January 1, 1987, intangible drilling and development costs which pertain to any well for the production of oil, gas, or geothermal energy, and which are incurred after the commencement of the installation of the production casing for the well, are not allowed as an expense in the tax year when the costs were paid or incurred and must be added to net income. Instead of expensing the intangible drilling and development costs which are incurred after the commencement of the installation of the production casing for a well, the expenses must be amortized over a 26-month period, beginning in the month in which the costs are paid or incurred if the costs were incurred for a well which is located in the United States, the District of Columbia, and those continental shelf areas which are adjacent to United States territorial waters and over which the United States has exclusive rights with respect to the exploration and exploitation of natural resources as provided in Section 638 of the Internal Revenue Code.

In the case of intangible drilling and development costs which are incurred for oil or gas wells outside the United States, those costs must be recovered over a ten-year straight-line amortization period beginning in the year the costs are paid or incurred. However, in lieu of amortization of the costs, the taxpayer may elect to add these costs to the basis of the property for cost depletion purposes.

For tax years beginning on or after January 1, 1987, the intangible drilling costs, which are an addition to income subject to amortization, are the intangible drilling costs described in Section 57(a)(2) of the Internal Revenue Code. These intangible drilling costs are an item of tax preference for federal minimum tax purposes for tax years beginning after December 31, 1986.

This rule is intended to implement Iowa Code section 422.7.

701—40.30(422) Percentage depletion. For tax years beginning on or after January 1, 1987, the percentage depletion that is an addition to net income is the depletion described in Section 57(a)(1) of the Internal Revenue Code only to the extent the depletion applies to an oil, gas, or geothermal well. This depletion is an item of tax preference for federal minimum tax purposes for tax years beginning after December 31, 1986.

This rule is intended to implement Iowa Code section 422.7.

[ARC 7761B, IAB 5/6/09, effective 6/10/09]

701—40.31(422) Away-from-home expenses of state legislators. For tax years beginning on or after January 1, 1987, state legislators whose personal residences in their legislative districts are more than 50 miles from the state capitol may claim the same deductions for away-from-home expenses as are allowed on their federal income tax returns under Section 162(h)(1)(B) of the Internal Revenue Code. These individuals may claim deductions for meals and lodging per “legislative day” in the amount of per diem allowance for federal employees in effect for the tax year. The portion of this per diem allowance which is equal to the daily expense allowance authorized for state legislators in Iowa Code section 2.10 may be claimed as an adjustment to income. The balance of the per diem allowance for federal employees must be allocated between lodging expenses and meal expenses and is deductible as a miscellaneous itemized deduction. However, only 50 percent of the amount attributable to meal expenses may be deducted for tax years beginning on or after January 1, 1994.

State legislators whose personal residences in their legislative districts are 50 miles or less from the state capitol may claim a deduction for meals and lodging of $50 per “legislative day.” However, in lieu of either of the deduction methods previously described in this rule, any state legislator may elect to itemize adjustments to income for amounts incurred for meals and lodging for the “legislative days” of the state legislator.

This rule is intended to implement Iowa Code section 422.7.

[ARC 7761B, IAB 5/6/09, effective 6/10/09]
701—40.32(422) *Interest and dividends from regulated investment companies which are exempt from federal income tax.* For tax years beginning on or after January 1, 1987, interest and dividends from regulated investment companies which are exempt from federal income tax under the Internal Revenue Code are subject to Iowa income tax. See rule 701—40.52(422) for a discussion of the Iowa income tax exemption of some interest and dividends from regulated investment companies that invest in certain obligations of the state of Iowa and its political subdivisions the interest from which is exempt from Iowa income tax. To the extent that a loss on the sale or exchange of stock in a regulated investment company was disallowed on an individual’s federal income tax return pursuant to Section 852(b)(4)(B) of the Internal Revenue Code because the taxpayer held the stock six months or less and because the regulated investment company had invested in federal tax-exempt securities, the loss is allowed for purposes of computation of net income.

This rule is intended to implement Iowa Code section 422.7.


701—40.34(422) *Exemption of restitution payments for persons of Japanese ancestry.* For tax years beginning on or after January 1, 1988, restitution payments authorized by P.L. 100-383 to individuals of Japanese ancestry who were interned during World War II are exempt from Iowa income tax to the extent the payments are included in federal adjusted gross income. P.L. 100-383 provides for a payment of $20,000 for each qualifying individual who was alive on August 10, 1988. In cases where the qualifying individuals have died prior to the time that the restitution payments were received, the restitution payments received by the survivors of the interned individuals are also exempt from Iowa income tax.

This rule is intended to implement Iowa Code section 422.7.

701—40.35(422) *Exemption of Agent Orange settlement proceeds received by disabled veterans or beneficiaries of disabled veterans.* For tax years beginning on or after January 1, 1989, proceeds from settlement of a lawsuit against the manufacturer or distributor of a Vietnam herbicide received by a disabled veteran or the beneficiary of a disabled veteran for damages from exposure to the herbicide are exempt from Iowa income tax to the extent the proceeds are included in federal adjusted gross income. For purposes of this rule, Vietnam herbicide means a herbicide, defoliant, or other causative agent containing a dioxin, including, but not limited to, Agent Orange used in the Vietnam conflict beginning December 22, 1961, and ending May 7, 1975.

This rule is intended to implement Iowa Code section 422.7.

701—40.36(422) *Exemption of interest earned on bonds issued to finance beginning farmer loan program.* Interest earned on or after July 1, 1989, from bonds or notes issued by the agricultural development authority to finance the beginning farmer loan program is exempt from the state income tax.

This rule is intended to implement Iowa Code sections 175.17 and 422.7.

701—40.37(422) *Exemption of interest from bonds issued by the Iowa comprehensive petroleum underground storage tank fund board.* Interest received from bonds issued by the Iowa comprehensive petroleum underground storage tank fund board is exempt from state individual income tax. This is effective for interest received from these bonds on or after May 5, 1989, but before July 1, 2009.

This rule is intended to implement Iowa Code section 455G.6.

701—40.38(422) *Capital gain deduction or exclusion for certain types of net capital gains.* For tax years beginning on or after January 1, 1998, net capital gains from the sale of the assets of a business described in subrules 40.38(2) to 40.38(8) are excluded in the computation of net income for qualified individual taxpayers. This includes net capital gains from the sales of real property, sales of assets of a
business entity, sales of certain livestock of a business, sales of timber, liquidation of assets of certain corporations, and certain stock sales which are treated as acquisition of assets of a corporation. “Net capital gains” means capital gains net of capital losses because Iowa’s starting point for computing net income is federal adjusted gross income. A business includes any activity engaged in by a person or caused to be engaged in by a person with the object of gain, benefit, or advantage, either direct or indirect. Subrule 40.38(1) describes the criteria for material participation which are required for the exclusion of certain capital gains related to the sale of real property and the sale of assets of business entities. Subrule 40.38(9) describes situations in which the capital gain deduction otherwise allowed is not allowed for purposes of computation of a net operating loss or for computation of the taxable income for a tax year to which a net operating loss is carried.

40.38(1) Material participation in a business if the taxpayer has been involved in the operation of the business on a regular, continuous, and substantial basis for ten or more years at the time assets of the business are sold or exchanged. If the taxpayer has regular, continuous and substantial involvement in the operations of a business which meets the criteria for material participation in an activity under Section 469(h) of the Internal Revenue Code and the federal tax regulations for material participation in 26 CFR §1.469-5 and §1.469-5T, for the ten years prior to the date of the sale or exchange of the assets of a business, the taxpayer shall be considered to have satisfied the material participation requirement for this subrule. In determining whether a particular taxpayer has material participation in a business, participation of the taxpayer’s spouse in a business must also be taken into account. The spouse’s participation in the business must be taken into account even if the spouse does not file a joint state return with the taxpayer or if the spouse has no ownership interest in the business. The activities of other family members, employees, or consultants are not attributed to the taxpayer to determine material participation.

a. Work done in connection with an activity shall not be treated as participation in the activity if such work is not of a type that is customarily done by an owner and one of the principal purposes for the performance of such work is to avoid the disallowance of any loss or credit from such activity.

b. Work done in an activity by an individual in the individual’s capacity as an investor is not considered to be material participation in the business or activity unless the investor is directly involved in the day-to-day management or operations of the activity or business. Investor-type activities include the study and review of financial statements or reports on operations of the activity, preparing or compiling summaries or analyses of finances or operations of the activity for the individual’s own use, and monitoring the finances or operations of the activity in a nonmanagerial capacity.

c. A taxpayer is most likely to have material participation in a business if that business is the taxpayer’s principal business. However, for purposes of this subrule, it is possible for a taxpayer to have had material participation in more than one business in a tax year.

d. A highly relevant factor in material participation in a business is how regularly the taxpayer is present at the place where the principal operations of a business are conducted. In addition, a taxpayer is likely to have material participation in a business if the taxpayer performs all functions of the business. The fact that the taxpayer utilizes employees or contracts for services to perform daily functions in a business will not prevent the taxpayer from qualifying as materially participating in the business, but the services will not be attributed to the taxpayer.

e. Generally, an individual will be considered as materially participating in a tax year if the taxpayer satisfies or meets any of the following tests:

(1) The individual participates in the business for more than 500 hours in the taxable year.

Example. Joe and Sam Smith are brothers who formed a computer software business in 2001 in Altoona, Iowa. In 2011, Joe spent approximately 550 hours selling software for the business and Sam spent about 600 hours developing new software programs for the business. Both Joe and Sam would be considered to have materially participated in the computer software business in 2011.

(2) The individual’s participation in the business constitutes substantially all of the participation of all individuals in the business for the tax year.

Example. Roger McKee is a teacher in a small town in southwest Iowa. He owns a truck with a snowplow blade. He contracts with some of his neighbors to plow driveways. He maintains and drives
the truck. In the winter of 2011, there was little snow so Mr. McKee spent only 20 hours in 2011 clearing driveways. Roger McKee is deemed to have materially participated in the snowplowing business in 2011.

(3) The individual participates in the business for more than 100 hours in the tax year, and no other individual spends more time in the business activity than the taxpayer.

(4) The individual participates in two or more businesses, excluding rental businesses, in the tax year and participates for more than 500 hours in all of the businesses and more than 100 hours in each of the businesses, and the participation is not material participation within the meaning of one of the tests in subparagraphs 40.38(1)“e”(1) to (3) and (5) to (7). Thus, the taxpayer is regarded as materially participating in each of the businesses.

**EXAMPLE.** Frank Evans is a full-time CPA. He owns a restaurant and a record store. In 2011, Mr. Evans spent 400 hours working at the restaurant and 150 hours at the record store and other individuals spent more time in the business activity than he did. Mr. Evans is treated as a material participant in each of the businesses in 2011.

(5) An individual who has materially participated (determined with regard to subparagraphs 40.38(1)“e”(1) to (4)) in a business for five of the past ten years will be deemed a material participant in the current year.

**EXAMPLE.** Joe Bernard is the co-owner of a plumbing business. He retired in 2008 after 35 years in the business. Since Joe’s retirement, he has retained his interest in the business. Joe is considered to be materially participating in the business for the years through 2013 or for the five years after the year of retirement. Thus, if the plumbing business is sold before the end of 2013, the sale will qualify for the Iowa capital gain deduction on Joe’s 2013 Iowa return because he was considered to be a material participant in the business according to the federal rules for material participation.

(6) An individual who has materially participated in a personal service activity for at least three years will be treated as a material participant for life. A personal service activity involves the performance of personal services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting or any other trade or business in which capital is not a material income-producing factor.

**EXAMPLE.** Gerald Williams is a retired attorney, but he retains an interest in the law firm he was involved in for over 40 years. Because the law firm is a personal service activity, Mr. Williams is considered to be a material participant in the law firm even after his retirement from the firm.

(7) An individual who participates in the business activity for more than 100 hours may be treated as materially participating in the activity if, based on all the facts and circumstances, the individual participates on a regular, continuous, and substantial basis. Management activities of a taxpayer are not considered for purposes of determining if there was material participation if either of the following applies: any person other than the taxpayer is compensated for management services, or any person provides more hours of management services than the taxpayer.

f. The following paragraphs provide clarification regarding material participation:

(1) A retired or disabled farmer is treated as materially participating in a farming activity for the current year if the farmer materially participated in the activity for five of the last eight years before the farmer’s retirement or disability. That is, the farmer must have been subject to self-employment tax in five of the eight years before retirement or disability and had to have been either actively farming so the income was reported on Schedule F or materially participating in a crop-share activity for five of the last eight years prior to retirement or disability. The farmer must be receiving old-age benefits under Title II of the Social Security Act to be considered a retired farmer.

**EXAMPLE.** Fred Smith was 80 years old in 2011 when he sold 200 acres of farmland he had owned since 1951. Mr. Smith retired in 2001 when he began receiving old-age benefits under Title II of the Social Security Act. In the last eight years before retirement, Mr. Smith was paying self-employment tax on his farm income which was reported on Schedule F for each of those eight years. In the years before he sold the farmland, Mr. Smith was leasing the farmland on a cash-rent basis, whereby Mr. Smith would not be considered to be materially participating in the farming activity. Because Mr. Smith had material participation in the farmland in the eight years before retirement, Mr. Smith was considered to
have met the material participation requirement, so the capital gain qualified for the Iowa capital gain deduction.

(2) A surviving spouse of a farmer is treated as materially participating in the farming activity for the current tax year if the farmer met the material participation requirements at the time of death and the spouse actively participates in the farming business activity. That is, the spouse participates in the making of management decisions relating to the farming activity or arranges for others to provide services (such as repairs, plowing, and planting). However, if the surviving spouse was retired at the time of the farmer’s death and the deceased spouse materially participated in the farming activity for five of the last eight years prior to the deceased spouse’s retirement, then the surviving spouse is deemed to be materially participating, even if the surviving spouse did not actively participate in the farming activity. See IRS Technical Service Memorandum 200911009, March 13, 2009.

(3) Limited partners of a limited partnership. The limited partners will not be treated as materially participating in any activity of a limited partnership except in a situation where the limited partner would be treated as materially participating under the material participation tests in subparagraphs 40.38(1) “e ”(1), (5) and (6) above as if the taxpayer were not a limited partner for the tax year.

(4) Cash farm lease. A farmer who rents farmland on a cash basis will not generally be considered to be materially participating in the farming activity. The burden is on the landlord to show there was material participation in the cash-rent farm activity.

(5) Farm landlord involved in crop-share arrangement. A farm landlord is subject to self-employment tax on net income from a crop-share arrangement with a tenant. The landlord is considered to be materially participating with the tenant in the crop-share activity if the landlord meets one of the four following tests:

  TEST 1. The landlord does any three of the following: (1) Pays or is obligated to pay for at least half the direct costs of producing the crop; (2) Furnishes at least half the tools, equipment, and livestock used in producing the crop; (3) Consults with the tenant; and (4) Inspects the production activities periodically.

  TEST 2. The landlord regularly and frequently makes, or takes part in making, management decisions substantially contributing to or affecting the success of the enterprise.

  TEST 3. The landlord worked 100 hours or more spread over a period of five weeks or more in activities connected with crop production.

  TEST 4. The landlord has done tasks or performed duties which, considered in their total effect, show that the landlord was materially and significantly involved in the production of the farm commodities.

(6) Conservation reserve payments (CRP). Farmers entering into long-term contracts providing for less intensive use of highly erodible or other specified cropland can receive compensation for conversion of such land in the form of an “annualized rental payment.” Although the CRP payments are referred to as “rental payments,” the payments are considered to be receipts from farm operations and not rental payments from real estate.

If an individual is receiving CRP payments and is not considered to be retired from farming, the CRP payments are subject to self-employment tax. If individuals actively manage farmland placed in the CRP program by directly participating in seeding, mowing, and planting the farmland or by overseeing these activities and the individual is paying self-employment tax, the owner will be considered to have had material participation in the farming activity.

(7) Rental activities or businesses. For purposes of subrules 40.38(1) and 40.38(2), the general rule is that a taxpayer may have material participation in the rental activity unless covered by a specific exception in this subrule (for example, the exceptions for farm rental activities in subparagraphs 40.38(1) “f”(4), (5) and (6)). Rental activity or rental business is as the term is used in Section 469(c) of the Internal Revenue Code. Rental activity or rental business does not typically involve day-to-day involvement since gross income from this activity represents amounts paid mainly for the use of the property. Examples of qualifying involvement in operations of the property that are considered material participation activities if performed on a regular, continuous and substantial basis include advertising, interviewing potential tenants, preparing leases, collecting rent, handling security deposits, receiving questions and complaints from tenants, and performing routine maintenance.
EXAMPLE. Ryan Stanley is an attorney who has owned two duplex units since 1998 and has received rental income from these duplexes since 1998. Mr. Stanley is responsible for the maintenance of the duplexes and may hire other individuals to perform repairs and other upkeep on the duplexes. However, no person spends more time in operating, managing and maintaining the duplexes than Mr. Stanley, and Mr. Stanley spends more than 100 hours per year in operating, managing and maintaining the duplexes. The duplexes are sold in 2011, resulting in a capital gain. Mr. Stanley can claim the capital gain deduction on the 2011 Iowa return since he met the material participation requirements for this rental activity.

(8) Like-kind exchanges and involuntary conversions. Material participation can be tacked on in cases of replacement property acquired under a like-kind exchange under Section 1031 of the Internal Revenue Code or an involuntary conversion under Section 1033 of the Internal Revenue Code.

EXAMPLE. Dustin James owned Farm A, and he materially participated in the operation of Farm A for 10 years. Mr. James executed a like-kind exchange for Farm B, and he materially participated in the operation of this farm for 4 years until he retired. Mr. James sold Farm B 2 years after he retired. Although he only materially participated in the operation of Farm B for 4 of the last 8 years before he retired, the operation of Farm A can be tacked on for purposes of the material participation test. Mr. James meets the material participation test since he participated in farming activity for the last 14 years before he retired.

(9) Record-keeping requirements. Taxpayers are required to provide proof of services performed and the hours attributable to those services. Detailed records should be maintained by the taxpayer, on as close to a daily basis as possible at or near the time of the performance of the activity, to verify that the material participation test has been met. However, material participation can be established by any other reasonable means, such as approximating the number of hours based on appointment books, calendars, or narrative summaries. Records prepared long after the activity, in preparation of an audit or proceeding, are insufficient to establish participation in an activity.

40.38(2) Net capital gains from the sale of real property used in a business. Net capital gains from the sale of real property used in a business are excluded from net income on the Iowa return of the owner of a business to the extent that the owner had held the real property in the business for ten or more years and had materially participated in the business for at least ten years. For purposes of this provision, material participation is defined in Section 469(h) of the Internal Revenue Code and described in detail in subrule 40.38(1). It is not required that the property be located in Iowa for the owner to qualify for the deduction.

a. Meaning of the term “held” for purposes of this rule. For capital gains reported for tax years ending prior to January 1, 2006, the term “held” is defined as “owned.” James and Linda Bell, Decision of the Administrative Law Judge, Docket No. 01DORF013, January 15, 2002, and David V. and Julie K. Gorsche v. Iowa State Board of Tax Review, Case No. CV07 8379, Polk County District Court, May 5, 2011. Therefore, the property held by the taxpayer must have been owned by the taxpayer for ten or more years to meet the time held requirement for the capital gain deduction for tax years ending prior to January 1, 2006. For capital gains reported for tax years ending on or after January 1, 2006, the term “held” is determined using the holding period provisions set forth in Section 1223 of the Internal Revenue Code and the federal regulations adopted pursuant to Section 1223. Therefore, as long as the holding period used to compute the capital gain is ten years or more, the time held requirement for the capital gain deduction will be met for tax years ending on or after January 1, 2006.

b. Sale to a lineal descendant. For purposes of taxation of capital gains from the sale of real property of a business by a taxpayer, there is no waiver of the ten-year material participation requirement when the property is sold to a lineal descendant of the taxpayer as there is for capital gains from sales of businesses described in subrule 40.38(3).

c. In situations in which real property was sold by a partnership, subchapter S corporation, limited liability company, estate, or trust and the capital gain from the sale of the real property flows through to the owners of the business entity for federal income tax purposes, the owners may exclude the capital gain from their net incomes if the real property was held for ten or more years and the owners had materially participated in the business for ten years prior to the date of sale of the real property, irrespective of whether the type of business entity changed during the ten-year period prior to the date of sale. That is,
if the owner of the business had held and materially participated in the business in the entire ten-year period before the sale, the fact that the business changed from one type of entity to another during the period does not disqualify the owner from excluding capital gains from the sale of real estate owned by the business during that whole ten-year period.

d. Installments received in the tax year from installment sales of businesses are eligible for the exclusion of capital gains from net income if all relevant criteria were met at the time of the installment sale. *Herbert Clausen and Sylvia Clausen v. Iowa Department of Revenue and Finance*, Law No. 32313, Crawford County District Court, May 24, 1995. For example, if a taxpayer received an installment payment in 2011 from the sale of a business that occurred in 2007, the installment received in 2011 would qualify for the exclusion if the taxpayer had held the business for ten or more years and had materially participated in the business for a minimum of ten years at the time of the sale in 2007.

e. Capital gains from the sale of real property by a C corporation do not qualify for the capital gain deduction except under the specific circumstances of a liquidation described in subrule 40.38(7).

f. Capital gains from the sale of real property held for ten or more years for speculation but not used in a business do not qualify for the capital gain deduction.

g. The following noninclusive examples illustrate how this subrule applies:

**EXAMPLE 1.** ABC Company, an S corporation, owned 1,000 acres of land. John Doe is the sole shareholder of ABC Company and had materially participated in ABC Company and held ABC Company for more than ten years at the time that 500 acres of the land were sold for a capital gain of $100,000 in 2011. The capital gain recognized in 2011 by ABC Company and which passed to John Doe as the shareholder of ABC Company is exempt from Iowa income tax because Mr. Doe met the material participation and time held requirements.

**EXAMPLE 2.** John Smith and Sam Smith both owned 50 percent of the stock in Smith and Company, which was an S corporation that held 1,000 acres of farmland. Sam Smith had managed all the farming operations for the corporation from the time the corporation was formed in 1990. John Smith was an attorney who lived and practiced law in Denver, Colorado. John Smith was the father of Sam Smith. In 2011, Smith and Company sold 200 acres of the farmland for a $50,000 gain. $25,000 of the capital gain passed through to John Smith and $25,000 of the capital gain passed through to Sam Smith. The farmland was sold to Jerry Smith, who was another son of John Smith. Both John Smith and Sam Smith had owned the corporation for at least ten years at the time the land was sold, but only Sam Smith had materially participated in the corporation for the last ten years. Sam Smith could exclude the $25,000 capital gain from the land sale because he had met the time held and material participation requirements. John Smith could not exclude the $25,000 capital gain since, although he had met the time held requirement, he did not meet the material participation requirement. Although the land sold by the corporation was sold to John Smith’s son, a lineal descendant of John Smith, the capital gain John Smith realized from the land sale does not qualify for exemption for state income tax purposes. There is no waiver of the ten-year material participation requirement for a taxpayer’s sale of real estate from a business to a lineal descendant of the taxpayer as is described for the sale of business assets in subrule 40.38(3).

**EXAMPLE 3.** Jerry Jones had owned and had materially participated in a farming business for 15 years and raised row crops in the business. There were 500 acres of land in the farming business; 300 acres had been held for 15 years, and 200 acres had been held for 5 years. If Mr. Jones sold the 200 acres of land that had been held only 5 years, any capital gain from the sale of this land would not be excludable since the land was part of the farming business but had been held for less than 10 years. If the 300 acres of land that had been held for 15 years had been sold, the capital gain from that sale would qualify for exclusion.

**EXAMPLE 4.** John Pike owned a farming business for more than ten years. In this business, Mr. Pike farmed a neighbor’s land on a crop-share basis throughout the period. Mr. Pike bought 80 acres of land in 2004 and farmed that land until the land was sold in 2011 for a capital gain of $20,000. The capital gain was taxable on Mr. Pike’s Iowa return since the farmland had been held for less than ten years although the business had been operated by Mr. Pike for more than ten years.

**EXAMPLE 5.** Joe and John Perry were brothers in a partnership for six years which owned 80 acres of land. The brothers dissolved the partnership in 2005, formed an S corporation, and included the land
in the assets of the S corporation. The land was sold in 2011 to Brian Perry, who was the grandson of John Perry. The Perry brothers realized from the land sale a capital gain of $15,000, which was divided equally between the brothers. Joe Perry was able to exclude the capital gain he had received from the sale as he had held the land and had materially participated in the business for at least ten years at the time the land was sold. John Perry was unable to exclude the capital gain because, although he had owned the land for ten years, he had not materially participated in the business for ten years when the land was sold. The fact that the land was sold to a lineal descendant of John Perry is not relevant because the sale involved only real property held in a business and not the sale of all, or substantially all, of the tangible personal property and intangible property of the business.

EXAMPLE 6. Todd Myers had a farming business which he had owned and in which he had materially participated for 20 years. There were two tracts of farmland in the farming business. In 2011, he sold one tract of farmland in the farming business that he had held for more than 10 years for a $50,000 capital gain. The farmland was sold to a person who was not a lineal descendant. During the same year, Mr. Myers had $30,000 in long-term capital losses from sales of stock. In this situation, on Mr. Myers’ 2011 Iowa return, the capital gains would not be applied against the capital losses. Because the capital losses are unrelated to the farming business, Mr. Myers does not have to reduce the Iowa capital gain deduction by the capital losses from the sales of stock.

EXAMPLE 7. Jim Casey had owned farmland in Greene County, Iowa, since 1987, and had materially participated in the farming business. In 1998, Mr. Casey entered into a like-kind exchange under Section 1031 of the Internal Revenue Code for farmland located in Carroll County, Iowa. Mr. Casey continued to materially participate in the farming business in Carroll County. The farmland in Carroll County was sold in 2005, resulting in a capital gain. For federal tax purposes, the holding period for the capital gain starts in 1987 under Section 1223 of the Internal Revenue Code. Because Mr. Casey held the farmland in Carroll County for less than ten years, based on Iowa law at the time of the sale, the capital gain from the sale does not qualify for the Iowa capital gain deduction. The deduction is not allowed even though the holding period for federal tax purposes is longer than ten years because the capital gain was reported for a tax year ending prior to January 1, 2006. If the farmland was sold in 2006, the gain would qualify for the capital gain deduction since the capital gain would have been reported for a tax year ending on or after January 1, 2006.

EXAMPLE 8. Jane and Ralph Murphy, a married couple, owned farmland in Iowa since 1975. Ralph died in 1994 and, under his will, Jane acquired a life interest in the farm. The farmland was managed by their son Joseph after Ralph’s death. Jane died in 1998, and Joseph continued to materially participate and manage the farm operation. Joseph sold the farmland in 2006 and reported a capital gain. For federal tax purposes under Section 1223 of the Internal Revenue Code, the holding period for the capital gain starts in 1994, when Ralph died. Because the holding period for the capital gain was ten years or more under Section 1223 of the Internal Revenue Code, Joseph is entitled to the capital gain deduction under Iowa law since he materially participated for ten or more years and the capital gain was reported for a tax year ending on or after January 1, 2006.

40.38(3) Net capital gains from the sale of assets of a business by an individual who had held the business for ten or more years and had materially participated in the business for ten or more years. Net capital gains from the sale of the assets of a business are excluded from an individual’s net income to the extent that the individual had held the business for ten or more years and had materially participated in the business for ten or more years. In addition to the time held and material participation qualifications for the capital gain deduction, the owner of the business must have sold substantially all of the tangible personal property or the service of the business in order for the capital gains to be excluded from taxation.

a. For purposes of this subrule, the phrase “substantially all of the tangible personal property or the service of the business” means that the sale of the assets of a business during the tax year must represent at least 90 percent of the fair market value of all of the tangible personal property and service of the business on the date of sale of the business assets. Thus, if the fair market value of a business’s tangible personal property and service was $400,000, the business must sell tangible personal property and service of the business that had a fair market value of 90 percent of the total value of those assets to achieve the 90 percent or more standard. However, this does not mean that the amount raised from the
sale of the assets must be $360,000 in order for the 90 percent standard to be met, only that the assets involved in the sale of the business must represent 90 percent of the total value of the business assets.

b. If the 90 percent of assets test is met, capital gains from other assets of the business can also be excluded. Some of these assets include, but are not limited to, stock of another corporation, bonds, including municipal bonds, and interests in other businesses. If the 90 percent test has been met, all of the individual assets of the business do not have to have been held for ten or more years on the date of sale for the capital gains from the sale of these assets to be excluded in computing the taxpayer’s net income. This statement is made with the assumption that the taxpayer has owned the business and materially participated in the business for ten or more years prior to the sale of the assets of the business.

c. In most instances, the sale of merchandise or inventory of a business will not result in capital gains for the seller of a business, so the proceeds from the sale of these items would not be excluded from taxation.

d. For the purposes of this subrule, the term “service of the business” means intangible assets used in the business or for the production of business income which, if sold for a gain, would result in a capital gain for federal income tax purposes. Intangible assets that are used in the business or for the production of income include, but are not limited to, the following items: (1) goodwill, (2) going concern value, (3) information base, (4) patent, copyright, formula, design, or similar item, (5) client lists, and (6) any franchise, trademark, or trade name. The type of business that owns the intangible asset is immaterial, whether the business is a manufacturing business, a retail business, or a service business, such as a law firm or an accounting firm.

e. When the business held by the taxpayer for a minimum of ten years is sold to an individual or individuals who are all lineal descendants of the taxpayer, the taxpayer is not required to have materially participated in the business for ten years prior to the sale of the business in order for the capital gain to be excluded in the computation of net income. The term “lineal descendant” means children of the taxpayer, including legally adopted children and biological children, stepchildren, grandchildren, great-grandchildren, and any other lineal descendants of the taxpayer.

f. In situations in which substantially all of the tangible personal property or the service of the business was sold by a partnership, subchapter S corporation, limited liability company, estate, or trust and the capital gains from the sale of the assets flow through to the owners of the business entity for federal income tax purposes, the owners can exclude the capital gains from their net incomes if the owners had held the business for ten or more years and had materially participated in the business for ten years prior to the date of sale of the tangible personal property or service, irrespective of whether the type of business entity changed during the ten-year period prior to the sale. The criteria for material participation in a business may be found in subrule 40.38(1).

g. Installments received in the tax year from installment sales of businesses are eligible for the exclusion if all relevant criteria were met at the time of the installment sale. Herbert Clausen and Sylvia Clausen v. Iowa Department of Revenue and Finance, Law No. 32313, Crawford County District Court, May 24, 1995. For example, if a taxpayer received an installment payment in 2011 from the sale of a business that occurred in 2007, the installment received in 2011 would qualify for the exclusion if, at the time of the sale in 2007, the taxpayer had held the business for ten or more years and had materially participated in the business for a minimum of ten years.

h. Sale of capital stock of a corporation to a lineal descendant or to another individual does not constitute the sale of a business for purposes of the capital gain deduction, whether the corporation is a C corporation or an S corporation.

i. Capital gains from the sale of an ownership interest in a partnership, limited liability company or other entity are not eligible for the capital gain deduction. Ranniger v. Iowa Department of Revenue and Finance, Iowa Supreme Court, No. 11, 06-0761, March 21, 2008.

j. The sale of one activity of a business or one distinct part of a business may not constitute the sale of a business for purposes of this rule unless the activity or distinct part is a separate business entity such as a partnership or sole proprietorship which is owned by the business or unless the activity or distinct part of a business represents the sale of at least 90 percent of the fair market value of the tangible personal property or service of the business.
In order to determine whether the sale of the business assets constitutes the sale of a business for purposes of excluding capital gains recognized from the sale, refer to 701—subrule 54.2(1) relating to a unitary business. If activities or locations comprise a unitary business, then 90 percent or more of that unitary business must be sold to meet the requirement for capital gains from the sale to be excluded from taxation. If the activity or location constitutes a separate, distinct, nonunitary business, then 90 percent of the assets of that location or activity must be sold to qualify for the exclusion of the capital gain. The burden of proof is on the taxpayer to show that a sale of assets of a business meets the 90 percent standard.

k. The following noninclusive examples illustrate how this subrule applies:

EXAMPLE 1. Joe Rich is the sole owner of Eagle Company, which is an S corporation. In 2011, Mr. Rich sold all the stock of Eagle Company to his son, Mark Rich, and recognized a $100,000 gain on the sale of the stock. This capital gain would be taxable on Joe Rich’s 2011 Iowa return since the sale of stock of a corporation did not constitute the sale of the tangible personal property and service of a business.

EXAMPLE 2. Randall Insurance Agency, a sole proprietorship, is owned solely by Peter Randall. In 2011, Peter Randall received capital gains from the sale of all tangible assets of the insurance agency. In addition, Mr. Randall had capital gains from the sale of client lists and goodwill to the new owners of the business. Since Mr. Randall had held the insurance agency for more than ten years and had materially participated in the insurance agency for more than ten years at the time of the sale of the tangible property and intangible property of the business, Mr. Randall can exclude the capital gains from the sale of the tangible assets and the intangible assets in computing net income on his 2011 Iowa return.

EXAMPLE 3. Joe Brown owned and materially participated in a sole proprietorship for more than ten years. During the 2011 tax year, Mr. Brown sold two delivery trucks and had capital gains from the sale of the trucks. At the time of sale, the trucks were valued at $30,000, which was about 10 percent of the fair market value of the tangible personal property of the business. Mr. Brown could not exclude the capital gains from the sale of the trucks on his 2011 Iowa return as the sale of those assets did not involve the sale of substantially all of the tangible personal property and service of Mr. Brown’s business.

EXAMPLE 4. Rich Bennet owned a restaurant and a gift shop that were in the same building and were part of a sole proprietorship owned only by Mr. Bennet, who had held and materially participated in both business activities for over ten years. Mr. Bennet sold the gift shop in 2011 for $100,000 and had a capital gain of $40,000 from the sale. The total fair market value of all tangible personal property and intangible assets in the proprietorship at the time the gift shop was sold was $250,000. Mr. Bennet could not exclude the capital gain on his 2011 Iowa return because he had not sold at least 90 percent of the tangible and intangible assets of the business.

EXAMPLE 5. Joe and Ray Johnson were partners in a farm partnership that they had owned for 12 years in 2011 when the assets of the partnership were sold to Ray’s son Charles. Joe Johnson had materially participated in the partnership for the whole time that the business was in operation, so he could exclude the capital gain he had received from the sale of the partnership assets. Although Ray Johnson had not materially participated in the farm business, he could exclude the capital gain he received from the sale of the assets of the partnership because the sale of the partnership assets was to his son, a lineal descendant.

EXAMPLE 6. Kevin and Ron Barker owned a partnership which owned a chain of six gas stations in an Iowa city. In 2011, the Barkers sold 100 percent of the property of two of the gas stations and received a capital gain of $30,000 from the sale. Separate business records were kept for each of the gas stations. Since the partnership was considered to be a unitary business and the Barkers sold less than 90 percent of the fair market value of the business, the Barkers could not exclude the capital gain from the sale of the gas stations from the incomes reported on their 2011 Iowa returns. However, any gain from the sale of the real property may qualify for exclusion, assuming the ten-year time held and material participation qualifications are met.

EXAMPLE 7. Rudy Stern owned a cafe in one Iowa city and a fast-food restaurant in another Iowa city. Mr. Stern had held both businesses and had materially participated in the operation of both businesses for ten years. Each business was operated with a separate manager and kept separate business records.
In 2011, Mr. Stern sold all the tangible and intangible assets associated with the cafe and received a capital gain from the sale of the cafe. Mr. Stern can exclude the capital gain from his net income for 2011 because the cafe and fast-food restaurant were considered to be separate and distinct nonunitary businesses.

**Example 8.** Doug Jackson is a shareholder in an S corporation, Jackson Products Corporation. Mr. Jackson has a 75 percent ownership interest in the S corporation, and he has materially participated in the operations of the S corporation since its incorporation in 1980. In 2008, Mr. Jackson transferred 10 percent of his ownership interest in the S corporation to Doug Jackson Irrevocable Trust. The income from the irrevocable trust was reported on Mr. Jackson’s individual income tax return. In 2011, the assets of Jackson Products Corporation were sold, resulting in a capital gain. Mr. Jackson can claim the capital gain deduction on both his 65 percent ownership held in his name and the 10 percent irrevocable trust ownership since the capital gain from the irrevocable trust flows through to Mr. Jackson’s income tax return, and Mr. Jackson retained a 75 percent interest in the S corporation for more than ten years.

**40.38(4)** Net capital gains from sales of cattle or horses used for certain purposes which were held for 24 months by taxpayers who received more than one-half of their gross incomes from farming or ranching operations. Net capital gains from the sales of cattle or horses held for 24 months or more for draft, breeding, dairy, or sporting purposes qualify for the capital gain deduction if more than 50 percent of the taxpayer’s gross income in the tax year is from farming or ranching operations. Proper records should be kept showing purchase and birth dates of cattle and horses. The absence of records may make it impossible for the owner to show that the owner held a particular animal for the necessary holding period. Whether cattle or horses are held for draft, breeding, dairy, or sporting purposes depends on all the facts and circumstances of each case.

a. Whether cattle or horses sold by the taxpayer after the taxpayer has held them 24 months or more were held for draft, breeding, dairy, or sporting purposes may be determined from federal court cases on such sales and the standards and examples included in 26 CFR §1.1231-2.

b. In situations where the qualifying cattle or horses are sold by the taxpayer to a lineal descendant of the taxpayer, the taxpayer does not need to have had more than 50 percent of gross income in the tax year from farming or ranching activities in order for the capital gain to be excluded.

c. Capital gains from sales of qualifying cattle or horses by an S corporation, partnership, or limited liability company, where the capital gains flow through to the individual owners for federal income tax purposes, are eligible for the exclusion only in situations in which the individual owners have more than 50 percent of their gross incomes in the tax year from farming or ranching activities, or where the sale of the qualifying cattle or horses was to lineal descendants of the owners reporting the capital gains from the sales of the qualifying cattle or horses.

d. Capital gains from sales of qualifying cattle or horses by a C corporation are not eligible for the capital gain deduction.

e. A taxpayer’s gross income from farming or ranching includes amounts the individual has received in the tax year from cultivating the soil or raising or harvesting any agricultural commodities. Gross income from farming or ranching includes the income from the operation of a stock, dairy, poultry, fish, bee, fruit, or truck farm, plantation, ranch, nursery, range, orchard, or oyster bed, as well as income in the form of crop shares received from the use of the taxpayer’s land. Gross income from farming or ranching also includes total gains from sales of draft, breeding, dairy, or sporting livestock. In the case of individual income tax returns for the 2011 tax year, gross income from farming or ranching includes the total of the amounts from line 9 or line 50 of Schedule F and line 7 of Form 4835, Farm Rental Income and Expenses, plus the share of partnership income from farming, the share of distributable net taxable income from farming of an estate or trust, and total gains from the sale of livestock held for draft, breeding, dairy, or sporting purposes, as shown on Form 4797, Sale of Business Property. In the case of an individual’s returns for tax years beginning after 2011, equivalent lines from returns and supplementary forms would be used to determine a taxpayer’s gross income from farming or ranching for those years.

To make the calculation as to whether more than half of the taxpayer’s gross income in the tax year is from farming or ranching operations, the gross income from farming or ranching as determined in the
previous paragraph is divided by the taxpayer’s total gross income. If the resulting percentage is greater than 50 percent, the taxpayer’s capital gains from sales of cattle and horses will be considered for the capital gain deduction.

In instances where married taxpayers file a joint return, the gross income from farming or ranching of both spouses will be considered for the purpose of determining whether the taxpayers received more than half of their gross income from farming or ranching. However, in situations where married taxpayers file separate Iowa returns or separately on the combined return form, each spouse must separately determine whether that spouse has more than 50 percent of gross income from farming or ranching operations.

Example. Bob Deen had a cattle operation that owned black angus cattle in the operation for breeding purposes. In 2011, Mr. Deen sold 40 head of cattle that had been held for breeding purposes for two years. Mr. Deen’s total gross income from farming was $125,000, but he had a $10,000 loss from his farming operation. Mr. Deen also had wages of $25,000 from a job at a local farming cooperative. Because Mr. Deen had more than 50 percent of his gross income in 2011 from farming operations, he could exclude the capital gain from the sale of the breeding cattle. Although Mr. Deen had a loss from his farming activities, he still had more than 50 percent of his gross income in the tax year from those activities.

40.38(5) Net capital gains from sale of breeding livestock, other than cattle or horses, held for 12 or more months by taxpayers who received more than one-half of their gross incomes from farming or ranching operations. Net capital gains from the sale of breeding livestock, other than cattle or horses, held for 12 or more months from the date of acquisition qualify for the capital gain deduction, if more than one-half of the taxpayer’s gross income is from farming or ranching. For the purposes of this subrule, “livestock” has a broad meaning and includes hogs, mules, donkeys, sheep, goats, fur-bearing mammals, and other mammals. Livestock does not include poultry, chickens, turkeys, pigeons, geese, other birds, fish, frogs, or reptiles. If livestock other than cattle or horses is considered to have been held for breeding purposes under the criteria established in 26 CFR §1.1231-2, the livestock will also be deemed to have been breeding livestock for purposes of this subrule. In addition, for the purposes of this subrule livestock does not include cattle and horses held for 24 or more months for draft, breeding, dairy, or sporting purposes which were described in subrule 40.38(4).

a. The procedure in subrule 40.38(4) for determining whether more than one-half of a taxpayer’s gross income is from farming or ranching operations is also applicable for this subrule.

b. In an instance in which a taxpayer sells breeding livestock other than cattle or horses which have been held for 12 or more months, and the sale of the livestock is to a lineal descendant of the taxpayer, the taxpayer is not required to have more than one-half of the gross income in the tax year from farming or ranching operations to be eligible for the capital gain deduction.

c. Capital gains from sales of qualifying livestock other than cattle or horses by an S corporation, partnership, or limited liability company, where the capital gains flow through to the owners of the respective business entity for federal income tax purposes, qualify for the capital gain deduction to the extent the owners receiving the capital gains meet the qualifications for the deduction on the basis of having more than one-half of the gross income in the tax year from farming or ranching operations.

d. Capital gains from the sale of qualifying livestock other than cattle or horses by a C corporation are not eligible for the capital gain deduction.

40.38(6) Net capital gains from sales of timber held by the taxpayer for more than one year. Capital gains from qualifying sales of timber held by the taxpayer for more than one year are eligible for the capital gain deduction. In all of the following examples of circumstances where gains from sales of timber qualify for capital gain treatment, it is assumed that the timber sold was held by the owner for more than one year at the time the timber was sold. The owner of the timber can be the owner of the land on which the timber was cut or the holder of a contract to cut the timber. In the case where a taxpayer sells standing timber the taxpayer held for investment, any gain from the sale is a capital gain. Timber includes standing trees usable for lumber, pulpwood, veneer, poles, pilings, cross ties, and other wood products. Timber eligible for the capital gain deduction does not apply to sales of pulpwood cut by a contractor from the tops and limbs of felled trees. Under the general rule, the cutting of timber results in no gain or loss, and it is not until the sale or exchange that gain or loss is realized. But if a taxpayer
owned or had a contractual right to cut timber, the taxpayer may make an election to treat the cutting of timber as a sale or exchange in the year the timber is cut. Gain or loss on the cutting of the timber is determined by subtracting the adjusted basis for depletion of the timber from the fair market value of the timber on the first day of the tax year in which the timber is cut. For example, the gain on this type of transaction is computed as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fair market value of timber on January 1, 2011</td>
<td>$400,000</td>
</tr>
<tr>
<td>Adjusted basis for depletion</td>
<td>−$100,000</td>
</tr>
<tr>
<td>Capital gain on cutting of timber</td>
<td>$300,000</td>
</tr>
</tbody>
</table>

The fair market value shown above of $400,000 is the basis of the timber. A later sale of the cut timber including treetops and stumps would result in ordinary income for the taxpayer and not a capital gain.

a. Evergreen trees, such as those used as Christmas trees, that are more than six years old at the time they are severed from their roots and sold for ornamental purposes, are included in the definition of timber for purposes of this subrule. The term “evergreen trees” is used in its commonly accepted sense and includes pine, spruce, fir, hemlock, cedar, and other coniferous trees. Where customers of the taxpayer cut down the Christmas tree of their choice on the taxpayer’s farm, there is no sale until the tree is cut. However, evergreen trees sold in a live state do not qualify for capital gain treatment.

b. Capital gains or losses also are received from sales of timber by a taxpayer who has a contract which gives the taxpayer an economic interest in the timber. The date of disposal of the timber shall be the day the timber is cut, unless payment for the timber is received before the timber is cut. Under this circumstance, the taxpayer may treat the date of the payment as the date of disposal of the timber. Additional information about gains and losses from the sale of timber is included under 26 CFR §1.631-1 and §1.631-2.

c. Capital gains from the sale of qualifying timber by an S corporation, partnership, or limited liability company, which flow to the owners of the respective business entity for federal individual income tax purposes, are eligible for the capital gain deduction.

d. Capital gains from the sale of timber by a C corporation do not qualify for the capital gain deduction.

40.38(7) Capital gains from the liquidation of assets of corporations which are recognized as sales of assets for federal income tax purposes. Capital gains realized from liquidations of corporations which are recognized as sales of assets for federal income tax purposes under Section 331 of the Internal Revenue Code may be eligible for the capital gain deduction. To the extent the capital gains are reported by the shareholders of the corporations for federal income tax purposes and the shareholders are individuals, the shareholders are eligible for the capital gain deduction if the shareholders meet the qualifications for time of ownership and time of material participation in the corporation being liquidated. The burden of proof is on the shareholders to show they meet these time of ownership and material participation requirements.

40.38(8) Capital gains from certain stock sales which are treated as acquisitions of assets of the corporation for federal income tax purposes. Capital gains received by individuals from a sale of stock of a target corporation which is treated as an acquisition of the assets of the corporation under Section 338 of the Internal Revenue Code may be excluded if the individuals receiving the capital gains had held an interest in the target corporation and had materially participated in the corporation for ten years prior to the date of the sale of the corporation. The burden of proof is on the taxpayer to show eligibility to exclude the capital gains from these transactions in the computation of net income for Iowa individual income tax purposes.

40.38(9) Treatment of capital gain deduction for tax years with net operating losses and for tax years to which net operating losses are carried. The following paragraphs describe the tax treatment of the capital gain deduction in a tax year with a net operating loss and the tax treatment of a capital gain deduction in a tax year to which a net operating loss was carried:
a. The capital gain deduction otherwise allowable on a return is not allowed for purposes of computing a net operating loss from the return which can be carried to another tax year and applied against the income for the other tax year.

EXAMPLE. Joe Jones filed a 2011 return showing a net loss of $12,000. On this return, Mr. Jones claimed a capital gain deduction of $3,000 from sale of breeding livestock, other than cattle or horses, held for 12 months or more which was considered in computing the loss of $12,000. However, the $3,000 capital gain deduction is not allowed in the computation of the net operating loss deduction for 2011 for purposes of carrying the net operating loss deduction to another tax year. Thus, the net operating loss deduction for 2011 is $9,000.

b. In the case of net operating losses which are carried back to a tax year where the taxpayer has claimed the capital gain deduction, the capital gain deduction is not allowed for purposes of computing the income to which the net operating loss deduction is applied.

EXAMPLE. John Brown had a net operating loss of $20,000 on the Iowa return he filed for 2011. Mr. Brown elected to carry back the net operating loss to his 2009 Iowa return. The 2009 return showed a taxable income of $27,000 which included a capital gain deduction of $3,000. For purposes of computing the income in the carryback year to which the net operating loss would be applied, the income was increased by $3,000 to disallow the capital gain deduction properly allowed in computing taxable income for the carryback year. Therefore, the net operating loss deduction from 2011 was applied to an income of $30,000 for the carryback year.

40.38(10) Sale of employer securities to an Iowa employee stock ownership plan. For tax years beginning on or after January 1, 2012, 50 percent of the net capital gain from the sale or exchange of employer securities of an Iowa corporation to a qualified Iowa employee stock ownership plan (ESOP) may be eligible for the Iowa capital gain deduction. To be eligible for the capital gain deduction, the qualified Iowa ESOP must own at least 30 percent of all outstanding employer securities issued by the Iowa corporation after completion of the transaction.

a. Definitions. The following definitions apply to this subrule:

“Employer securities” means the same as defined in Section 409(l) of the Internal Revenue Code.

“Employer securities” includes common stock issued by the employer and preferred stock if the provisions of Section 409(l)(3) of the Internal Revenue Code are met.

“Iowa corporation” means a corporation whose commercial domicile, as defined in Iowa Code section 422.32, is in Iowa. A limited liability company is not considered an Iowa corporation.

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

b. The material participation requirements set forth in subrule 40.38(1) do not apply for the sale of employer securities to an Iowa ESOP. In addition, the holding period requirements set forth in paragraph 40.38(2) “a” do not apply for the sale of employer securities to an Iowa ESOP.

This rule is intended to implement Iowa Code section 422.7 as amended by 2012 Iowa Acts, House File 2465, division XII.

[ARC 7761B, IAB 5/6/09, effective 6/10/09; ARC 0073C, IAB 4/4/12, effective 5/9/12; ARC 0398C, IAB 10/17/12, effective 11/21/12; ARC 1303C, IAB 2/5/14, effective 3/12/14]

701—40.39(422) Exemption of interest from bonds or notes issued to fund the E911 emergency telephone system. Interest received on or after May 4, 1990, from bonds or notes issued by the Iowa finance authority to fund the E911 emergency telephone system is exempt from the state income tax.

This rule is intended to implement Iowa Code sections 422.7 and 477B.20.

701—40.40(422) Exemption of active-duty military pay of national guard personnel and armed forces reserve personnel received for services related to operation desert shield. For tax years ending on or after August 2, 1990, military pay received by persons in the national guard and persons in the armed forces military reserve is exempt from state income tax to the extent the military pay is not otherwise excluded from taxation and the military pay is for active-duty military service on or after August 2, 1990, pursuant to military orders related to Operation Desert Shield. The exemption applies
to individuals called to active duty in Iowa to replace other persons who were in military units who were called to serve on active duty outside Iowa provided the military orders specify that the active duty assignment in Iowa pertains to Operation Desert Shield.

Persons filing original returns or amended returns on Form IA 1040X for tax years where the exempt income was received should print the notation, “Operation Desert Shield” at the top of the original return form or amended return form. A copy of the military orders showing the person was called to active duty and was called in support of Operation Desert Shield should be attached to the original return form or amended return form to support the exemption of the active duty military pay.

This rule is intended to implement Iowa Code section 422.7.


701—40.42(422) Depreciation of speculative shell buildings.

40.42(1) For tax years beginning on or after January 1, 1992, speculative shell buildings constructed or reconstructed after that date may be depreciated as 15-year property under the accelerated cost recovery system of the Internal Revenue Code. If the taxpayer has deducted depreciation on the speculative shell building on the taxpayer’s federal income tax return, that amount of depreciation must be added to the federal adjusted gross income in order to deduct depreciation computed under this rule.

40.42(2) On sale or other disposition of the speculative building, the taxpayer must report on the taxpayer’s Iowa individual income tax return the same gain or loss as is reported on the taxpayer’s federal individual income tax return. If, while owned by the taxpayer, the building is converted from a speculative shell building to another use, the taxpayer must deduct the same amount of depreciation on the taxpayer’s Iowa tax return as is deducted on the taxpayer’s federal tax return.

40.42(3) For the purposes of this rule, the term “speculative shell building” means a building as defined in Iowa Code section 427.1(27)”c.”

This rule is intended to implement Iowa Code section 422.7.

701—40.43(422) Retroactive exemption for payments received for providing unskilled in-home health care services to a relative. Retroactive to January 1, 1988, for tax years beginning on or after that date, supplemental assistance payments authorized under Iowa Code section 249.3(2)”a”(2) which are received by an individual providing unskilled in-home health care services to a member of the caregiver’s family are exempt from state income tax to the extent that the individual caregiver is not a licensed health care professional designated in Iowa Code section 147.13, subsections 1 to 10.

For purposes of this exemption, a member of the caregiver’s family includes a spouse, parent, stepparent, child, stepchild, brother, stepbrother, sister, stepsister, lineal ancestor such as grandparent and great-grandparent, and lineal descendant such as grandchild and great-grandchild, and those previously described relatives who are related by marriage or adoption. Those licensed health care professionals who are not eligible for this exemption include medical doctors, doctors of osteopathy, physician assistants, psychologists, podiatrists, chiropractors, physical therapists, occupational therapists, nurses, dentists, dental hygienists, optometrists, speech pathologists, audiologists, and other similar licensed health care professionals.

This rule is intended to implement Iowa Code section 422.7.

[ARC 7761B, IAB 5/6/09, effective 6/10/09; ARC 8589B, IAB 3/10/10, effective 4/14/10]

701—40.44(422,541A) Individual development accounts. Individual development accounts are authorized for low-income taxpayers for tax years beginning on or after January 1, 1994. Additions to the accounts are described in the following subrule:

40.44(1) Exemption of additions to individual development accounts. The following additions to individual development accounts are exempt from the state income tax of the owners of the accounts to the extent the additions were subject to federal income tax:

a. The amount of contributions made in the tax year to an account by persons and entities other than the owner of the account.
b. The amount of any savings refund or state match payments made in the tax year to an account as authorized for contributions made to the accounts by the owner of the account.

c. Earnings on the account in the tax year or interest earned on the account.

40.44(2) *Additions to net income for withdrawals from individual development accounts.* Rescinded IAB 9/11/96, effective 10/16/96.

This rule is intended to implement Iowa Code sections 422.7, 541A.2 and 541A.3 as amended by 2008 Iowa Acts, Senate File 2430.

**701—40.45(422) Exemption for distributions from pensions, annuities, individual retirement accounts, or deferred compensation plans received by nonresidents of Iowa.** For tax years beginning on or after January 1, 1994, a distribution from a pension plan, annuity, individual retirement account, or deferred compensation plan which is received by a nonresident of Iowa is exempt from Iowa income tax to the extent the distribution is directly related to the documented retirement of the pensioner, annuitant, owner of individual retirement account, or participant in a deferred compensation arrangement. For tax years beginning on or after January 1, 1996, distributions of nonqualified retirement benefits which are paid by a partnership to its retired partners and which are received by a nonresident of Iowa are exempt from Iowa income tax to the extent the distribution is directly related to the documented retirement of the partner. In a situation where the pensioner, annuitant, owner of the individual retirement account, or participant of a deferred compensation arrangement dies before the date of documented retirement, any distribution from the pension, annuity, individual retirement account, or deferred compensation arrangement will not be taxable to the beneficiary receiving the distributions if the beneficiary is a nonresident of Iowa. If the pensioner, annuitant, owner of the individual retirement account, or participant of a deferred compensation arrangement dies after the date of documented retirement, any distributions from the pension, annuity, individual retirement account, or deferred compensation arrangement will not be taxable to a beneficiary receiving distributions if the beneficiary is a nonresident of Iowa.

For purposes of this rule, the distributions from the pensions, annuities and deferred compensation arrangements were from pensions, annuities, and deferred compensation earned entirely or at least partially from employment or self-employment in Iowa. For purposes of this rule, distributions from individual retirement arrangements were from individual retirement arrangements that were funded by contributions from the arrangements that were deductible or partially deductible on the Iowa income tax return of the owner of the individual retirement accounts.

The following subrules include definitions and examples which clarify when distributions from pensions, annuities, individual retirement accounts, and deferred compensation arrangements are exempt from Iowa income tax, when the distributions are received by nonresidents of Iowa:

40.45(1) *Definitions.*

a. The word “beneficiary” means an individual who receives a distribution from a pension or annuity plan, individual retirement arrangement, or deferred compensation plan as a result of either the death or divorce of the pensioner, annuitant, participant of a deferred compensation arrangement, or owner of an individual retirement account.

b. The term “individual’s documented retirement” means any evidence that the individual can provide to the department of revenue which would establish that the individual or the individual’s beneficiary is receiving distributions from the pension, annuity, individual retirement account, or the deferred compensation arrangement due to the retirement of the individual.

Examples of documents that would establish an individual’s retirement may include: copies of birth certificates or driver’s licenses to establish an individual’s age; copies of excerpts from an employer’s personnel manual or letter from employer to establish retirement or early retirement policies; a copy of a statement from a physician to establish an individual’s disability which could have contributed to a person’s retirement.

c. The term “nonresident” applies only to individuals and includes all individuals other than those individuals domiciled in Iowa and those individuals who maintain a permanent place of abode in Iowa. See 701—subrule 38.17(2) for the definition of domicile.
40.45(2) **Examples:**

a. John Jones had worked for the same Iowa employer for 32 years when he retired at age 62 and moved to Arkansas in March of 1994. Mr. Jones started receiving distributions from the pension plan from his former employer starting in May 1994. Because Mr. Jones was able to establish that he was receiving the distributions from the pension plan due to his retirement from his employment, Mr. Jones was not subject to Iowa income tax on the distributions from the pension plan. Note that Mr. Jones had sold his Iowa residence in March and established his domicile in Arkansas at the time of his move to Arkansas.

b. Wanda Smith was the daughter of John Smith who died in February 1994 after 25 years of employment with a company in Urbandale, Iowa. Wanda Smith was the sole beneficiary of John and started receiving distributions from John’s pension in April 1994. Wanda Smith was a bona fide resident of Oakland, California, when she received distributions from her father’s pension. Wanda was not subject to Iowa income tax on the distributions since she was a nonresident of Iowa at the time the distributions were received.

c. Martha Graham was 55 years old when she quit her job with a firm in Des Moines to take a similar position with a firm in Dallas, Texas. Ms. Graham had worked for the Des Moines business for 22 years before she resigned from the job in May 1994. Starting in July 1994, Ms. Graham received monthly distributions from the pension from her former Iowa employer. Although Ms. Graham was a nonresident of Iowa, she was subject to Iowa income tax on the pension distribution since the taxpayer didn’t have a documented retirement.

d. William Moore was 58 years old when he quit his job with a bank in Mason City in February 1994 after 30 years of employment with the bank. By the time Mr. Moore started receiving pension payments from his employment with the bank, he had moved permanently to New Mexico. Shortly after he arrived in New Mexico, Mr. Moore secured part-time employment. The pension payments were not taxable to Iowa as Mr. Moore was retired notwithstanding his part-time employment in New Mexico.

e. Joe Brown had worked for an Iowa employer for 25 years when he retired in June 1992 at the age of 65. Mr. Brown started receiving monthly pension payments in July 1992. Mr. Brown resided in Iowa until August 1994, when he moved permanently to Nevada to be near his daughter. Mr. Brown was not taxable to Iowa on the pension payments he received after his move to Nevada. Mr. Brown’s retirement occurred in June 1992 when he resigned from full-time employment.

This rule is intended to implement Iowa Code section 422.8.

701—40.46(422) **Taxation of compensation of nonresident members of professional athletic teams.** Effective for tax years beginning on or after January 1, 1995, the Iowa source income of a nonresident individual who is a member of a professional athletic team includes the portion of the individual’s total compensation for services provided for the athletic team that is in the ratio that the number of duty days spent in Iowa rendering services for the team during the tax year bears to the total number of duty days spent both within and without Iowa in the tax year. Thus, if a nonresident member of a professional athletic team has $50,000 in total compensation from the team in 1995 and the athlete has 20 Iowa duty days and 180 total duty days for the team in 1995, $5,556 of the compensation would be taxable to Iowa ($50,000 × 20/180 = $5,556).

The following subrules include definitions, examples, and other information which clarify Iowa’s taxation of nonresident members of professional athletic teams:

40.46(1) **Definitions.**

a. The term “professional athletic team” includes, but is not limited to, any professional baseball, basketball, football, soccer, or hockey team.

b. The term “member of a professional athletic team” includes those employees who are active players, players on the disabled list, and any other persons required to travel and who travel with and perform services on behalf of a professional athletic team on a regular basis. This includes, but is not limited to, coaches, managers, and trainers.

c. The term “total compensation for services rendered as a member of a professional athletic team” means the total compensation received during the taxable year for services rendered. “Total
compensation” includes, but is not limited to, salaries, wages, bonuses (as described in subparagraph (1) of this paragraph), and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year. Such compensation does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, and any other payments not related to services rendered for the team.

For purposes of this paragraph, “bonuses” included in “total compensation for services rendered as a member of a professional athletic team” subject to the allocation described in this rule are:

1. Bonuses earned as a result of play (i.e., performance bonuses) during the season, including bonuses paid for championship, playoff, or “bowl” games played by a team, or for the member’s selection to all-star, league, or other honorary positions; and
2. Bonuses paid for signing a contract, unless all of the following conditions are met:
   1. The payment of the signing bonus is not conditional upon the signee playing any games for the team, or performing any subsequent services for the team, or even making the team;
   2. The signing bonus is payable separately from the salary and any other compensation; and
   3. The signing bonus is nonrefundable.
   d. Except as provided in subparagraphs (4) and (5) of this paragraph, the term “duty days” means all days during the taxable year from the beginning of the professional athletic team’s official preseason training period through the last game in which the team competes or is scheduled to compete. Duty days are included in the allocation described in this rule for the tax year in which they occur, including where a team’s official preseason training period through the last game in which the team competes, or is scheduled to compete, occurs during more than one tax year.
3. Duty days also includes days on which a member of a professional athletic team renders a service for a team on a date which does not fall within the previously mentioned period (e.g., participation in instructional leagues, the “Pro Bowl” or promotional “caravans”). Rendering a service includes conducting training and rehabilitation activities, but only if conducted at the facilities of the team.
4. Included within duty days are game days, practice days, days spent at team meetings, promotional caravans and preseason training camps, and days served with the team through all postseason games in which the team competes or is scheduled to compete.
5. Duty days for any person who joins a team during the period from the beginning of the professional athletic team’s official preseason training period through the last game in which the team competes, or is scheduled to compete, begins on the day the person joins the team. Conversely, duty days for any person who leaves a team during such period ends on the day the person leaves the team. When a person switches teams during a taxable year, separate duty day calculations are to be made for the period the person was with each team.
6. Days for which a member of a professional athletic team is not compensated and is not rendering services for the team in any manner, including days when the member of a professional athletic team has been suspended without pay and prohibited from performing any services for the team, are not to be treated as duty days.
7. Days for which a member of a professional athletic team is on the disabled list and does not conduct rehabilitation activities at facilities of the team and is not otherwise rendering services for the team in Iowa, are not to be considered duty days spent in Iowa. However, all days on the disability list are considered to be included in total duty days spent both within and outside the state of Iowa.
8. Total duty days for members of a professional athletic team that are not professional athletes are the number of days in the year that the members are employed by the professional athletic team. Thus, in the case of a coach of a professional athletic team who was coach for the entire year of 1995, the coach’s total duty days for 1995 would be 365.
9. Travel days in Iowa by a team member that do not involve a game, practice, team meeting, all-star game, or other personal service for the team are not considered to be duty days in Iowa. However, to the extent these days fall within the period from the team’s preseason training period through the team’s final game, these Iowa travel days will be considered in the total duty days spent within and outside Iowa, for team members who are professional athletes.
Duty days in Iowa do not include days a team member performs personal services for the professional athletic team in Iowa on those days that the team member is a bona fide resident of a state with which Iowa has a reciprocal tax agreement. See rule 701—38.13(422).

**40.46(2) Filing composite Iowa returns for nonresident members of professional athletic teams.** Professional athletic teams may file composite Iowa returns on behalf of team members who are nonresidents of Iowa and who have compensation that is taxable to Iowa from duty days in Iowa for the athletic team. However, the athletic team may include on the composite return only those team members who are nonresidents of Iowa and who have no Iowa source incomes other than the incomes from duty days in Iowa for the team. The athletic team may exclude from the composite return any team member who is a nonresident of Iowa and whose income from duty days in Iowa is less than $1,000. See rule 701—48.1(422) about filing Iowa composite returns.

**40.46(3) Examples of taxation of nonresident members of professional athletic teams.**

a. Player A, a member of a professional athletic team, is a nonresident of Iowa. Player A’s contract for the team requires A to report to such team’s training camp and to participate in all exhibition, regular season, and playoff games. Player A has a contract which covers seasons that occur during year 1/year 2 and year 2/year 3. Player A’s contract provides that A is to receive $500,000 for the year 1/year 2 season and $600,000 for the year 2/year 3 season. Assuming player A receives $550,000 from the contract during taxable year 2 ($250,000 for one-half the year 1/year 2 season and $300,000 for one-half the year 2/year 3 season), the portion of compensation received by player A for taxable year 2, attributable to Iowa, is determined by multiplying the compensation player A receives during the taxable year ($550,000) by a fraction, the numerator of which is the total number of duty days player A spends rendering services for the team in Iowa during taxable year 2 (attributable to both the year 1/year 2 season and the year 2/year 3 season) and the denominator of which is the total number of player A’s duty days spent both within and outside Iowa for the entire taxable year.

b. Player B, a member of a professional athletic team, is a nonresident of Iowa. During the season, B is injured and is unable to render services for B’s team. While B is undergoing medical treatment at a clinic, which is not a facility of the team, but is located in Iowa, B’s team travels to Iowa for a game. The number of days B’s team spends in Iowa for practice, games, meetings, for example, while B is present at the clinic, are not to be considered duty days spent in Iowa for player B for that taxable year for purposes of this rule, but these days are considered to be included within total duty days spent both within and outside Iowa.

c. Player C, a member of a professional athletic team, is a nonresident of Iowa. During the season, C is injured and is unable to render services for C’s team. C performs rehabilitation exercises at the facilities of C’s team in Iowa as well as at personal facilities in Iowa. The days C performs rehabilitation exercise in the facilities of C’s team are considered duty days spent in Iowa for player C for that taxable year for purposes of this rule. However, days player C spends at personal facilities in Iowa are not to be considered duty days spent in Iowa for player C for that taxable year for purposes of this rule, but the days are considered to be included within total duty days spent both within and outside Iowa.

d. Player D, a member of a professional athletic team, is a nonresident of Iowa. During the season, D travels to Iowa to participate in the annual all-star game as a representative of D’s team. The number of days D spends in Iowa for practice, the game, meetings, for example, are considered to be duty days spent in Iowa for player D for that taxable year for purposes of this rule, as well as included within total duty days spent both within and outside Iowa.

e. Assume the same facts as given in paragraph “d,” except that player D is not participating in the all-star game and is not rendering services for D’s team in any manner. Player D is instead traveling to and attending this game solely as a spectator. The number of days player D spends in Iowa for the game is not to be considered to be duty days spent in Iowa for purposes of this rule. However, the days are considered to be included within total duty days spent both within and outside Iowa.

**40.46(4) Use of an alternative method to compute taxable portion of a nonresident’s compensation as a member of a professional athletic team.** If a nonresident member of a professional athletic team believes that the method provided in this rule for allocation of the member’s compensation to Iowa is not equitable, the nonresident member may propose the use of an alternative method for the allocation
of the compensation to Iowa. The request for an alternative method for allocation must be filed no later than 60 days before the due date of the return, considering that the due date may be extended for up to 6 months after the original due date if at least 90 percent of the tax liability was paid by the original due date (April 30 for taxpayers filing on a calendar-year basis).

The request for an alternative method should be filed with the Taxpayer Services and Policy Division, P.O. Box 10457, Des Moines, Iowa 50306. The request must set forth the alternative method for allocation to Iowa of the compensation of the nonresident professional team member. In addition, the request must specify, in detail, why the method for allocation of the compensation set forth in this rule is not equitable, as well as why the alternative method for allocation of the compensation is more equitable than the method provided in this rule. The burden of proof is on the nonresident professional team member to show that the alternative method is more equitable than the method provided in the rule.

If the department determines that the alternative method is more reasonable for allocation of the taxable portion of the team member’s compensation than the method provided in this rule, the team member can use the alternative method on the current return and on subsequent returns.

If the department rejects the team member’s use of the alternative method, the team member may file a protest within 60 days of the date of the department’s letter of rejection. The nonresident team member’s protest of the department’s rejection of the alternate formula must be made in accordance with rule 701—7.8(17A) and must state, in detail, why the method provided in this rule is not equitable, as well as why the alternative method for allocation of the compensation is more equitable than the method set forth in this rule.

This rule is intended to implement Iowa Code sections 422.3, 422.7, and 422.8. [ARC 7761B, IAB 5/6/09, effective 6/10/09; ARC 0251C, IAB 8/8/12, effective 9/12/12]

701—40.47(422) Partial exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses, and survivors. For tax years beginning on or after January 1, 1995, an individual who is disabled, is 55 years of age or older, is a surviving spouse, or is a survivor with an insurable interest in an individual who would have qualified for the exclusion is eligible for a partial exclusion of retirement benefits received in the tax year. For tax years beginning on or after January 1, 2001, the partial exclusion of retirement benefits received in the tax year is increased up to a maximum of $6,000 for a person other than a husband or wife who files a separate state return and up to a maximum of $12,000 for a husband and wife who file a joint Iowa return. For tax years beginning on or after January 1, 1998, the partial exclusion of retirement benefits received in the tax year was increased up to a maximum of $5,000 for a person, other than a husband or wife who files a separate state income tax return, and up to a maximum of $10,000 for a husband and wife who file a joint state income tax return. A husband and wife filing separate state income tax returns or separately on a combined state return are allowed a combined exclusion of retirement benefits of up to a maximum of $10,000 for tax years beginning in 1998, 1999 and 2000 and a combined exclusion of up to a maximum of $12,000 for tax years beginning on or after January 1, 2001. The $10,000 or $12,000 exclusion shall be allocated to the husband and wife in the proportion that each spouse’s respective pension and retirement benefits received bear to the total combined pension and retirement benefits received by both spouses. See rule 701—40.80(422) for the exclusion of military retirement pay for tax years beginning on or after January 1, 2014.

Example 1. A married couple elected to file separately on the combined return form. Both spouses were 55 years of age or older. The wife received $95,000 in retirement benefits and the husband received $5,000 in retirement benefits. Since the wife received 95 percent of the retirement benefits, she would be entitled to 95 percent of the $10,000 retirement income exclusion or a retirement income exclusion of $9,500. The husband would be entitled to 5 percent of the $10,000 retirement income exclusion or an exclusion of $500.

Example 2. A married couple elected to file separately on the combined return form. Both spouses were 55 years of age or older. The husband had $15,000 in retirement benefits from a pension. The wife received no retirement benefits. In this situation, the husband can use the entire $10,000 retirement
income exclusion to exclude $10,000 of his pension benefits since the spouse did not use any of the $10,000 retirement income exclusion for the tax year.

Example 3. A married couple elected to file separately on the combined return form. One spouse was 52 years of age and received a pension income of $20,000. The other spouse was 55 years of age and received no pension income. Since the spouse receiving the pension income was not 55 years of age, no exclusion is allowed on the Iowa return.

Example 4. A married couple elected to file separately on the combined return form. One spouse was 52 years of age and received a pension income of $10,000. The other spouse was 55 years of age and received a pension income of $8,000. Since only one spouse receiving the pension income was 55 years of age, an exclusion of $8,000 is allowed on the Iowa return. The exclusion of $8,000 is allowed since a married couple is allowed a combined exclusion of up to $12,000.

For tax years beginning on or after January 1, 1995, but prior to January 1, 1998, the retirement income exclusion was up to $3,000 for single individuals, up to $3,000 for each married person filing a separate Iowa return, up to $3,000 for each married person filing separately on the combined return form, and up to $6,000 for married taxpayers filing joint Iowa returns. For example, a married couple elected to file separately on the combined return form and both spouses were 55 years of age or older. One spouse had $2,000 in pension income that could be excluded, since the pension income was $3,000 or less. The other spouse had $6,000 in pension income and could exclude $3,000 of that income due to the retirement income exclusion. This second spouse could not exclude an additional $1,000 of the up to $3,000 retirement income exclusion that was not used by the other spouse.

"Insurable interest" is a term used in life insurance which also applies to this rule and is defined to be “such an interest in the life of the person insured, arising from the relations of the party obtaining the insurance, either as credit of or surety for the assured, or from the ties of blood or marriage to him, as would justify a reasonable expectation of advantage or benefit from the continuance of his life.” Warnock v. Davis, 104 U.S. 775, 779, 26 L.Ed. 924; Connecticut Mut. Life Ins. Co. v. Luchs, 2 S.Ct. 949, 952, 108 U.S. 498, 27 L.Ed. 800; Appeal of Corson, 6 A. 213, 215, 113 Pa. 438, 57 Am. Rep. 479; Adams’ Adm’r v. Reed, Ky., 36 S.W. 568, 570; Trinity College v. Travelers’ Co., 18 S.E. 175, 176, 113 N.C. 244, 22 L.R.A. 291; Opitz v. Karel, 95 N.W. 948, 951, 118 Wis. 527, 62 L.R.A. 982. It is not necessary that the expectation of advantage or profit should always be capable of pecuniary estimation, for a parent has an insurable interest in the life of his child, and a child in the life of his parent, a husband in the life of his wife, and a wife in the life of her husband. The natural affection in cases of this kind is considered as more powerful, as operating the more efficaciously, to protect the life of the insured than any other consideration, but in all cases there must be a reasonable ground, founded on relations to each other, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the assured. Warnock v. Davis, 104 U.S. 775, 26 L.Ed. 924; Appeal of Corson, 6 A. 213, 215, 113 Pa. 438, 57 Am. Rep. 479; Connecticut Mut. Life Ins. Co. v. Luchs, 2 S.Ct. 949, 952, 108 U.S. 498, 27 L.Ed. 800.

For purposes of this rule, the term “insurable interest” will be considered to apply to a beneficiary receiving retirement benefits due to the death of a pensioner or annuitant under the same circumstances as if the beneficiary were receiving life insurance benefits as a result of the death of the pensioner or annuitant.

For purposes of this rule, the term “survivor” is a person other than the surviving spouse of an annuitant or pensioner who is receiving the annuity or pension benefits because the person was a beneficiary of the pensioner or annuitant at the time of death of the pensioner or annuitant. In addition, in order for this person to qualify for the partial exclusion of pensions or retirement benefits, this survivor must have had an insurable interest in the pensioner or annuitant at the time of death of the annuitant or pensioner.

A survivor other than the surviving spouse will be considered to have an insurable interest in the pensioner or annuitant if the survivor is a son, daughter, mother, or father of the annuitant or pensioner. The relationship of these individuals to the pensioner or annuitant is considered to be so close that no separate pecuniary or monetary interest between the pensioner or annuitant and any of these relatives must be established.
A survivor may include relatives of the pensioner or annuitant other than those relatives that were mentioned above. However, before any of these relatives can be considered to be a survivor for purposes of this rule, the relative must have had some pecuniary interest in the continuation of the life of the pensioner or annuitant. That is, the relative must establish a relationship with the pensioner or annuitant that shows there was a reasonable expectation of an advantage or benefit which the person would have received with the continuance of the life of the pensioner or annuitant.

The fact that a niece of the pensioner or annuitant was named beneficiary of an uncle’s pension where the uncle had no closer relatives does not in itself establish that the niece had an insurable interest in the pension benefits, if the niece was not receiving monetary benefits or the niece did not have some special relationship to the uncle at the time of the uncle’s death.

If a grandson was receiving college tuition regularly from his grandfather and received the grandfather’s pension as a beneficiary of the grandfather after the grandfather’s death, the grandson would be deemed to have an insurable interest in the benefits and would be eligible for the partial retirement benefit exclusion.

A person who is not related to the pensioner or annuitant, such as a partner in a business or a creditor, may have an insurable interest in the pensioner or annuitant. However, the burden of proof is on a nonrelated person to show that the person had an insurable interest in the pensioner or the annuitant at the time of death of the pensioner or annuitant.

There are numerous court cases which deal with whether a person had established an insurable interest in the life of an individual that was insured. These cases may be used as a guideline to determine whether or not a person receiving a pension or annuity due to the death of an annuitant or pensioner had an insurable interest in the annuitant or pensioner at the time of death of the pensioner or annuitant. Thus, if a person would have met criteria for an insurable interest for purposes of an interest in a person’s life insurance policy, the person would also be considered to be qualified for an insurable interest in a pensioner or annuitant.

Retirement benefits subject to the retirement income exclusion include, but are not limited to: benefits from defined benefit or defined contribution pension and annuity plans, benefits from annuities, incomes from individual retirement accounts, benefits from pension or annuity plans contributed by an employer or maintained or contributed by a self-employed person and benefits and earnings from deferred compensation plans. However, the exclusion does not apply to social security benefits. A surviving spouse who is not disabled or is not 55 years of age or older can only exclude retirement benefits received as a result of the death of the other spouse and on the basis that the deceased spouse would have been eligible for the exclusion in the tax year. In order for a survivor other than the surviving spouse to qualify for the partial exclusion of retirement benefits, the survivor must have received the retirement benefits as a result of the death of a pensioner or annuitant who would have qualified for the exclusion in the tax year on the basis of age or disability. In addition, the survivor other than the surviving spouse would have had to have an insurable interest in the pensioner or annuitant at the time of the death of the pensioner or annuitant.

For purposes of this rule, a disabled individual is a person who is receiving benefits as a result of retirement from employment or self-employment due to disability. In addition, a person is considered to be a disabled individual if the individual is determined to be disabled in accordance with criteria established by the Social Security Administration or other federal or state governmental agency.

Note that the pension or other retirement benefits that are excluded from taxation for certain individuals are to be considered as a part of net income for purposes of determining whether or not a particular individual’s income is low enough to exempt that taxpayer from tax. In addition, the pension or other retirement benefits that are excluded from taxation for certain individuals are to be considered as a part of net income for the alternative tax computation, which is available to all taxpayers except those taxpayers filing as single individuals.

Finally, the pension or other retirement benefits are to be considered as a part of net income for individuals using the single filing status whose tax liabilities are limited so the liabilities cannot reduce the person’s net income plus exempt benefits below $9,000, or below $18,000 for taxpayers 65 years of
age or older for the 2007 and 2008 tax years, or below $24,000 for taxpayers 65 years of age or older for the 2009 and subsequent tax years.

This rule is intended to implement Iowa Code sections 422.5 and 422.7. [ARC 8605B, IAB 3/10/10, effective 4/14/10; ARC 1665C, IAB 10/15/14, effective 11/19/14]

701—40.48(422) Health insurance premiums deduction. For tax years beginning on or after January 1, 1996, the amounts paid by a taxpayer for health insurance for the taxpayer, the taxpayer’s spouse, and the taxpayer’s dependents are deductible in computing net income on the Iowa return to the extent the amounts paid were not otherwise deductible in computing adjusted gross income. However, amounts paid by a taxpayer for health insurance on a pretax basis whereby the portion of the wages of the taxpayer used to pay health insurance premiums is not included in the taxpayer’s gross wages for income tax or social security tax purposes are not deductible on the Iowa return.

In situations where married taxpayers pay health insurance premiums from a joint checking or other joint account and the taxpayers are filing separate state returns or separately on the combined return form, the taxpayers must allocate the deduction between the spouses on the basis of the net income of each spouse to the combined net income unless one spouse can show that only that spouse’s income was deposited to the joint account.

In circumstances where a taxpayer is self-employed and takes a deduction on the 1996 federal return for 30 percent of the premiums paid for health insurance on the federal return, the taxpayer would be allowed a deduction on the Iowa return for the portion of the health insurance premiums that was not deducted on the taxpayer’s federal return, including any health insurance premiums deducted as an itemized medical deduction under Section 213 of the Internal Revenue Code.

For purposes of the state deduction for health insurance premiums, the same premiums for the same health insurance or medical insurance coverage qualify for this deduction as would qualify for the federal medical expense deduction. Thus, premiums paid for contact lens insurance qualify for the health insurance deduction. Also eligible for the deduction for tax years beginning in the 1996 calendar year are premiums paid by a taxpayer before the age of 65 for medical care insurance effective after the age of 65, if the premiums are payable (on a level payment basis) for a period of ten years or more or until the year the taxpayer attains the age of 65 (but in no case for a period of less than five years). For tax years beginning on or after January 1, 1997, premiums for long-term health insurance for nursing home coverage are eligible for this deduction to the extent the premiums for long-term health care services are eligible for the federal itemized deduction for medical and dental expenses, irrespective of the limitations set forth in Section 213(d)(10) of the Internal Revenue Code. For example, a 55-year-old taxpayer who paid $1,050 in premiums for long-term health insurance for nursing home coverage for the 2004 tax year would be allowed a deduction for Iowa purposes for the entire $1,050, even though the limitation for the federal itemized deduction for medical expenses in Section 213(d)(10) of the Internal Revenue Code for these premiums for this taxpayer is $980.

Amounts paid under an insurance contract for other than medical care (such as payment for loss of limb or life or sight) are not deductible, unless the medical charge is stated separately in the contract or provided in a separate statement.

This rule is intended to implement Iowa Code section 422.7 as amended by 1997 Iowa Acts, Senate File 129.

701—40.49(422) Employer social security credit for tips. Employers in the food and beverage industry are allowed a credit under Section 45B of the Internal Revenue Code for a portion of the social security taxes paid or incurred after 1993 on employee tips. The credit is equal to the employer’s FICA obligation attributable to tips received which exceed tips treated as wages for purposes of satisfying minimum wage standards of the Fair Labor Standards Act. The credit is allowed only for tips received by an employee in the course of employment from customers on the premises of a business for which the tipping of employees serving food or beverages is customary. To the extent that an employer takes the credit for a portion of the social security taxes paid or incurred, the employer’s deduction for the
social security tax is reduced accordingly. For Iowa income tax purposes, the full deduction for the social security tax paid or incurred is allowed for tax years beginning on or after January 1, 1994.

This rule is intended to implement Iowa Code Supplement section 422.7.

701—40.50(422) Computing state taxable amounts of pension benefits from state pension plans. For tax years beginning on or after January 1, 1995, a retired member of a state pension plan, or a beneficiary of a member, who receives benefits from the plan where there was a greater contribution to the plan for the member for state income tax purposes than for federal income tax purposes can report less taxable income from the benefits on the Iowa individual income tax return than was reported on the federal return for the same tax year. This rule applies only to a member of a state pension plan, or the beneficiary of a member, who received benefits from the plan sometime after January 1, 1995, and only in circumstances where the member received wages from public employment in 1995, 1996, 1997, or 1998, or possibly in 1999 for certain teachers covered by the state pension plan authorized in Iowa Code chapter 294 so the member had greater contributions to the state pension plan for state income tax purposes than for federal income tax purposes. Starting with wages paid on or after January 1, 1999, to employees covered by a state pension plan other than teachers covered by the state pension plan authorized in Iowa Code chapter 294, contributions made to the pension plan will be made on a pretax basis for state income tax purposes as well as for federal income tax purposes. However, in the case of teachers covered by the state pension plan authorized in Iowa Code chapter 294, contributions to the pension plan on behalf of these teachers on a pretax basis for state income tax purposes may start after January 1, 1999.

For example, in the case of a state employee who was covered by IPERS and had wages from covered public employment of $41,000 or more in 1995, that person would have made posttax contributions to IPERS of $1,517 for state income tax purposes for 1995 and zero posttax contributions to IPERS for federal income tax purposes for 1995. The $1,517 in contributions to IPERS for federal income tax purposes was made on a pretax basis and was considered to have been made by the employee’s employer or the state of Iowa and not the employee. At the time this employee receives retirement benefits from IPERS, the retired employee will be subject to federal income tax on the portion of the benefits that is attributable to the $1,517 IPERS contribution made in 1995. However, this employee will not be subject to state income tax on the portion of the IPERS benefits received which is attributable to the $1,517 contribution to IPERS for 1995.

This rule does not apply to members or beneficiaries of members who elect to take a lump sum distribution of benefits from a state pension plan in lieu of receiving monthly payments of benefits from the plan.

The following subrules further clarify how the portion of certain state pension benefits that is taxable for state individual income tax purposes for tax years beginning on or after January 1, 1995, is determined.

40.50(1) Definitions related to state taxation of benefits from state pension plans. The following definitions clarify those terms and phrases that have a bearing on the state’s taxation of certain individuals who receive retirement benefits from state pension plans:

a. For purposes of this rule, the terms “state pension,” “state pensions,” and “state pension plans” mean only those pensions and those pension plans authorized in Iowa Code chapter 97A for public safety peace officers, chapter 97B for Iowa public employees (IPERS), chapter 294 for certain teachers, and chapter 411 for police officers and firefighters. There are other pension plans available for some public employees in the state which may be described as “state pensions” or “state pension plans” in other contexts or situations, but these pension plans are not covered by this rule. An example of a pension plan that is not a “state pension plan” for purposes of this rule is the judicial retirement system for state judges authorized in Iowa Code section 602.9101.

b. For purposes of this rule, “member” is an individual who was employed in public service covered by a state pension plan and is either receiving or was receiving benefits from the pension plan.
c. For purposes of this rule, “beneficiary” is a person who has received or is receiving benefits from a state pension plan due to the death of an individual or member who earned benefits in a state pension plan.

d. For purposes of this rule, the term “IPERS” means the Iowa public employees retirement system.

e. For purposes of this rule, the term “pretax,” when the term is applied to a contribution made to a state pension plan during a year from a public employee’s compensation, means a contribution to a state pension plan that is not taxed on the employee’s income tax return for the tax year in which the contribution is made. The contribution is considered to have been made by the state or the employee’s employer and not by the employee so this contribution is not part of the employee’s basis in the pension that is not taxed when the pension is received.

   40.50(2) Computation of the taxable amount of the state pension for federal income tax purposes. An individual who receives benefits in the tax year from one of the state pension plans is not subject to federal income tax on the benefits to the extent of the pensioner’s or member’s recovery of posttax contribution to the pension plan. The individual receiving benefits in the year from a state pension plan should get a Form 1099-R showing the total benefits received in the tax year from the pension plan. The individual can determine the federal taxable amount of the benefits by using the general rule or the simplified general rule which is described in federal publication 17 or federal publication 575. Note that members who first receive pension benefits after November 18, 1996, must compute the federal taxable amount of their pension benefits by using the simplified general rule shown in the federal tax publications. Note also that individuals receiving benefits in the tax year from IPERS who started receiving benefits in 1993 or in later years will receive information with the 1099-R form which shows the amount of gross benefits received in the tax year that is taxable for federal income tax purposes.

   40.50(3) Computing the taxable amount of state pension benefits for state individual income tax purposes. An individual receiving state pension benefits in the tax year must have a number of facts about the state pension in order to be able to compute the taxable amount of the pension for Iowa income tax purposes. The individual must know the gross pension benefits received in the tax year, the taxable amount of the pension for federal income tax purposes, the employee’s contribution to the pension for federal income tax purposes, and the employee’s contribution to the pension for state income tax purposes. In situations where the employee’s contribution for state income tax purposes is equal to the contribution for federal income tax purposes, the same amount of the pension will be taxable on the state income tax return as is taxable on the federal return.

   In cases when all of an individual’s employment covered by a state pension plan occurred on or after January 1, 1995, so that all the contributions to the pension plan (other than posttax service purchases) for the employee were made on a pretax basis for federal income tax purposes, all of the benefits received from the pension would be taxed on the federal income tax return. In this situation, the state taxable amount of the pension would be computed using the general rule or the simplified general rule shown in federal publication 17 or federal publication 575. The employee’s state contribution or state basis would be entered on line 2 of the worksheet in the federal publication that is usually used to compute the taxable amount of the pension for the federal income tax return.

   To compute the state taxable amount of the state pension in situations where the employee had a contribution to the pension for federal tax purposes, the federal taxable amount for the year is first subtracted from the gross pension benefit received in the year which leaves the amount of the pension received in the year which was not taxable on the federal return. Next, the member’s posttax contribution or basis in the pension for federal tax purposes is divided by the member’s posttax contribution or basis in the pension for state income tax purposes which provides the ratio of the member’s federal basis or contribution to the member’s state contribution or basis. Next, the amount of the state pension received
in the year that is not taxed on the federal return is divided by the ratio or percentage that was determined in the previous step, which provides the exempt amount of the pension for state tax purposes. Finally, the state exempt amount determined in the previous step is subtracted from the gross amount received in the year, which leaves the taxable amount for state income tax purposes. Note that individuals who retired in 1993 and in years after 1993 and are receiving benefits from IPERS will receive information from IPERS which will advise them of the taxable amount of the pension for state income tax purposes. The examples in subrule 40.50(4) are provided to illustrate how the state taxable amounts of state pension benefits received in the tax year are computed in different factual situations.

40.50(4) Examples.

a. A state employee retired in April 1996 and started receiving IPERS benefits in April 1996. The retired state employee received $1,794.45 in gross benefits from IPERS in 1996. The federal taxable amount of the benefits was $1,690.36. The employee’s federal posttax contribution or basis in the pension was $4,907 and the state posttax contribution or basis was $7,194. The nontaxable amount of the IPERS benefits for federal income tax was $104.09 which was calculated by subtracting the federal taxable amount of $1,690.36 from the gross amount of the benefits of $1,794.45. The ratio of the employee’s posttax contribution to the pension for federal income tax purposes was 68.21 percent of the employee’s contribution to the pension for state income tax purposes. This was determined by dividing $4,907 by $7,194. The nontaxable amount of the IPERS benefit for federal income tax purposes of $104.09 was then divided by 68.21 percent, which is the ratio determined in the previous step, and which results in a total of $152.60. This was the nontaxable amount of the pension for state income tax purposes. When $152.60 is subtracted from the gross benefits of $1,794.45 paid in the year, the remaining amount is $1,641.85 which is the taxable amount of the pension that should be reported on the individual’s Iowa individual income tax return for the 1996 tax year.

b. A state employee retired in July 1995. The retired employee received $1,881.88 in IPERS benefits in 1996 and $1,790.60 of the benefits was taxable on the individual’s federal return for 1996. The person’s federal posttax contribution to the IPERS pension was $3,130 and the posttax contribution for state income tax purposes was $3,821. The amount of benefits not taxable for federal income tax purposes was $91.28 which was computed by subtracting the amount of pension benefits of $1,790.60 that was taxable on the federal income tax return from the gross benefits of $1,881.88 received in 1996. The retiree’s federal posttax contribution of $3,130 to IPERS was divided by the retiree’s posttax contribution of $3,821 to IPERS for state income tax purposes which resulted in a ratio of 81.91 percent. The amount of IPERS benefits of $91.28 exempt for federal income tax purposes is divided by the 81.91 percent computed in the previous step which results in an amount of $111.44 which is the amount of IPERS benefits received in 1996 which is not taxable on the Iowa return. $111.44 is subtracted from the gross benefits of $1,881.88 received in 1996 which leaves the state taxable amount for 1996 of $1,770.44.

This rule is intended to implement Iowa Code section 422.7 as amended by 1998 Iowa Acts, House File 2513.

701—40.51(422) Exemption of active-duty military pay of national guard personnel and armed forces military reserve personnel for overseas services pursuant to military orders for peacekeeping in the Bosnia-Herzegovina area. For active duty military pay received on or after November 21, 1995, by national guard personnel and by armed forces military reserve personnel, the pay is exempt from state income tax to the extent the military pay was earned overseas for services performed pursuant to military orders related to peacekeeping in the Bosnia-Herzegovina area. In order for the active duty pay to qualify for exemption from tax, the military service had to have been performed outside the United States, but not necessarily in the Bosnia-Herzegovina area.

This rule is intended to implement Iowa Code section 422.7 as amended by 1997 Iowa Acts, House File 355.

701—40.52(422) Mutual funds. Iowa does not tax dividend or interest income from regulated investment companies to the extent that such income is derived from interest on United States Government obligations or obligations of this state and its political subdivisions. The exemption is
also applicable to income from regulated investment companies which is derived from interest on government-sponsored enterprises and agencies where federal law specifically precludes state taxation of such interest. Income derived from interest on securities which are merely guaranteed by the federal government or from repurchase agreements collateralized by the United States Government obligations is not excluded and is subject to Iowa income tax. There is no distinction between Iowa’s tax treatment of interest received by a direct investor as compared with a mutual fund shareholder. The interest retains its same character when it “flows-through” the mutual fund and is subject to taxation accordingly.

Taxpayers may subtract from federal adjusted gross income, income received from any of the obligations listed in subrule 40.2(1) and rule 701—40.3(422) above, even if the obligations are owned indirectly through owning shares in a mutual fund:

1. If the fund invests exclusively in these state tax-exempt obligations, the entire amount of the distribution (income) from the fund may be subtracted.
2. If the fund invests in both exempt and nonexempt obligations, the amount represented by the percentage of the distribution that the mutual fund identifies as exempt may be subtracted.
3. If the mutual fund does not identify an exempt amount or percentage, taxpayers may figure the amount to be subtracted by multiplying the distribution by the following fraction: as the numerator, the amount invested by the fund in state-exempt United States obligations; as the denominator, the fund’s total investment. Use the year-end amounts to figure the fraction if the percentage ratio has remained constant throughout the year. If the percentage ratio has not remained constant, take the average of the ratios from the fund’s quarterly financial reports.

Therefore, if the federal adjusted gross income of an individual, taxable by Iowa, includes dividends or interest of this type, an adjustment must be made deducting the amount of the dividend or interest.

This rule is intended to implement Iowa Code section 422.7.

701—40.53(422) Deduction for contributions by taxpayers to the Iowa educational savings plan trust and addition to income for refunds of contributions previously deducted. The Iowa educational savings plan trust was created so that individuals can contribute funds on behalf of beneficiaries in accounts administered by the treasurer of state to cover future higher education costs of the beneficiaries. The Iowa educational savings plan trust includes the college savings Iowa plan and the Iowa advisor 529 plan. The following subrules provide details on how individuals’ net incomes are affected by contributions to beneficiaries’ accounts, interest and any other earnings earned on beneficiaries’ accounts, and refunds of contributions which were previously deducted.

40.53(1) Deduction from net income for contributions made to the Iowa educational savings plan trust on behalf of beneficiaries. Effective with contributions made on or after July 1, 1998, an individual referred to as a “participant” can claim a deduction on the Iowa individual income tax return for contributions made by that individual to the Iowa educational savings plan trust on behalf of a beneficiary. The deduction on the 1998 Iowa return cannot exceed $2,000 per beneficiary for contributions made in 1998 or the adjusted maximum annual amount for contributions made after 1998. Note that the maximum annual amount that can be deducted per beneficiary may be adjusted or increased to an amount greater than $2,000 for inflation on an annual basis. Rollover contributions from other states’ educational savings plans will qualify for the deduction, subject to the maximum amount allowable. Starting with tax years beginning in the 2000 calendar year, a participant may contribute an amount on behalf of a beneficiary that is greater than $2,000, but may claim a deduction on the Iowa individual return of the lesser of the amount given or $2,000 as adjusted by inflation. For example, if a taxpayer made a $5,000 contribution on behalf of a beneficiary to the educational savings plan in 2000, the taxpayer may claim a deduction on the IA 1040 return for 2000 in the amount of $2,054, as this amount is $2,000 as adjusted for inflation in effect for 2000.

For example, an individual has ten grandchildren from the age of six months to 12 years. In October 1998, the person became a participant in the Iowa educational savings plan trust by making $2,000 contributions to the trust on behalf of each of the ten grandchildren. When the participant files the 1998 Iowa individual income tax return, the participant can claim a deduction on the return for the $20,000 contributed to the Iowa educational savings plan trust on behalf of the individual’s ten grandchildren.
40.53(2) Exclusion of interest and earnings on beneficiary accounts in the Iowa educational savings plan trust. To the extent that interest or other earnings accrue on a beneficiary’s account in the Iowa educational savings plan trust, the interest or other earnings are excluded for purposes of computing net income on the Iowa individual income tax return of the participant or the return of the beneficiary.

40.53(3) Including on the Iowa individual return amounts refunded to the participant from the Iowa educational savings plan trust that had previously been deducted. If a participant cancels a beneficiary’s account in the Iowa educational savings plan trust and receives a refund of the funds in the account made on behalf of the beneficiary, or if a participant makes a withdrawal from the Iowa educational savings plan trust for purposes other than the payment of qualified education expenses, the refund of the funds is to be included in net income on the participant’s Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the participant.

For example, because a beneficiary of a certain participant died in the year 2000, this participant in the Iowa educational savings plan trust canceled the participant agreement for the beneficiary with the trust and received a refund of $4,200 of funds in the beneficiary’s account. Because $4,000 of the refund represented contributions that the participant had deducted on prior Iowa individual income tax returns, the participant was to report on the Iowa return for the tax year 2000, $4,000 in contributions that had been deducted on the participant’s Iowa returns for 1998 and 1999.

40.53(4) Deduction for contributions made to the endowment fund of the Iowa educational savings plan trust. To the extent that the contribution was not deductible for federal income tax purposes, an individual can deduct on the Iowa individual income tax return a gift, grant, or donation to the endowment fund of the Iowa educational savings plan trust. The contribution must be made on or after July 1, 1998, but before April 15, 2004. Effective April 15, 2004, the deduction for contributions made to the endowment fund is repealed.

This rule is intended to implement Iowa Code section 422.7 as amended by 2007 Iowa Acts, House File 923.

[ARC 7761B, IAB 5/6/09, effective 6/10/09]

701—40.54(422) Roth individual retirement accounts. Roth individual retirement accounts were authorized in the Taxpayer Relief Act of 1997 and are applicable for tax years beginning after December 31, 1997. Generally, no deduction is allowed on either the federal income tax return or the Iowa individual income tax return for a contribution to a Roth IRA. The following subrules include information about tax treatment of certain transactions for Roth IRAs.

40.54(1) Taxation of income derived from rolling over or converting existing IRAs to Roth IRAs. At the time existing IRAs are rolled over to or converted to Roth IRAs in the 1998 calendar year or in a subsequent year, any income realized from the rollover or conversion of the existing IRA is taxable. However, in the case of conversion of existing IRAs to Roth IRAs in 1998, the taxpayer can make an election to have all the income realized from the conversion subject to tax in 1998 rather than have the conversion income spread out over four years. If the conversion income is spread out over four years, one-fourth of the conversion income is included on the 1998 Iowa and federal returns of the taxpayer and one-fourth of the income is included on the taxpayer’s Iowa and federal returns for each of the following three tax years. Note that if an existing IRA for an individual is converted to a Roth IRA for the individual in a calendar year after 1998, all the income realized from the conversion is to be reported on the federal return and the Iowa return for that tax year for the individual. That is, when conversion of existing IRAs to Roth IRAs occurs after 1998, there is no provision for having the conversion income taxed over four years.

For example, an Iowa resident converted three existing IRAs to one Roth IRA in 1998, realized $20,000 in income from the conversion, and did not elect to have all the conversion income taxed on the 1998 Iowa and federal returns. Because the taxpayer did not make the election so all the conversion income was taxed in 1998, $5,000 in conversion income was to be reported on the taxpayer’s federal and Iowa returns for 1998 and similar incomes were to be reported on the federal and Iowa returns for 1999, 2000, and 2001. Note that to the extent the recipient of the Roth IRA conversion income is
eligible, the conversion income is subject to the pension/retirement income exclusion described in rule 701—40.47(422).

40.54(2) Roth IRA conversion income for part-year residents. To the extent that an Iowa resident has Roth IRA conversion income on the individual’s federal income tax return, the same income will be included on the resident’s Iowa income tax return. However, when an individual with Roth IRA conversion income in the tax year is a part-year resident of Iowa, the individual may allocate the conversion income on the Iowa return in the ratio of the taxpayer’s months in Iowa during the tax year to 12 months. In a situation where an individual spends more than half a month in Iowa, that month is to be reported to Iowa for purposes of the allocation.

For example, an individual moved to Des Moines from Omaha on June 12, 1998, and had $20,000 in Roth IRA conversion income in 1998. Because the individual spent 7 months in Iowa in 1998, 7/12, or 60 percent, of the $20,000 in conversion income is allocated to Iowa. Thus, $12,000 of the conversion income should be reported on the taxpayer’s Iowa return for 1998.

This rule is intended to implement Iowa Code section 422.7 as amended by 1998 Iowa Acts, Senate File 2357.

701—40.55(422) Exemption of income payments for victims of the Holocaust and heirs of victims. For tax years beginning on or after January 1, 2000, income payments received by individuals because they were victims of the Holocaust or income payments received by individuals who are heirs of victims of the Holocaust are excluded in the computation of net incomes, to the extent the payments were included in the individuals’ federal adjusted gross incomes. Victims of the Holocaust were victims of persecution in the World War II era for racial, ethnic or religious reasons by Nazi Germany or other Axis regime.

Holocaust victims may receive income payments for slave labor performed in the World War II era. Income payments may also be received by Holocaust victims as reparation for assets stolen from, hidden from, or otherwise lost in the World War II era, including proceeds from insurance policies of the victims. The World War II era includes the time of the war and the time immediately before and immediately after the war. However, income from assets acquired with the income payments or from the sale of those assets shall not be excluded from the computation of net income. The exemption of income payments shall only apply to the first recipient of the income payments who was either a victim of persecution by Nazi Germany or any other Axis regime or a person who is an heir of the victim of persecution.

This rule is intended to implement Iowa Code sections 217.39 and 422.7.

701—40.56(422) Taxation of income from the sale of obligations of the state of Iowa and its political subdivisions. For tax years beginning on or after January 1, 2001, income from the sale of obligations of the state of Iowa and its political subdivisions shall be added to Iowa net income to the extent not already included. Gains or losses from the sale or other disposition of bonds issued by the state of Iowa or its political subdivisions shall be included in Iowa net income unless the law authorizing these obligations specifically exempts the income from the sale or other disposition of the bonds from the Iowa individual income tax.

This rule is intended to implement Iowa Code section 422.7 as amended by 2001 Iowa Acts, chapter 116.

701—40.57(422) Installment sales by taxpayers using the accrual method of accounting. For tax years beginning on or after January 1, 2000, and prior to January 1, 2002, taxpayers who use the accrual method of accounting and who have sales or exchanges of property that they reported on the installment method for federal income tax purposes must report the total amount of the gain or loss from the transaction in the tax year of the sale or exchange pursuant to Section 453 of the Internal Revenue Code as amended up to and including January 1, 2000.

EXAMPLE 1. Taxpayer Jones uses the accrual method of accounting for reporting income. In 2001, Mr. Jones sold farmland he had held for eight years for $200,000 which resulted in a capital gain of
$50,000. For federal income tax purposes, Mr. Jones elected to report the transaction on the installment basis, where he reported $12,500 of the gain on his 2001 federal return and will report capital gains of $12,500 on each of his federal returns for the 2002, 2003 and 2004 tax years.

However, for Iowa income tax purposes, Mr. Jones must report on his 2001 Iowa return the entire capital gain of $50,000 from the land sale. Although Taxpayer Jones must report a capital gain of $12,500 on each of his federal income tax returns for 2002, 2003 and 2004, from the installment sale of the farmland in 2001, he will not have to include the installments of $12,500 on his Iowa income tax returns for those three tax years because Mr. Jones had reported the entire capital gain of $50,000 from the 2001 transaction on his 2001 Iowa income tax return.

Example 2. Taxpayer Smith uses the accrual method of accounting for reporting income. In 2002, Mr. Smith sold farmland he had held for eight years for $500,000, which resulted in a capital gain of $100,000. For federal income tax purposes, Mr. Smith elected to report the transaction on the installment basis, where he reported $20,000 of the gain on his 2002 federal return and will report the remaining capital gains on federal returns for the four subsequent tax years. Because this installment sale occurred in 2002, Mr. Smith shall report $20,000 of the capital gain on his Iowa income tax return for 2002 and will report the balance of the capital gains from the installment sale on Iowa returns for the four subsequent tax years, the same as reported on his federal returns for those years.

This rule is intended to implement Iowa Code section 422.7 as amended by 2002 Iowa Acts, House File 2116.

701—40.58(422) Exclusion of distributions from retirement plans by national guard members and members of military reserve forces of the United States. For tax years beginning on or after January 1, 2002, members of the Iowa national guard or members of military reserve forces of the United States who are ordered to national guard duty or federal active duty are not subject to Iowa income tax on the amount of distributions received during the tax year from qualified retirement plans of the members to the extent the distributions were taxable for federal income tax purposes. In addition, the members are not subject to state penalties on the distributions even though the members may have been subject to federal penalties on the distributions for early withdrawal of benefits. Because the distributions described above are not taxable for Iowa income tax purposes, a national guard member or armed forces reserve member who receives a distribution from a qualified retirement plan may request that the payer of the distribution not withhold Iowa income tax from the distribution.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate File 2097.

[ARC 0337C; IAB 9/19/12, effective 10/24/12]

701—40.59(422) Exemption of payments received by a beneficiary from an annuity purchased under an employee’s retirement plan when the installment has been included as part of a decedent employee’s estate. Rescinded ARC 1137C, IAB 10/30/13, effective 12/4/13.

701—40.60(422) Additional first-year depreciation allowance.

40.60(1) Assets acquired after September 10, 2001, but before May 6, 2003. For tax periods ending after September 10, 2001, but beginning before May 6, 2003, the additional first-year depreciation allowance (“bonus depreciation”) of 30 percent authorized in Section 168(k) of the Internal Revenue Code, as enacted by Public Law No. 107-147, Section 101, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after September 10, 2001, but before May 6, 2003, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss
reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after September 10, 2001, but before May 6, 2003, can be calculated on Form IA 4562A.

See 701—subrule 53.22(1) for examples illustrating how this subrule is applied.

40.60(2) Assets acquired after May 5, 2003, but before January 1, 2005. For tax periods beginning after May 5, 2003, but beginning before January 1, 2005, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 108-27, Section 201, may be taken for Iowa individual income tax. If the taxpayer elects to take the 50 percent bonus depreciation, the depreciation deduction allowed on the Iowa individual income tax return is the same as the depreciation deduction allowed on the federal income tax return for assets acquired after May 5, 2003, but before January 1, 2005.

a. If the taxpayer elects to take the 50 percent bonus depreciation and had filed an Iowa return prior to February 24, 2005, which reflected the disallowance of 50 percent bonus depreciation, the taxpayer may choose between two options to reflect this change. Taxpayer may either file an amended return for the applicable tax year to reflect the 50 percent bonus depreciation provision, or taxpayer may reflect the change for 50 percent bonus depreciation on the next Iowa return filed subsequent to February 23, 2005. Taxpayer must choose only one of these two options. Regardless of the option chosen, taxpayer must complete and attach a revised Form IA 4562A to either the amended return or the return filed subsequent to February 23, 2005.

EXAMPLE 1: Taxpayer filed a 2003 Iowa individual income tax return on April 15, 2004, which reflected an adjustment of $50,000 for the difference between federal depreciation and Iowa depreciation relating to the disallowance of 50 percent bonus depreciation. Taxpayer now elects to take the 50 percent bonus depreciation for Iowa tax purposes. Taxpayer may either amend the 2003 Iowa return to reflect a $50,000 reduction in Iowa taxable income, or taxpayer may take the additional deduction of $50,000 on taxpayer’s 2004 Iowa return that is filed after February 23, 2005.

EXAMPLE 2: Assume the same facts as given in Example 1, and taxpayer filed a 2004 Iowa return prior to February 24, 2005. Taxpayer did not take an additional $50,000 deduction on the 2004 Iowa return. Taxpayer may either amend the 2003 Iowa return to reflect a $50,000 reduction in Iowa taxable income, or taxpayer may take the additional deduction of $50,000 on taxpayer’s 2005 Iowa return.

b. If the taxpayer elects not to take the 50 percent bonus depreciation, taxpayer must add the total amount of depreciation claimed on assets acquired after May 5, 2003, but before January 1, 2005, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k). If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets. The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after May 5, 2003, but before January 1, 2005, can be calculated on Form IA 4562A.

40.60(3) Assets acquired after December 31, 2007, but before January 1, 2010. For tax periods beginning after December 31, 2007, but beginning before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 110-185, Section 103, and Public Law 111-5, Section 1201, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, 2010, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss
reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, 2010, can be calculated on Form IA 4562A.

See rule 701—53.22(422) for examples illustrating how this rule is applied.

40.60(4) Qualified disaster assistance property. For property placed in service after December 31, 2007, with respect to federal declared disasters occurring before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(n) of the Internal Revenue Code for qualified disaster assistance property, as amended by Public Law 110-343, Section 710, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on qualified disaster assistance property and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(n).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of this property for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of such property.

The adjustment for both depreciation and the gain or loss on the sale of qualifying disaster assistance property can be calculated on Form IA 4562A.

40.60(5) Assets acquired after December 31, 2009, but before January 1, 2014. For tax periods beginning after December 31, 2009, but beginning before January 1, 2014, the bonus depreciation authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No.111-240, Section 2022, Public Law No. 111-312, Section 401, and Public Law No. 112-240, Section 331, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2009, but before January 1, 2014, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for federal tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2009, but before January 1, 2014, can be calculated on Form IA 4562A.

See 701—subrule 53.22(3) for examples illustrating how this subrule is applied.

This rule is intended to implement Iowa Code section 422.7 as amended by 2013 Iowa Acts, Senate File 106.

[ARC 8589B, IAB 3/10/10, effective 4/14/10; ARC 9820B, IAB 11/2/11, effective 12/7/11; ARC 1101C, IAB 10/16/13, effective 11/20/13]

701—40.61(422) Exclusion of active duty pay of national guard members and armed forces military reserve members for service under orders for Operation Iraqi Freedom, Operation Noble Eagle, Operation Enduring Freedom or Operation New Dawn. For tax years beginning on or after January 1, 2003, active duty pay received by national guard members and armed forces reserve members is excluded to the extent the income is included in federal adjusted gross income and to the extent the active duty pay is for service under orders for Operation Iraqi Freedom, Operation Noble Eagle or Operation Enduring Freedom. For tax years beginning on or after January 1, 2010, active duty pay received by national guard members and armed forces reserve members is excluded to the extent the income is included in federal adjusted gross income and to the extent the active duty pay is for service under military orders for Operation New Dawn. National guard members and military reserve members receiving active duty pay on or after January 1, 2003, but before January 1, 2011, for service not covered
by military orders for one of the operations specified above are subject to Iowa income tax on the active duty pay to the extent the active duty pay is included in federal adjusted gross income. For active duty pay received on or after January 1, 2011, see rule 701—40.76(422). An example of a situation where the active duty pay may not be included in federal adjusted gross income is when the active duty pay was received for service in an area designated as a combat zone or in an area designated as a hazardous duty area so the income may be excluded from federal adjusted gross income. That is, if an individual’s active duty military pay is not subject to federal income tax, the active duty military pay will not be taxable on the individual’s Iowa income tax return.

National guard members and military reserve members who are receiving active duty pay for service on or after January 1, 2003, that is exempt from Iowa income tax, may complete an IA W-4 Employee Withholding Allowance Certificate and claim exemption from Iowa income tax for active duty pay received during the time they are serving on active duty pursuant to military orders for Operation Iraqi Freedom, Operation Noble Eagle, Operation Enduring Freedom or Operation New Dawn.

This rule is intended to implement Iowa Code section 422.7 as amended by 2011 Iowa Acts, House File 652.

[ARC 9822B, IAB 11/2/11, effective 12/7/11]

701—40.62(422) Deduction for overnight expenses not reimbursed for travel away from home of more than 100 miles for performance of service as a member of the national guard or armed forces military reserve. A taxpayer may subtract, in computing net income, the costs not reimbursed that were incurred for overnight transportation, meals and lodging expenses for travel away from the taxpayer’s home more than 100 miles, to the extent the travel expenses were incurred for the performance of services on or after January 1, 2003, by the taxpayer as a national guard member or an armed forces military reserve member. The deduction for Iowa tax purposes is the same that is allowed for federal income tax purposes.

This rule is intended to implement Iowa Code section 422.7 as amended by 2005 Iowa Acts, House File 186.

701—40.63(422) Exclusion of income from military student loan repayments. Individuals serving on active duty in the national guard, armed forces military reserve or the armed forces of the United States may subtract, to the extent included in federal adjusted gross income, income from military student loan repayments made on or after January 1, 2003.

This rule is intended to implement Iowa Code section 422.7 as amended by 2003 Iowa Acts, House File 674.

701—40.64(422) Exclusion of death gratuity payable to an eligible survivor of a member of the armed forces, including a member of a reserve component of the armed forces who has died while on active duty. An eligible survivor of a member of the armed forces, including a member of a reserve component of the armed forces, who has died while on active duty may subtract, to the extent included in federal adjusted gross income, a gratuity death payment made to the eligible survivor of a member of the armed forces who died while on active duty after September 10, 2001. This exclusion applies to a gratuity death payment made to the eligible survivor of any person in the armed forces or a reserve component of the armed forces who died while on active duty after September 10, 2001.

The purpose of the death gratuity is to provide a cash payment to assist a survivor of a deceased member of the armed forces to meet financial needs during the period immediately following a service member’s death and before other survivor benefits, if any, become available.

This rule is intended to implement Iowa Code section 422.7 as amended by 2003 Iowa Acts, House File 674.

701—40.65(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, may be taken for Iowa individual income tax. If the taxpayer elects to take the increased
Section 179 expensing, the Section 179 expensing allowance on the Iowa individual income tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006. In addition, for tax periods beginning on or after January 1, 2008, but beginning before January 1, 2009, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 110-185, Section 102, may be taken for Iowa individual income tax. For tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 111-5, Section 1202, cannot be taken for Iowa individual income tax purposes. The maximum amount of Section 179 expensing allowed for tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, is $133,000 for Iowa individual income tax purposes. For tax years beginning on or after January 1, 2010, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 111-240, Section 2021, Public Law No. 111-312, Section 402, and Public Law No. 112-240, Section 315, may be taken for Iowa individual income tax.

40.65(1) If the taxpayer elects to take the increased Section 179 expensing and had filed an Iowa return prior to February 24, 2005, which reflected the disallowance of increased Section 179 expensing, the taxpayer may choose between two options to reflect this change. Taxpayer may either file an amended return for the applicable tax year to reflect the increased Section 179 expensing, or taxpayer may reflect the change for increased Section 179 expensing on the next Iowa return filed subsequent to February 23, 2005. Taxpayer must choose only one of these two options. Regardless of the option chosen, taxpayer must complete and attach a revised Form IA 4562A to either the amended return or the return filed subsequent to February 23, 2005.

Example 1: Taxpayer filed a 2003 Iowa individual income tax return on April 15, 2004, which reflected an adjustment of $50,000 for the difference between the federal Section 179 expensing allowance and the Iowa Section 179 expensing allowance. Taxpayer now elects to take the increased Section 179 expensing allowance for Iowa tax purposes. Taxpayer may either amend the 2003 Iowa return to reflect a $50,000 reduction in Iowa taxable income, or taxpayer may take the additional deduction of $50,000 on taxpayer’s 2004 Iowa return that is filed after February 23, 2005.

Example 2: Assume the same facts as given in Example 1, and taxpayer filed a 2004 Iowa return prior to February 24, 2005. Taxpayer did not take an additional $50,000 deduction on the 2004 Iowa return. Taxpayer may either amend the 2003 Iowa return to reflect a $50,000 reduction in Iowa taxable income, or taxpayer may take the additional deduction of $50,000 on taxpayer’s 2005 Iowa return.

40.65(2) If the taxpayer elects not to take the increased Section 179 expensing, the expensing allowance is limited to $25,000 for Iowa tax purposes. The difference between the federal Section 179 expensing allowance on such property, if in excess of $25,000, and the Iowa expensing allowance of $25,000 can be depreciated using the modified accelerated cost recovery system (MACRS) applicable under Section 168 of the Internal Revenue Code without regard to the bonus depreciation provision in Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable Section 179 and related depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both the Section 179 expensing allowance and related depreciation, along with the gain or loss on the sale of qualifying assets for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006, can be calculated on Form IA 4562A.

See 701—subrule 53.23(2) for examples illustrating how this subrule is applied.

This rule is intended to implement Iowa Code section 422.7 as amended by 2013 Iowa Acts, Senate File 106.

[ARC 9103B, IAB 9/22/10, effective 10/27/10; ARC 9820B, IAB 11/2/11, effective 12/7/11; ARC 1101C, IAB 10/16/13, effective 11/20/13]
701—40.66(422) Deduction for certain unreimbursed expenses relating to a human organ transplant. For tax years beginning on or after January 1, 2005, a taxpayer, while living, may subtract up to $10,000 in unreimbursed expenses that were incurred relating to the taxpayer’s donation of all or part of a liver, pancreas, kidney, intestine, lung or bone marrow to another human being for immediate human organ transplantation. The taxpayer can claim this deduction only once, and the deduction can be claimed in the year in which the transplant occurred. The unreimbursed expenses must not be compensated by insurance to qualify for the deduction.

The unreimbursed expenses which are eligible for the deduction include travel expenses, lodging expenses and lost wages. If the deduction is claimed for travel expenses and lodging expenses, these expenses cannot also be claimed as an itemized deduction for medical expenses under Section 213(d) of the Internal Revenue Code for Iowa tax purposes. The deduction for lost wages does not include any sick pay or vacation pay reimbursed by an employer.

This rule is intended to implement Iowa Code section 422.7 as amended by 2005 Iowa Acts, House File 801.

701—40.67(422) Deduction for alternative motor vehicles. For tax years beginning on or after January 1, 2006, but beginning before January 1, 2015, a taxpayer may subtract $2,000 for the cost of a clean fuel motor vehicle if the taxpayer was eligible to claim for federal tax purposes the alternative motor vehicle credit under Section 30B of the Internal Revenue Code for this motor vehicle.

The vehicles eligible for this deduction include new qualified fuel cell motor vehicles, new advanced lean burn technology motor vehicles, new qualified hybrid motor vehicles, qualified plug-in electric drive motor vehicles and new qualified alternative fuel vehicles. The advanced lean burn technology, qualified hybrid and qualified alternative fuel vehicles must be placed in service before January 1, 2011, to qualify for the deduction. The qualified plug-in electric drive motor vehicles must be placed in service before January 1, 2012, to qualify for the deduction. The qualified fuel cell motor vehicles must be placed in service before January 1, 2015, to qualify for the deduction. A taxpayer must claim a credit on the taxpayer’s federal income tax return on federal Form 8910 to claim the deduction on the Iowa return.

This rule is intended to implement Iowa Code section 422.7.

[ARC 9820B, IAB 11/2/11, effective 12/7/11]

701—40.68(422) Injured veterans grant program.

40.68(1) For tax years beginning on or after January 1, 2006, a taxpayer who receives a grant under the injured veterans grant program provided in 2006 Iowa Acts, Senate File 2312, section 1, may subtract, to the extent included in federal adjusted gross income, the amount of the grant received. The injured veterans grant program is administered by the Iowa department of veterans affairs, and grants of up to $10,000 are provided to veterans who are residents of Iowa and are injured in the line of duty in a combat zone or in a zone where the veteran was receiving hazardous duty pay after September 11, 2001.

40.68(2) For tax years beginning on or after January 1, 2006, a taxpayer may subtract, to the extent not otherwise deducted in computing adjusted gross income, the amounts contributed to the department of veterans affairs for the purpose of providing grants under the injured veterans grant program established in 2006 Iowa Acts, Senate File 2312, section 1. If a deduction is claimed for these amounts contributed to the injured veterans grant program, this deduction cannot also be claimed as an itemized deduction for charitable contributions under Section 170 of the Internal Revenue Code for Iowa tax purposes.

This rule is intended to implement Iowa Code section 422.7 as amended by 2006 Iowa Acts, Senate File 2312.

701—40.69(422) Exclusion of ordinary or capital gain income realized as a result of involuntary conversion of property due to eminent domain. For tax years beginning on or after January 1, 2006, a taxpayer may exclude the amount of ordinary or capital gain income realized as a result of the involuntary conversion of property due to eminent domain for Iowa individual income tax. Eminent domain refers to the authority of government agencies or instrumentalities of government to requisition or condemn
private property for any public improvement, public purpose or public use. The exclusion for Iowa
individual income tax can only be claimed in the year in which the ordinary or capital gain income was
reported on the federal income tax return.

In order for an involuntary conversion to qualify for this exclusion, the sale must occur due to the
requisition or condemnation, or its threat or imminence, if it takes place in the presence of, or under the
threat or imminence of, legal coercion relating to a requisition or condemnation. There are numerous
federal revenue rulings, court cases and other provisions relating to the definitions of the terms “threat”
and “imminence,” and these are equally applicable to the exclusion of ordinary or capital gains realized
for tax years beginning on or after January 1, 2006.

40.69(1) Reporting requirements. In order to claim an exclusion of ordinary or capital gain income
realized as a result of involuntary conversion of property due to eminent domain, the taxpayer must attach
a statement to the Iowa individual income tax return in the year in which the exclusion is claimed. The
statement should state the date and details of the involuntary conversion, including the amount of the
gain being excluded and the reasons why the gain meets the qualifications of an involuntary conversion
relating to eminent domain. In addition, if the gain results from the sale of replacement property as
outlined in subrule 40.69(2), information must be provided in the statement on that portion of the gain
that qualified for the involuntary conversion.

40.69(2) Claiming the exclusion when gain is not recognized for federal tax purposes. For federal
tax purposes, an ordinary or capital gain is not recognized when the converted property is replaced with
property that is similar to, or related in use to, the converted property. In those cases, the basis of the
old property is simply transferred to the new property, and no gain is recognized. In addition, when
property is involuntarily converted into money or other unlike property, any gain is not recognized when
replacement property is purchased within a specified period for federal tax purposes.

For Iowa individual income tax purposes, no exclusion will be allowed for ordinary or capital gain
income when there is no gain recognized for federal tax purposes. The exclusion will only be allowed
in the year in which ordinary or capital gain income is realized due to the disposition of the replacement
property for federal tax purposes, and the exclusion is limited to the amount of the ordinary or capital
gain income relating to the involuntary conversion. The basis of the property for Iowa individual income
tax purposes will remain the same as the basis for federal tax purposes and will not be altered because
of the exclusion allowed for Iowa individual income tax.

EXAMPLE: In 2007, taxpayer sold some farmland as a result of an involuntary conversion relating
to eminent domain and realized a gain of $50,000. However, the taxpayer purchased similar farmland
immediately after the sale, and no gain was recognized for federal tax purposes. Therefore, no exclusion
is allowed on the 2007 Iowa individual income tax return. In 2009, taxpayer sold the replacement
farmland that was not subject to an involuntary conversion and realized a total gain of $70,000, which
was reported on the 2009 federal income tax return. The taxpayer can claim a deduction of $50,000
on the 2009 Iowa individual income tax return relating to the gain that resulted from the involuntary
conversion.

This rule is intended to implement Iowa Code section 422.7.

701—40.70(422) Exclusion of income from sale, rental or furnishing of tangible personal property
or services directly related to production of film, television or video projects.

40.70(1) Projects registered on or after January 1, 2007, but before July 1, 2009. For tax years
beginning on or after January 1, 2007, a taxpayer who is a resident of Iowa may exclude, to the extent
included in federal adjusted gross income, income received from the sale, rental or furnishing of tangible
personal property or services directly related to the production of film, television, or video projects that
are registered with the film office of the Iowa department of economic development.

Income which can be excluded on the Iowa return must meet the criteria of a qualified expenditure
for purposes of the film qualified expenditure tax credit as set forth in rule 701—42.37(15,422). See rule
701—38.17(422) for the determination of Iowa residency.

However, if a taxpayer claims this income tax exclusion, the same taxpayer cannot also claim the
film qualified expenditure tax credit as described in rule 701—42.37(15,422). In addition, any taxpayer
who claims this income tax exclusion cannot have an equity interest in a business which received a film qualified expenditure tax credit. Finally, any taxpayer who claims this income tax exclusion cannot participate in the management of the business which received the film qualified expenditure tax credit.

**EXAMPLE:** A production company which registers with the film office for a project is a limited liability company with three members, all of whom are Iowa residents. If any of the three members receives income that is a qualified expenditure for purposes of the film qualified expenditure tax credit, such member(s) cannot exclude this income on the Iowa income tax return because the member(s) has an equity interest in the business which received the credit.

40.70(2) **Projects registered on or after July 1, 2009.** For tax years beginning on or after July 1, 2009, a taxpayer who is a resident of Iowa may exclude no more than 25 percent of the income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development in the year in which the qualified expenditure occurred. A reduction of 25 percent of the income is allowed to be excluded for the three subsequent tax years.

**EXAMPLE:** An Iowa taxpayer received $10,000 in income in the 2010 tax year related to qualified film expenditures for a project registered on February 1, 2010. The $10,000 was reported as income on taxpayer’s 2010 federal tax return. Taxpayer may exclude $2,500 of income on the Iowa individual income tax return for each of the tax years 2010-2013.

40.70(3) **Repeal of exclusion.** The exclusion of income from the sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects is repealed for tax years beginning on or after January 1, 2012. However, the exclusion is still available if the contract or agreement related to a film project was entered into on or before May 25, 2012. Assuming the same facts as those in the example in subrule 40.70(2), the taxpayer can continue to exclude $2,500 of income on the Iowa individual income tax return for the 2012 and 2013 tax years since the contract or agreement 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 422.7 as amended by 2012 Iowa Acts, House File 2337, section 33.

[ARC 8589B, IAB 3/10/10, effective 4/14/10; ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 0398C, IAB 10/17/12, effective 11/21/12]

701—40.71(422) **Exclusion for certain victim compensation payments.** Effective for tax years beginning on or after January 1, 2007, a taxpayer may exclude from Iowa individual income tax any income received from certain victim compensation payments to the extent this income was reported on the federal income tax return. The amounts which may be excluded from income include the following:

1. Victim compensation awards paid under the victim compensation program administered by the department of justice in accordance with Iowa Code section 915.81, and received by the taxpayer during the tax year.
2. Victim restitution payments received by a taxpayer during the tax year in accordance with Iowa Code chapter 910 or 915.
3. Damages awarded by a court, and received by a taxpayer, in a civil action filed by a victim against an offender during the tax year.

This rule is intended to implement Iowa Code section 422.7 as amended by 2007 Iowa Acts, Senate File 70.

701—40.72(422) **Exclusion of Vietnam Conflict veterans bonus.**

40.72(1) For tax years beginning on or after January 1, 2007, but before January 1, 2013, a taxpayer who received a bonus under the Vietnam Conflict veterans bonus program may subtract, to the extent included in federal adjusted gross income, the amount of the bonus received. The Vietnam Conflict veterans bonus is administered by the Iowa department of veterans affairs, and bonuses of up to $500 are awarded to residents of Iowa who served on active duty in the armed forces of the United States between July 1, 1973, and May 31, 1975.

40.72(2) For tax years beginning on or after January 1, 2008, but before January 1, 2013, a taxpayer who received a bonus under the Vietnam Conflict veterans bonus program may subtract, to the extent
included in federal adjusted gross income, the amount of the bonus received. The Vietnam Conflict veterans bonus is administered by the Iowa department of veterans affairs. Bonuses of up to $500 are awarded to veterans who were inducted into active duty service from the state of Iowa, who served on active duty in the United States armed forces between July 1, 1958, and May 31, 1975, and who have not received a bonus for that service from Iowa or another state.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate File 2038.

[ARC 0337C, IAB 9/19/12, effective 10/24/12]

701—40.73(422) Exclusion for health care benefits of nonqualified tax dependents. Effective for tax years beginning on or after January 1, 2009, but beginning before January 1, 2011, a taxpayer may exclude from Iowa individual income tax the income reported from including nonqualified tax dependents on the taxpayer’s health care plan, to the extent this income was reported on the federal income tax return.

40.73(1) Term of coverage. Iowa Code section 509A.13B provides that group insurance, group insurance for public employees, and individual health insurance policies or contracts permit continuation of existing coverage for an unmarried child of an insured or enrollee, if the insured or enrollee so elects. If the election is made, it will be in effect through the policy anniversary date on or after the date the child marries, ceases to be a resident of Iowa, or attains the age of 25, whichever occurs first, so long as the unmarried child maintains full-time status as a student in an accredited institution of postsecondary education. These children can be included on the health care coverage even though they are not claimed as a dependent on the federal and Iowa income tax returns.

40.73(2) Federal treatment. Section 105(b) of the Internal Revenue Code provides that the income reported from including dependents on the taxpayer’s health care coverage is exempt from federal income tax. However, income is reported for federal income tax purposes on the value of the health care coverage of children who are not claimed as dependents on the taxpayer’s federal and Iowa income tax returns for tax years beginning on or after January 1, 2009, but beginning before January 1, 2011. The amount of income included on the federal income tax return is allowed to be excluded on the Iowa return. For tax years beginning on or after January 1, 2011, income is no longer reported on the federal income tax return on the value of health care coverage of children who are not claimed as dependents and who have not attained age 27 as of the end of the tax year; therefore, no adjustment is required on the Iowa return.

This rule is intended to implement Iowa Code section 422.7 as amended by 2011 Iowa Acts, Senate File 512.

[ARC 8605B, IAB 3/10/10, effective 4/14/10; ARC 9820B, IAB 11/2/11, effective 12/7/11]

701—40.74(422) Exclusion for AmeriCorps Segal Education Award. Effective for tax years beginning on or after January 1, 2010, a taxpayer may exclude from Iowa individual income tax any amount of AmeriCorps Segal Education Award to the extent the education award was reported as income on the federal income tax return. The AmeriCorps Segal Education Award is available to individuals who complete a year of service in the AmeriCorps program. The education award can be used to pay education costs at institutions of higher learning, for educational training, or to repay qualified student loans.

This rule is intended to implement Iowa Code section 422.7 as amended by 2009 Iowa Acts, Senate File 482.

[ARC 8605B, IAB 3/10/10, effective 4/14/10]

701—40.75(422) Exclusion of certain amounts received from Iowa veterans trust fund. For tax years beginning on or after January 1, 2010, a taxpayer may subtract, to the extent included in federal adjusted gross income, the amounts received from the Iowa veterans trust fund related to travel expenses directly related to follow-up medical care for wounded veterans and their spouses and amounts received related to
unemployment assistance during a period of unemployment due to prolonged physical or mental illness or disability resulting from military service.

This rule is intended to implement Iowa Code section 422.7 as amended by 2010 Iowa Acts, House File 2532.

**701—40.76(422) Exemption of active duty pay for armed forces, armed forces military reserve, or the national guard.** For tax years beginning on or after January 1, 2011, all pay received from the federal government for military service performed while on active duty status in the armed forces, armed forces military reserve, or the national guard is excluded to the extent the pay was included in federal adjusted gross income.

**40.76(1) Definition of active duty personnel.** Active duty personnel who qualify for the exclusion include the following:

- **Active duty members of the regular armed forces, which include the Army, Navy, Marines, Air Force and Coast Guard of the United States.**
- **Members of a reserve component of the Army, Navy, Marines, Air Force and Coast Guard who are on an active duty status as defined in Title 10 of the United States Code.**
- **Members of the national guard who are in an active duty status as defined in Title 10 of the United States Code.**

**40.76(2) Military personnel who do not qualify for the exclusion include the following:**

- **Members of a reserve component of the Army, Navy, Marines, Air Force and Coast Guard who are not in an active duty status as defined in Title 10 of the United States Code.**
- **Full-time members of the national guard who perform duties in accordance with Title 32 of the United States Code.**
- **Other members of the national guard who are not in an active duty status as defined in Title 10 of the United States Code.**
- **Other members of the national guard who do not receive pay from the federal government.**

**40.76(3) Income from nonmilitary activities.** Any wages earned from nonmilitary wages for personal services conducted in Iowa by both residents and nonresidents of Iowa will still be subject to Iowa individual income tax. In addition, both residents and nonresidents of Iowa who earn income from businesses, trades, professions or occupations operated in Iowa that are unrelated to military activity will be subject to Iowa individual income tax on that income.

**40.76(4) Exemption from Iowa withholding.** Active duty personnel meeting the requirements of subrule 40.76(1) who are receiving pay from the federal government on or after January 1, 2011, that is exempt from Iowa individual income tax may complete an IA W-4 Employee Withholding Allowance Certificate and claim exemption from Iowa income tax for active duty pay received from the federal government.

This rule is intended to implement Iowa Code section 422.7 as amended by 2011 Iowa Acts, House File 652.

**701—40.77(422) Exclusion of biodiesel production refund.** A taxpayer may exclude, to the extent included in federal adjusted gross income, the amount of the biodiesel production refund described in rule 701—12.18(423).

This rule is intended to implement Iowa Code section 422.7 as amended by 2011 Iowa Acts, Senate File 531.

**701—40.78(422) Allowance of certain deductions for 2008 tax year.**

**40.78(1) For the tax year beginning on or after January 1, 2008, but before January 1, 2009, the following deductions provided in the federal Emergency Economic Stabilization Act of 2008, Public Law No. 110-343, will be allowed on the Iowa individual income tax return:**
a. The deduction for certain expenses of elementary and secondary school teachers allowed under Section 62(a)(2)(D) of the Internal Revenue Code.

b. The deduction for qualified tuition and related expenses allowed under Section 222 of the Internal Revenue Code.

c. The deduction for disaster-related casualty losses allowed under Section 165(h) of the Internal Revenue Code.

40.78(2) Taxpayers who did not claim these deductions on the Iowa return for 2008 as originally filed, or taxpayers who claimed these deductions on the Iowa return as filed and subsequently filed an amended return disallowing these deductions, must file an amended return for the 2008 tax year to claim these deductions. The amended return must be filed within the statute of limitations provided in 701—subrules 43.3(8) and 43.3(15). If the amended return is filed within the statute of limitations, the taxpayer is only entitled to a refund of the excess tax paid. The taxpayer will not be entitled to any interest on the excess tax paid.

This rule is intended to implement Iowa Code sections 422.7 and 422.9 as amended by 2011 Iowa Acts, Senate File 533.

[ARC 98208, IAB 11/2/11, effective 12/7/11]

701—40.79(422) Special filing provisions related to 2010 tax changes.

40.79(1) For the tax year beginning on or after January 1, 2010, but before January 1, 2011, the following adjustments will be allowed on the Iowa individual income tax return:

a. The deduction for certain expenses of elementary and secondary school teachers allowed under Section 62(a)(2)(D) of the Internal Revenue Code.

b. The deduction for qualified tuition and related expenses allowed under Section 222 of the Internal Revenue Code.

c. The increased expensing allowance authorized under Section 179(b) of the Internal Revenue Code.

40.79(2) Taxpayers who did not claim these adjustments on the Iowa return for 2010 as originally filed have two options to reflect these adjustments. Taxpayer may either file an amended return for the 2010 tax year to reflect these adjustments or taxpayer may reflect these adjustments on the tax return for the 2011 tax year. If the taxpayer elects to reflect these adjustments on the 2011 tax return, the following provisions are suspended related to the claiming of the following adjustments for 2011:

a. The limitation based on income provisions and regulations of Section 179(b)(3) of the Internal Revenue Code with regard to the Section 179(b) adjustment.

b. The applicable dollar limit provision of Section 222(b)(2)(B) of the Internal Revenue Code with regard to the qualified tuition and related expenses adjustment.

40.79(3) Examples. The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: Taxpayer claimed a $150,000 Section 179 expense on the federal return for 2010. Taxpayer only claimed a $134,000 Section 179 expense on the Iowa return as originally filed for 2010. Taxpayer elects not to file an amended return for 2010, but to make the adjustment on the 2011 Iowa return. Taxpayer reported a loss from the taxpayer’s trade or business on the 2011 federal return, so no Section 179 expense can be claimed on the federal return for 2011 in accordance with Section 179(b)(3) of the Internal Revenue Code. Taxpayer can claim the $16,000 ($150,000 less $134,000) difference as a deduction on the Iowa return for 2011 since the income provision of Section 179(b)(3) is suspended for Iowa tax purposes.

EXAMPLE 2: Taxpayers are a married couple who claimed a $4,000 tuition and related expenses deduction on their federal return for 2010. Taxpayers did not claim this deduction on their Iowa return as originally filed for 2010. Taxpayers elected not to file an amended return for 2010, but to make the adjustment on the 2011 Iowa return. Taxpayers reported federal adjusted gross income in excess of $160,000 on their 2011 federal return, so no deduction for tuition and related expenses can be claimed on the 2011 federal return in accordance with Section 222(b)(2)(B) of the Internal Revenue Code. Taxpayers can claim the $4,000 deduction on the Iowa return for 2011 since the dollar limit provision of Section 222(b)(2)(B) is suspended for Iowa tax purposes.
EXAMPLE 3: Taxpayer is an elementary school teacher who claimed a $250 deduction for out-of-pocket expenses for school supplies on the federal return for 2010. Taxpayer did not claim this deduction on the Iowa return as originally filed for 2010. Taxpayer elected not to file an amended return for 2010, but to make the adjustment on the 2011 Iowa return. Taxpayer also claimed a $200 deduction for out-of-pocket expenses for school supplies on the federal return for 2011. Taxpayer can claim a $450 ($250 plus $200) deduction on the Iowa return for 2011.

This rule is intended to implement 2011 Iowa Acts, Senate File 533, section 143.

[ARC 9820B, IAB 11/2/11, effective 12/7/11]

701—40.80(422) Exemption for military retirement pay. For tax years beginning on or after January 1, 2014, retirement pay received by taxpayers from the federal government for military service performed in the armed forces, armed forces reserves, or national guard is exempt from state income tax. In addition, amounts received by a surviving spouse, former spouse, or other beneficiary of a taxpayer who served in the armed forces, armed forces reserves, or national guard under the Survivor Benefit Plan are also exempt from state income tax for tax years beginning on or after January 1, 2014. The retirement pay is only deductible to the extent it is included in the taxpayer’s federal adjusted gross income.

40.80(1) Coordination with pension exclusion. The exclusion of retirement pay is in addition to the partial exclusion, provided in rule 701—40.47(422), of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses and survivors. In addition, taxpayers who receive retirement pay under federal law that combines retirement pay for both uniformed service and the federal civil service retirement system or federal employees’ retirement system must prorate the retirement pay based on years of service.

EXAMPLE 1: A married individual who is 60 years of age receives $20,000 of federal retirement pay from military service and $30,000 in retirement pay from the Iowa public employees’ retirement system during the 2014 tax year. The taxpayer can exclude $20,000 of military retirement pay and $12,000 as a pension exclusion under rule 701—40.47(422), for a total exclusion of $32,000 on the taxpayer’s Iowa individual income tax return for the 2014 tax year.

EXAMPLE 2: A single taxpayer who is 65 years of age receives $60,000 as a federal pension during the 2014 tax year. The taxpayer has 20 years of military service and 27 years of civilian employment with the federal government. The military retirement pay portion is $25,532 (20 years divided by 47 years multiplied by $60,000). The taxpayer can exclude $25,532 of military retirement pay and $6,000 as a pension exclusion under rule 701—40.47(422), for a total exclusion of $31,532 on the taxpayer’s Iowa individual income tax return for the 2014 tax year.

40.80(2) Coordination with filing threshold and alternate tax. The military retirement pay is excluded from the calculation of income used to determine whether an Iowa income tax return is required to be filed pursuant to 701—subrules 39.1(1) and 39.5(10) through 39.5(13). In addition, the military retirement pay is excluded from the calculation of the special tax computation for all low-income taxpayers except single taxpayers pursuant to rule 701—39.9(422) and is excluded from the calculation of the special tax computation for taxpayers who are 65 years of age or older under rule 701—39.15(422).

40.80(3) Iowa withholding. The amount of military retirement pay is excluded from the calculation of payments used to determine whether Iowa tax should be withheld from pension and annuity payments as determined pursuant to 701—subrule 46.3(4).

This rule is intended to implement Iowa Code sections 422.5 and 422.7 as amended by 2014 Iowa Acts, Senate File 303.

[ARC 1665C, IAB 10/15/14, effective 11/19/14]
[Filed 12/5/80, Notice 10/29/80—published 12/24/80, effective 1/28/81]
[Filed 11/20/81, Notice 10/14/81—published 12/9/81, effective 1/13/82]
[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/15/82]
[Filed 12/3/82, Notice 10/27/82—published 12/22/82, effective 1/26/83]
[Filed 3/23/84, Notice 2/15/84—published 4/11/84, effective 5/16/84]
[Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]
[Filed 8/10/84, Notice 7/4/84—published 8/29/84, effective 10/3/84]
[Filed 1/25/85, Notice 12/19/84—published 2/13/85, effective 3/20/85]
[Filed 5/31/85, Notice 4/24/85—published 6/19/85, effective 7/24/85]
[Filed 9/6/85, Notice 7/31/85—published 9/25/85, effective 10/30/85]
[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]
[Filed 10/3/86, Notice 8/27/86—published 10/22/86, effective 11/26/86]
[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
[Filed emergency 12/23/87—published 1/13/88, effective 12/23/87]
[Filed 1/7/88, Notice 12/2/87—published 1/27/88, effective 3/2/88]
[Filed 2/19/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 9/18/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]
[Filed 1/4/89, Notice 11/30/88—published 1/25/89, effective 3/1/89]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]
[Filed 1/19/90, Notice 12/13/89—published 2/7/90, effective 3/14/90]
[Filed 8/30/90, Notice 7/25/90—published 9/19/90, effective 10/24/90]
[Filed 11/7/91, Notice 10/2/91—published 11/27/91, effective 1/1/92]
[Filed 1/17/92, Notice 12/11/91—published 2/5/92, effective 3/11/92]
[Filed emergency 5/8/92—published 5/27/92, effective 5/8/92]
[Filed 9/11/92, Notice 8/5/92—published 9/30/92, effective 11/4/92]
[Filed 10/9/92, Notice 9/2/92—published 10/28/92, effective 12/2/92]
[Filed emergency 7/15/93—published 8/4/93, effective 7/15/93]
[Filed emergency 10/22/93—published 11/10/93, effective 10/22/93]
[Filed 12/17/93, Notice 11/10/93—published 1/5/94, effective 2/9/94]
[Filed 1/12/95, Notice 12/7/94—published 2/1/95, effective 3/8/95]
[Filed 7/14/95, Notice 6/7/95—published 8/2/95, effective 9/6/95]
[Filed 1/12/96, Notice 12/6/95—published 1/31/96, effective 3/6/96]
[Filed 7/25/96, Notice 6/19/96—published 8/14/96, effective 9/19/96]
[Filed 8/23/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
[Filed 5/30/97, Notice 4/23/97—published 6/18/97, effective 7/23/97]
[Filed 9/19/97, Notice 8/13/97—published 10/8/97, effective 11/12/97]
[Filed 2/20/98, Notice 1/14/98—published 3/11/98, effective 4/15/98]
[Filed 10/2/98, Notice 8/26/98—published 10/21/98, effective 11/25/98]
[Filed emergency 1/8/99 after Notice 12/2/98—published 1/27/99, effective 1/8/99]
[Filed 12/23/99, Notice 11/17/99—published 1/12/00, effective 2/16/00]
[Filed 2/3/00, Notice 12/29/99—published 2/23/00, effective 3/29/00]
[Filed 1/5/01, Notice 11/29/00—published 1/24/01, effective 2/28/01]
[Filed 3/15/02, Notice 1/23/02—published 4/3/02, effective 5/8/02]
[Filed 10/11/02, Notice 9/4/02—published 10/30/02, effective 12/4/02]
[Filed 9/26/03, Notice 8/20/03—published 10/15/03, effective 11/19/03]
[Filed 11/6/03, Notice 10/1/03—published 11/26/03, effective 12/31/03]
[Filed 1/30/04, Notice 12/24/03—published 2/18/04, effective 3/24/04]  
[Filed 8/12/04, Notice 7/7/04—published 9/1/04, effective 10/6/04]  
[Filed emergency 9/24/04—published 10/13/04, effective 9/24/04]
[Filed 10/22/04, Notice 9/15/04—published 11/10/04, effective 12/15/04]
[Filed emergency 2/25/05—published 3/16/05, effective 2/25/05]  
[Filed 9/22/05, Notice 8/3/05—published 10/12/05, effective 11/16/05]  
[Filed 7/28/06, Notice 6/21/06—published 8/16/06, effective 9/20/06]  
[Filed 11/1/06, Notice 8/16/06—published 11/22/06, effective 12/27/06]  
[Filed 12/13/06, Notice 11/8/06—published 1/3/07, effective 2/7/07]  
[Filed 1/11/07, Notice 12/6/06—published 1/31/07, effective 3/7/07]  
[Filed 6/27/07, Notice 5/23/07—published 7/18/07, effective 8/22/07]  
[Filed 10/5/07, Notice 8/15/07—published 10/24/07, effective 11/28/07]  
[Filed 10/5/07, Notice 8/29/07—published 10/24/07, effective 11/28/07]  
[Filed 3/7/08, Notice 1/30/08—published 3/26/08, effective 4/30/08]  
[Filed 10/31/08, Notice 9/24/08—published 11/19/08, effective 12/24/08]  
[Filed ARC 7761B (Notice ARC 7632B, IAB 3/11/09, IAB 5/6/09, effective 6/10/09]  
[Filed ARC 8356B (Notice ARC 8223B, IAB 10/7/09, IAB 12/2/09, effective 1/6/10]  
[Filed ARC 8598B (Notice ARC 8430B, IAB 12/30/09, IAB 3/10/10, effective 4/14/10]  
[Filed ARC 8605B (Notice ARC 8481B, IAB 1/13/10, IAB 3/10/10, effective 4/14/10]  
[Filed ARC 8702B (Notice ARC 8512B, IAB 2/10/10, IAB 4/21/10, effective 5/26/10]  
[Filed ARC 9103B (Notice ARC 8944B, IAB 7/28/10, IAB 9/22/10, effective 10/27/10]  
[Filed ARC 9821B (Notice ARC 9741B, IAB 9/7/11, IAB 11/2/11, effective 12/7/11]  
[Filed ARC 9822B (Notice ARC 9739B, IAB 9/7/11, IAB 11/2/11, effective 12/7/11]  
[Filed ARC 9820B (Notice ARC 9740B, IAB 9/7/11, IAB 11/2/11, effective 12/7/11]  
[Filed ARC 0073C (Notice ARC 0005C, IAB 2/8/12, IAB 4/4/12, effective 5/9/12]  
[Filed ARC 0251C (Notice ARC 0145C, IAB 5/30/12, IAB 8/8/12, effective 9/12/12]  
[Filed ARC 0337C (Notice ARC 0232C, IAB 7/25/12, IAB 9/19/12, effective 10/24/12]  
[Filed ARC 0398C (Notice ARC 0292C, IAB 8/22/12, IAB 10/17/12, effective 11/21/12]  
[Filed ARC 1101C (Notice ARC 0976C, IAB 8/21/13, IAB 10/16/13, effective 11/20/13]  
[Filed ARC 1137C (Notice ARC 1002C, IAB 9/4/13, IAB 10/30/13, effective 12/4/13]  
[Filed ARC 1303C (Notice ARC 1231C, IAB 12/11/13, IAB 2/5/14, effective 3/12/14]  
[Filed ARC 1665C (Notice ARC 1590C, IAB 8/20/14, IAB 10/15/14, effective 11/19/14]

Two or more ARCs
CHAPTER 41
DETERMINATION OF TAXABLE INCOME
[Prior to 12/17/86, Revenue Department[730]]

701—41.1(422) Verification of deductions required. Deductions from gross income, otherwise allowable, will not be allowed in cases where the department requests the taxpayer to furnish information sufficient to enable it to determine the validity and correctness of such deductions, until such information is furnished. For taxpayers using an electronic data interchange process or technology also see 701—subrule 11.4(4).

This rule is intended to implement Iowa Code section 422.25.

701—41.2(422) Federal rulings and regulations. In determining whether “taxable income,” “net operating loss deduction” or any other deductions are computed for federal tax purposes under, or have the same meaning as provided by, the Internal Revenue Code, the department will use applicable rulings and regulations that have been duly promulgated by the commissioner of internal revenue, unless the director has created rules and regulations or has exercised discretionary powers as prescribed by statute which calls for an alternative method for determining “taxable income,” “net operating loss deduction” or any other deduction, or unless the department finds that an applicable internal revenue ruling or regulation is unauthorized according to the Iowa Code.

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

701—41.3(422) Federal income tax deduction and federal refund. Federal income taxes paid or accrued during the tax year are a permissible deduction for Iowa income tax purposes, adjusted by any federal refunds received or accrued during the tax year. Taxpayers who are not on an accrual basis of accounting shall deduct their federal income taxes in the year paid.

41.3(1) Federal income tax deduction. The federal income tax deduction for cash basis taxpayers equals the sum of the following:

a. The entire amount of federal income tax withheld during the taxable year from compensation of the taxpayer. Where a husband and wife file separate returns or separately on a combined Iowa return, the actual federal income tax withheld from wages earned by either spouse or both spouses must be deducted by each in accordance with wage statement(s) and may not be prorated between the spouses.

b. Tax paid at any time during the taxable year on a filing of federal estimated tax or on any amendment to such filing. Where a husband and wife file separate Iowa returns or separately on a combined Iowa return, the federal estimated tax payments made in the tax year shall be prorated between the spouses by the ratio of each spouse’s income not subject to withholding to the total income not subject to withholding of both spouses, including the federal estimated tax payment made in January of the tax year which was made for the prior tax year. If an estimated tax payment or portion of the payment is made for self-employment tax, then the spouse who has earned the self-employment income shall report the amount of estimated tax designated as self-employment tax. The federal tax deduction for the tax year does not include the self-employment tax paid through the federal estimated payments made in the tax year. In addition, the federal tax deduction does not include the additional .9 percent Medicare tax computed under Section 3101(b)(2) of the Internal Revenue Code for tax years beginning on or after January 1, 2013. However, one-half of the self-employment tax paid in the tax year is deductible in computing federal adjusted gross income pursuant to Section 164(f) of the Internal Revenue Code, so this self-employment tax is also deductible in computing net income. If an estimated tax payment or portion of the payment is made for the federal net investment income tax computed under Section 1411 of the Internal Revenue Code for tax years beginning on or after January 1, 2013, see paragraph 41.3(1)“f” on how the federal net income tax should be prorated between spouses.

c. Any additional federal tax on a prior federal return paid during the taxable year. Where a husband and wife file separately or separately on a combined Iowa return, additional federal tax paid shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income of both spouses in the year for which the additional federal tax was paid. If additional federal tax
paid includes federal self-employment tax, then that amount of self-employment tax shall be deducted by the spouse who earned the self-employment income. Any federal tax paid for a tax year in which an Iowa individual income tax return was not required to be filed is not allowed as a deduction in the year the federal taxes were paid. If additional federal tax paid includes the federal net investment income tax computed under Section 1411 of the Internal Revenue Code for tax years beginning on or after January 1, 2013, see paragraph 41.3(1) "f" on how the federal net income tax should be prorated between spouses.

EXAMPLE 1. Individual A earned $8,500 in income for the 2004 tax year and paid $200 in federal tax with the filing of the federal return in 2005. Individual A was not required to file an Iowa return for 2004 because the Iowa net income was under $9,000. Individual A cannot claim a deduction for the $200 in federal tax paid on the 2005 Iowa return because an Iowa return was not required to be filed for the 2004 tax year.

EXAMPLE 2. Individual B moved into Iowa on January 1, 2005, and filed an initial Iowa individual income tax return for the 2005 tax year. Individual B paid $1,000 in additional federal income tax with the filing of the 2004 federal income tax return in 2005. Individual B cannot claim a deduction for the $1,000 in federal tax paid on the 2005 Iowa return because an Iowa return was not filed for the 2004 tax year.

d. The earned income credit computed under Section 32 of the Internal Revenue Code and the additional child tax credit computed under Section 24(d) of the Internal Revenue Code, to the extent that these credits reduce the federal income tax liability on the prior federal return filed during the taxable year. Where a husband and wife file separately or separately on a combined Iowa return, the earned income credit and the additional child tax credit shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income of both spouses in the year for which these credits were claimed.

EXAMPLE: Individual A filed a 2003 federal income tax return reporting a tax liability of $2,000. Individual A had $500 of federal income tax withheld and $2,500 of earned income credit. Individual A can deduct $500 as a federal income tax deduction on the Iowa return for 2003 and $1,500 as a federal tax deduction on the Iowa return for 2004, since the federal tax deduction is limited to the extent it reduced the federal income tax liability.

e. The motor vehicle fuel tax credit computed under Section 34 of the Internal Revenue Code for the taxable year. Where a husband and wife file separately or separately on a combined Iowa return, the motor vehicle fuel tax credit shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income of both spouses in the year for which these credits were claimed.

EXAMPLE: Individual B filed a 2003 federal income tax return reporting a tax liability of $1,500. Individual B paid $1,000 in federal estimated tax during 2003 and claimed a $400 motor vehicle fuel tax credit on the 2003 federal return. Individual B can deduct $1,400 as a federal income tax deduction on the Iowa return for 2003.

f. For tax years beginning on or after January 1, 2013, the federal net investment income tax, also known as the unearned income Medicare contribution tax, computed under Section 1411 of the Internal Revenue Code. The federal net investment income tax is computed on the lesser of net investment income for the tax year or the excess of the modified adjusted gross income for the tax year over a threshold amount.

Where a married couple file separate returns or separately on a combined Iowa return, the federal net investment income tax, if computed on net investment income, shall be prorated between the spouses by the ratio of net investment income reported by each spouse to total net investment income of both spouses in the year for which the federal net investment income tax was paid. Where a married couple file separate returns or separately on a combined Iowa return, the federal net investment income tax, if computed on the excess of modified adjusted gross income over a threshold amount, shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income of both spouses in the year for which the federal net investment income tax was paid.

41.3(2) Federal income tax refunds.

a. Any refund of federal income tax received during the taxable year must be used to reduce the amount deducted for federal income tax to the extent the refunded amount was deducted on the
Iowa return in a prior year. When a husband and wife file separately or separately on a combined Iowa return, the federal income tax refund to be reported shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income reported by both spouses. If an amount of self-employment tax is required to be added back to Iowa net income, then the spouse who earned the self-employment income which generated the self-employment tax shall report that amount as an addition to net income. Any federal tax refund received for a tax year in which an Iowa individual income tax return was not required to be filed is not required to be reported in the year the federal refund was received.

**EXAMPLE 1:** Individual A earned $7,500 in income for the 2004 tax year and had $1,000 in federal income tax withheld. Individual A received a refund of the entire $1,000 federal tax withheld with the filing of the federal return in 2005. Individual A was not required to file an Iowa return for 2004 because the Iowa net income was under $9,000. Individual A does not have to report the $1,000 federal refund received on the 2005 Iowa return because an Iowa return was not required to be filed for the 2004 tax year.

**EXAMPLE 2:** Individual B moved into Iowa on July 1, 2005, and filed an initial Iowa individual income tax return for the 2005 tax year. Individual B received a $2,000 federal income tax refund with the filing of the 2004 federal income tax return in 2005. Individual B does not have to report the $2,000 federal refund on the 2005 Iowa return because an Iowa return was not filed for the 2004 tax year.

b. Any portion of the federal refund received due to the earned income credit computed under Section 32 of the Internal Revenue Code or the additional child tax credit computed under Section 24(d) of the Internal Revenue Code does not have to be reported on the Iowa return. However, any portion of the federal refund received due to the motor vehicle fuel tax credit computed under Section 34 of the Internal Revenue Code does have to be reported on the Iowa return.

**EXAMPLE 1:** Individual A filed a 2003 federal income tax return reporting a tax liability of $2,000. Individual A had $500 of federal income tax withheld and $2,500 of earned income credit and received a federal income tax refund of $1,000 after filing the return in 2004. Individual A does not have to report the $1,000 federal refund on the Iowa return for 2004, since the refund resulted from the earned income credit.

**EXAMPLE 2:** Individual B filed a 2003 federal income tax return reporting a tax liability of $500. Individual B had $1,000 of federal income tax withheld and $1,000 of earned income credit and received a federal income tax refund of $1,500 after filing the return in 2004. Individual B must report a $500 federal refund on the Iowa return for 2004, since the portion of the refund relating to the earned income credit does not have to be reported.

**EXAMPLE 3:** Individual C filed a 2003 federal income tax return reporting a tax liability of $1,000. Individual C paid $900 in federal estimated tax and claimed a $400 federal motor vehicle fuel tax credit and received a federal refund of $300 after filing the return in 2004. Individual C must report the $300 federal refund on the Iowa return for 2004, since the refund resulted from the motor vehicle fuel tax credit.

c. Any portion of the federal refund received due to the first-time homebuyer credit computed under Section 36 of the Internal Revenue Code does not have to be reported on the Iowa return. Similarly, any recapture of the credit under Section 36(f) of the Internal Revenue Code is not allowed as a deduction for federal taxes paid.

**EXAMPLE:** Individual A filed a 2008 federal income tax return reporting a tax liability of $1,000. Individual A had $1,200 of federal tax withheld and $7,500 of first-time homebuyer credit and received a federal income tax refund of $7,700 after filing the return in 2009. Individual A must report a $200 federal refund on the Iowa return for 2009, since the portion of the federal refund relating to the first-time homebuyer credit does not have to be reported. The $500 of federal taxes that will be recaptured and paid for each year on the federal income tax return for 2009-2023 in accordance with Section 36(f) of the Internal Revenue Code will not be allowed as a deduction on the Iowa return for federal taxes paid.

**41.3(3) Federal income tax deduction—part-year residents.**

a. For tax years beginning on or before December 31, 1981, the federal income tax deduction attributable to Iowa by part-year residents shall be determined by multiplying the federal tax paid or
accrued for the entire taxable year by a fraction, the numerator of which is the Iowa net income and the denominator of which is the federal adjusted gross income except that the taxpayer can deduct actual federal income tax withheld on that income subject to withholding which was earned while the taxpayer was an Iowa resident if the federal tax withheld on the Iowa income is separately shown on the wage statement(s) of the taxpayer.

b. For tax years beginning on or after January 1, 1982, the federal income tax deduction attributable to Iowa by part-year residents shall be the same deduction as is available for resident taxpayers.

41.3(4) Federal income tax deduction—nonresidents.

a. For tax years beginning on or before December 31, 1981, the federal income tax deduction attributable to Iowa by nonresidents shall be determined by multiplying the federal tax paid or accrued for the entire taxable year by a fraction, the numerator of which is the Iowa net income and denominator of which is the federal adjusted gross income.

If separate Iowa nonresident returns are filed by a husband and wife who filed a joint federal return, each spouse's Iowa adjusted gross income must be divided by the total federal net income of both spouses in order to compute a ratio that can be used to determine the federal tax deduction attributable to each spouse. In any event, the ratio including the combined ratio of husband and wife cannot exceed 100 percent.

Federal income taxes paid during the taxable year on prior years' federal income tax returns will not be allowable on the nonresident return for the taxable year unless Iowa returns were filed for the prior years for which the federal taxes were paid.

Any federal income tax, either paid by a nonresident or withheld from their compensation, which is later refunded to the taxpayer, shall be included as Iowa income by the nonresident for the year the refund is received, in the same portion that such federal tax was deducted by the nonresident in a prior Iowa income tax return.

b. For tax years beginning on or after January 1, 1982, the federal income tax deduction attributable to Iowa by nonresidents of Iowa shall be the same deduction as is available for resident taxpayers.


41.3(6) Federal rate reduction credit and the federal income tax deduction for the 2002 tax year. Rescinded IAB 10/16/13, effective 11/20/13.

41.3(7) Federal rebate received in 2008. For tax years beginning in the 2008 calendar year, the federal tax rebate or advanced refund of federal income tax provided to certain individuals in 2008 pursuant to the federal Economic Stimulus Act of 2008 is not to be included as part of an individual's federal income tax refund for the individual's federal tax deduction for Iowa individual income tax purposes.

EXAMPLE. Frank and Jane Casey received a federal refund of $1,300 in March 2008 from federal income tax that had been deducted on their 2007 Iowa individual income tax return. Frank and Jane also received a $1,200 federal rebate in June 2008. When Frank and Jane file their 2008 Iowa return, they must report a federal income tax refund of $1,300. However, they are not required to include as part of the federal income tax refund shown on their 2008 Iowa return the $1,200 federal rebate they received in June 2008.

41.3(8) Federal rate reduction credit and the federal income tax deduction for the 2009 tax year. For tax years beginning in the 2009 calendar year, the tax rate reduction credit or the advanced refund of federal income tax provided to certain individuals pursuant to the federal Economic Stimulus Act of 2008 is to be included as part of an individual’s federal income tax refund for Iowa individual income tax purposes. The tax rate reduction credit was also referred to as the federal rebate when it was refunded to some taxpayers during the 2008 calendar year. This subrule does not apply to those taxpayers who received the federal rebate in the 2008 calendar year.

EXAMPLE: When Fred and Barbara Jones completed their 2008 federal income tax return, they received the benefit of a rate reduction credit of $1,200, which resulted in the Browns’ receiving a
federal income tax refund of $1,300 in May 2009. Fred and Barbara need to report the entire $1,300 refund of federal income tax when they complete their Iowa income tax return for 2009.

This rule is intended to implement Iowa Code section 422.9 as amended by 2008 Iowa Acts, House File 2417.

[ARC 8589B, IAB 3/10/10, effective 4/14/10; ARC 1101C, IAB 10/16/13, effective 11/20/13; ARC 1303C, IAB 2/5/14, effective 3/12/14; ARC 1665C, IAB 10/15/14, effective 11/19/14]

701—41.4(422) Optional standard deduction. An optional standard deduction is provided on the Iowa individual income tax return for both residents and nonresidents. In the case of married taxpayers filing separate returns or separately on the combined return, if one spouse takes the optional standard deduction, the other spouse must also take the optional standard deduction. The standard deduction claimed by the taxpayer may not exceed the taxpayer’s income before the standard deduction.

A taxpayer has the option of itemizing deductions or of using the optional standard deduction on the Iowa return, regardless of the deduction method used on the federal return.

For tax years beginning on or after January 1, 1990, the optional standard deduction amounts are indexed or increased for inflation by the cumulative standard deduction factor. The cumulative standard deduction factor is described in rule 701—38.12(422).

41.4(1) Direct charitable contribution for individuals claiming the optional standard deduction. Rescinded IAB 3/26/08, effective 4/30/08.

41.4(2) Reserved.

This rule is intended to implement Iowa Code sections 422.4 and 422.9.

701—41.5(422) Itemized deductions. Deductions may be itemized on the Iowa return to the same extent that they are allowable on the federal return with the following exceptions:

41.5(1) To the extent that Iowa income taxes were included in itemized deductions allowable for federal income tax purposes, they must be subtracted from the itemized deductions to be deducted on the Iowa return.

41.5(2) For the tax years beginning on or after January 1, 2004, and before January 1, 2008, and for tax years beginning on or after January 1, 2010, but before January 1, 2014, the itemized deduction for state sales and use taxes is allowed on the Iowa return only if the taxpayer elected to deduct state sales and use taxes as an itemized deduction in lieu of the deduction for state income taxes on the federal return under Section 164 of the Internal Revenue Code.

If the taxpayer elected to deduct state income taxes as an itemized deduction on the federal return, taxpayer cannot claim an itemized deduction for state sales and use taxes on the Iowa return. In addition, if taxpayer claimed the standard deduction in accordance with Section 63 of the Internal Revenue Code on the federal return, taxpayer cannot claim an itemized deduction for state sales and use taxes on the Iowa return.

If the taxpayer is allowed to deduct state sales and use taxes as an itemized deduction on the Iowa return, taxpayer cannot claim an itemized deduction on the Iowa return for either the school district surtax imposed under Iowa Code section 257.21 or the emergency medical services income surtax imposed under Iowa Code chapter 422D.

41.5(3) Adoption expense deduction. Unreimbursed amounts paid by the taxpayer in the adoption of a child if placed by a licensed agency under Iowa Code chapter 238, by an agency that meets the provisions of the interstate compact in Iowa Code section 232.158 or by a person making an independent placement under Iowa Code chapter 600, which exceed 3 percent of the taxpayer’s net income, or the combined net income of a husband and wife in the case of married taxpayers filing a joint return, will be allowed as a deduction in the year paid. Qualifying expenses include all medical, hospital, legal fees, welfare agency fees, and all other costs relating to the adoption of a child. Those expenses claimed for adoption purposes may not be claimed elsewhere on the individual income tax return for tax years beginning before January 1, 2014. For tax years beginning on or after January 1, 2014, an adoption tax credit equal to the first $2,500 of qualified adoption expenses can be claimed in accordance with rule 701—42.52(422), but the expenses claimed for the credit cannot be allowed as a deduction under this subrule.
EXAMPLE: The Joneses, a married couple whose combined net income for 2014 is $100,000, incur $6,000 of qualified adoption expenses and claim a $2,500 adoption tax credit in accordance with rule 701—42.52(422). The amount of expenses in excess of 3 percent of their combined net income is $3,000. Since the taxpayers claimed a $2,500 adoption tax credit, only $500 of expenses is eligible for the deduction.

41.5(4) Deduction for expenses for the care of certain disabled relatives.

a. For tax years beginning on or after January 1, 1983, a deduction from net income may be taken for expenses incurred by a taxpayer for care of a disabled person who is unable to live independently. Such care must be provided in the home in which the taxpayer resides throughout the year. A person is considered to be incapable of living independently if as a result of a physical or mental defect the person is incapable of caring for the person’s hygienical or nutritional needs or requires the full-time attention of another person for personal safety or the safety of others. The fact that an individual, by reason of a physical or mental defect, is unable to engage in any substantial gainful activity, or is unable to perform the normal household functions of a homemaker or to care for minor children, does not of itself establish that the individual is physically or mentally incapable of self-care. An individual who is physically handicapped or is mentally defective, and for such reason requires the constant attention of another person, is considered to be physically or mentally incapable of self-care.

To qualify for the deduction, in addition to being disabled, the person must be the grandchild, child, parent or grandparent of the taxpayer or the taxpayer’s spouse, and

1. Be receiving medical assistance benefits under Iowa Code chapter 249A; or
2. Be eligible to receive such benefits under the income and resource levels established in Iowa Code chapter 239B; or
3. Would be eligible to receive such benefits if living in a health-care facility licensed under Iowa Code chapter 135C.

Expenses incurred for a taxpayer’s disabled spouse do not qualify for the deduction.

b. The deductible amount is limited to $5,000 for each disabled person cared for in the taxpayer’s home and the expenses must not be otherwise deductible as a deduction from net income under Iowa Code section 422.9.

c. Qualifying expenses include a proportionate share of food expenses as well as amounts spent directly on the disabled person for such items as clothing, medical care, dental care and transportation.

Medical expenses incurred for a disabled relative, which are eliminated from federal itemized deductions because of the federal adjusted gross income percentage limitation, may be included in the deduction for expenses incurred for the care of the disabled relative providing the other requirements are met. Following are examples to illustrate the portion of medical expenses incurred which would be deductible.

EXAMPLE 1. Mr. and Mrs. Smith care for Mrs. Smith’s mother in their home. Mrs. Smith’s mother is physically unable to live independently and qualifies for medical assistance benefits under Iowa Code chapter 249A. Mr. and Mrs. Smith paid medical expenses of $1,500 for themselves and $500 for Mrs. Smith’s mother. The medical expenses for Mrs. Smith’s mother are includable as federal itemized deductions. Mr. and Mrs. Smith’s federal adjusted gross income is $20,000. For 1983, the federal deduction for medical expenses would be $1,000 ($2,000 minus 5 percent of $20,000 or $1,000). Since the deductible amount for federal tax purposes is $1,000 or 50 percent of the total medical expenses of Mr. and Mrs. Smith and Mrs. Smith’s mother, there remains 50 percent of the $500 expense for Mrs. Smith’s mother (or $250) which can be included in the Iowa deduction for a disabled relative.

EXAMPLE 2. Mr. and Mrs. Smith’s medical expenses were $400 and Mrs. Smith’s mother’s expenses were $200. None of the $600 in expenses would be deductible as a federal itemized deduction but the mother’s $200 in expenses would be includable in the Iowa deduction for expenses incurred for a disabled relative.

d. Expenses not directly related to care of a disabled relative are not deductible. This category includes rent, mortgage interest, utilities, house insurance and taxes. Such expenses would be incurred without the disabled relative in the home and unless an expense can be directly attributed to the disabled relative, it may not be deducted.
e. In the event that the person being cared for is receiving assistance benefits under Iowa Code chapter 239B, the expenses qualifying for deduction shall be the net difference between the expenses actually incurred in caring for the person which are not otherwise deductible as a deduction to net income and the assistance benefits under Iowa Code chapter 239B. Iowa Code chapter 239B covers family investment program payments.

f. In order to claim a deduction for expenses for care of a disabled relative, a schedule of qualifying expenses must be provided with the tax return as well as a statement from a qualified physician certifying that the disabled individual is unable to live independently. Such certification must be filed with the tax return in the initial year for the deduction and every third year thereafter.

41.5(5) Rescinded IAB 5/6/09, effective 6/10/09.

41.5(6) Rescinded IAB 11/24/04, effective 12/29/04.

41.5(7) Deduction of multipurpose vehicle registration fee. For tax years beginning on or after January 1, 1992, and before January 1, 2005, individuals who itemize deductions for Iowa income tax purposes may claim a deduction for 60 percent of the amount of the registration fee paid for a multipurpose vehicle under Iowa Code section 321.124, subsection 3, paragraph “h.” “Multipurpose vehicle” means a motor vehicle designed to carry not more than ten people and constructed either on a truck chassis or with special features for occasional off-road operation. The registration certificate for a multipurpose vehicle has the letters “MV” printed next to the word “style” on the certificate.

This subrule applies only to model year 1992 and older model year multipurpose vehicles. The registration fees for multipurpose vehicles for the 1993 model year and for model years after 1993 are the same as for other motor vehicles where the fees for newer model year vehicles are based on the value and weight of the vehicle. In order to qualify for this deduction, no part of the multipurpose vehicle registration fee may have been deducted as an itemized deduction under Section 164 of the Internal Revenue Code or as an ordinary and necessary business expense.

See also subrule 41.5(9), which provides for the deduction for registration fees for older motor vehicles. Subrule 41.5(7) also applies to multipurpose vehicles to the extent those vehicles are for the 1993 model year or for model years after 1993.

For tax years beginning on or after January 1, 2005, the itemized deduction for Iowa income tax for multipurpose vehicle registration fees is the same as allowed under Section 164 of the Internal Revenue Code for federal tax purposes.

41.5(8) Medical expense deduction limitation. For tax years beginning on or after January 1, 1996, to the extent that a taxpayer has a medical care expense deduction on the federal return under Section 213 of the Internal Revenue Code, the taxpayer must compute the medical care expense deduction on the Iowa return by excluding those health insurance premiums deducted in computing net income in accordance with Iowa Code subsection 422.7(29) and rule 701—40.48(422).

41.5(9) Deduction of older motor vehicle registration fee. For tax years beginning on or after January 1, 2002, and before January 1, 2005, individuals who itemize deductions for Iowa income tax purposes may claim a deduction for 60 percent of the annual registration fee paid for certain older motor vehicles. This deduction applies to a 1994 model year vehicle or a newer model year vehicle that is nine model years old or older. This deduction also applies to a 1993 or older motor vehicle which has been transferred to a new owner or to a 1993 or older model vehicle that was brought into Iowa on or after January 1, 2002. However, the deduction otherwise allowed pursuant to this subrule is not allowed to the extent that the vehicle was used in the taxpayer’s trade or business so that the deduction for the registration of the vehicle has already been allowed in the computation of Iowa net income.

For tax years beginning on or after January 1, 2005, the itemized deduction for Iowa income tax for older motor vehicle registration fees is the same as allowed under Section 164 of the Internal Revenue Code for federal tax purposes.

41.5(10) Additional first-year depreciation allowance. For tax periods ending on or after September 10, 2001, any federal itemized deductions that are determined based on a percentage of a taxpayer’s federal adjusted gross income may have to be adjusted for Iowa tax purposes. These itemized deductions for Iowa individual tax purposes are based on federal adjusted gross income as adjusted by
the disallowance of the additional first-year depreciation allowance authorized in Section 168(k) of the Internal Revenue Code as described in rule 701—40.60(422).

Example: Mr. and Mrs. Jones reported $50,000 in federal adjusted gross income on their 2002 federal income tax return. Mr. and Mrs. Jones paid medical expenses of $5,000 for 2002, but could only claim an itemized deduction for medical expenses for federal tax purposes equal to $1,250, or to the extent the medical expenses exceeded 7.5 percent of their federal adjusted gross income ($50,000 times 7.5% = $3,750. $5,000 - $3,750 = $1,250). Mr. and Mrs. Jones reported a $5,000 increase in Iowa adjusted gross income due to the disallowance of additional first-year depreciation on their Iowa return for 2002. Mr. and Mrs. Jones can claim an itemized deduction on the 2002 Iowa return for medical expenses of $875, or to the extent the medical expenses exceeded 7.5 percent of their adjusted gross income for Iowa purposes of $55,000 ($55,000 times 7.5% = $4,125. $5,000 - $4,125 = $875).

41.5(11) Charitable contributions made in January 2005 for relief of victims of the Indian Ocean tsunami. For cash contributions made after December 31, 2004, and before February 1, 2005, to charitable organizations for the purpose of helping victims of the Indian Ocean tsunami, the taxpayer may claim this contribution as an itemized deduction on the 2004 Iowa income tax return if the taxpayer elected to claim this contribution as an itemized deduction on the 2004 federal tax return. If the taxpayer elected to claim the cash contribution made in January 2005 as an itemized deduction on the 2005 federal tax return, then it must be claimed as an itemized deduction on the 2005 Iowa return.

41.5(12) Medical expense deduction for certain unreimbursed expenses relating to a human organ transplant. For tax years beginning on or after January 1, 2005, a taxpayer who claims a deduction for unreimbursed travel and lodging expenses relating to a human organ transplant in accordance with rule 701—40.66(422) cannot claim an itemized deduction for medical expenses under Section 213(d) of the Internal Revenue Code for these same expenses for Iowa tax purposes.

41.5(13) Charitable contributions relating to the injured veterans grant program. For tax years beginning on or after January 1, 2006, a taxpayer who claims a deduction for contributions to the injured veterans grant program in accordance with 701—subrule 40.68(2) cannot claim an itemized deduction for charitable contributions under Section 170 of the Internal Revenue Code for the same contribution for Iowa tax purposes.

41.5(14) Charitable contributions relating to school tuition organizations. For tax years beginning on or after January 1, 2006, a taxpayer who claims a school tuition organization tax credit in accordance with rule 701—42.32(422) cannot claim an itemized deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution to the school tuition organization for Iowa tax purposes.

41.5(15) Charitable contributions relating to the charitable conservation contribution tax credit. For tax years beginning on or after January 1, 2008, a taxpayer who claims a charitable conservation contribution tax credit in accordance with rule 701—42.40(422) cannot claim an itemized deduction for charitable contributions for the amount of the contribution for which the tax credit is claimed. See 701—subrule 42.40(2) for examples illustrating how this subrule is applied.

41.5(16) Charitable contributions relating to the endow Iowa tax credit. For tax years beginning on or after January 1, 2010, a taxpayer who claims an endow Iowa tax credit in accordance with rule 701—42.24(151,422) cannot claim an itemized 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.

41.5(17) Charitable contributions relating to the from farm to food donation tax credit. For tax years beginning on or after January 1, 2014, a taxpayer who claims a from farm to food donation tax credit in accordance with rule 701—42.51(422,85GA,SF452) cannot claim an itemized deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes.

This rule is intended to implement Iowa Code section 422.7 and section 422.9 as amended by 2014 Iowa Acts, House File 2468.
701—41.6(422) Itemized deductions—separate returns by spouses. Where both spouses itemize deductions, the deductions must be divided between them in the ratio that each spouse’s separate Iowa net income bears to the total Iowa net income of both spouses unless each spouse can show that the spouse paid for or is entitled to accrue the deductions. It will be presumed that the deductions are paid by both spouses and must be prorated if the deductions were paid from a joint checking account of both spouses. In any event, all itemized deductions must either be prorated between spouses or must be specifically deducted by the spouse that paid for the deductions. No combinations of the two methods will be permitted.

This rule is intended to implement Iowa Code section 422.9.

701—41.7(422) Itemized deductions—part-year residents.
41.7(1) Rescinded IAB 3/26/08, effective 4/30/08.
41.7(2) For tax years beginning on or after January 1, 1982, itemized deductions attributable to Iowa by part-year residents shall be the itemized deductions allowable for resident taxpayers.

This rule is intended to implement Iowa Code sections 422.7, 422.8 and 422.9.

701—41.8(422) Itemized deductions—nonresidents.
41.8(1) Rescinded IAB 3/26/08, effective 4/30/08.
41.8(2) For tax years beginning on or after January 1, 1982, itemized deductions attributable to Iowa by nonresidents shall be the itemized deductions available for resident taxpayers.

This rule is intended to implement Iowa Code sections 422.5, 422.7 and 422.9.

701—41.9(422) Annualizing income. Where a taxpayer is required to annualize income for federal income tax purposes the taxpayer must also annualize on the Iowa return.

This rule is intended to implement Iowa Code section 422.7.

701—41.10(422) Income tax averaging. There is no provision in the Iowa Code which allows income tax averaging.

This rule is intended to implement Iowa Code sections 422.7 and 422.5.

701—41.11(422) Reduction in state itemized deductions for certain high-income taxpayers. For tax years beginning after December 31, 1990, the itemized deductions for certain high-income taxpayers are reduced for federal income tax purposes by the lesser of 3 percent of the excess of adjusted gross income (AGI) over the applicable amount, or 80 percent of the amount of itemized deductions otherwise allowable for the taxable year. For 1991, the applicable amount is $100,000 ($50,000 in the case of a married person filing a separate federal return). The applicable amount is to be increased each tax year to reflect inflation in the taxable years after 1991. For example, for 1995 the applicable amount is $114,700 ($57,350 in the case of a married person filing a separate return). This reduction in itemized deductions for certain high-income taxpayers applies for Iowa individual income tax purposes for the same tax years that the provision applies for federal income tax purposes. The following subrules clarify how the reduction in itemized deductions is to be determined on the Iowa individual income tax return:

41.11(1) Itemized deduction worksheet (Form 41-104). High-income taxpayers who are itemizing deductions on the Iowa income tax return and whose itemized deductions for federal income tax purposes were subject to reduction because their federal adjusted gross incomes exceeded certain amounts (the amounts for 1996 were $117,950 for all taxpayers except married taxpayers who filed separate federal returns and $58,975 for married individuals who filed separate federal returns) must complete Itemized Deduction Worksheet (Form 41-104) to determine the amount of federal itemized deductions that can be claimed on the Iowa income tax return. This worksheet must also be used to compute the itemized deductions allowable on the Iowa return for taxpayers who claimed the standard deduction on their federal individual income tax return, but are itemizing deductions for Iowa income tax purposes and whose deductions would have been subject to reduction, if they had itemized deductions on their federal income tax return. These taxpayers must complete the worksheet (Form 41-104) as if they had itemized deductions on their federal returns. Generally, the itemized deductions allowed on the federal income tax
return for high-income taxpayers are also allowed for Iowa individual income tax purposes, except that
the Iowa income tax that was allowable as a deduction on the federal Schedule A is not allowed as an Iowa
itemized deduction. In addition, the deduction for medical expenses claimed as an itemized deduction
on the federal income tax return should be reduced by the amount of health insurance premiums claimed
as a deduction on line 18 of the IA 1040. The line references on Form 41-104 are to the federal 1040
and to the federal Schedule A for 1996 and to the IA 1040 for the 1996 tax year. Similar line references
will apply on Form 41-104 and to IA 1040 for any later tax year when the taxpayer’s federal itemized
deductions were subject to reduction because the taxpayer’s federal adjusted gross income exceeded the
threshold amount for that year and the taxpayer itemized deductions on the Iowa income tax return. Note
that if a taxpayer’s itemized deductions are less than the Iowa standard deduction amount, the taxpayer
may elect to claim the Iowa standard deduction.

Form 41-104 follows:

1. Enter the allowable federal itemized deductions as shown on line
   34 of the 1040.

2. Add the amounts on federal Schedule A, lines *4, 13, 19 plus any
   gambling losses including on line 27 and enter the total here.

3. Subtract line 2 amount from line 1 amount.

4. Add the amounts on federal Schedule A, lines *4, 9, 14, 18, 19,
   26, and 27 and enter the total here.

5. Subtract line 2 amount from line 4 amount.

6. Divide line 3 by line 5 and enter percentage here.

7. Enter the amount of Iowa income tax that is included in line 5 of the
   federal Schedule A.

8. Multiply line 7 by the percentage on line 6.

9. Subtract line 8 from line 1. Enter this amount here and on line 39
   of the IA 1040.

*The deduction for medical expenses from line 4 of federal Schedule A must be reduced by the amount
of any health insurance premiums that were deducted on line 18 of Form IA 1040 in computing the
taxpayer’s net income for the tax year.

41.11(2) Possible problem with itemized deduction worksheets for 1992, 1993, and 1994
returns. Rescinded IAB 3/26/08, effective 4/30/08.

This rule is intended to implement Iowa Code sections 422.3 and 422.9.

701—41.12(422) Deduction for home mortgage interest for taxpayers with mortgage interest
credit. For tax years beginning on or after January 1, 1996, any taxpayer who had the mortgage interest
credit on the federal return can claim a deduction on the Schedule A of the IA 1040 for all the mortgage
interest paid in the tax year, including the mortgage interest that was not deducted on the federal return
due to the mortgage interest credit.

This rule is intended to implement Iowa Code sections 422.3 and 422.9.

701—41.13(422) Iowa income taxes and Iowa tax refund. As provided in subrule 41.5(1), Iowa
individual income taxes paid or accrued are allowable itemized deductions for federal income tax
purposes, but are not allowable itemized deductions for Iowa income tax purposes. To the extent Iowa
income taxes were deducted as itemized deductions for federal tax purposes, they shall be disallowed
as an itemized deduction for Iowa income tax purposes.

Refunds of Iowa income taxes to the extent that the refunds were included in the determination of
federal adjusted gross income shall be allowed as a reduction to Iowa adjusted gross income, only to the
extent that an itemized deduction for Iowa income taxes was disallowed on a prior Iowa return. Iowa
income tax refunds resulting from Iowa refundable income tax credits are not allowed as a reduction for Iowa income tax purposes.

EXAMPLE: Individual A made Iowa estimated payments of $2,000 during the 2003 tax year. The $2,000 of estimated payments was claimed as an itemized deduction for federal tax purposes, but was not allowed as an itemized deduction for Iowa tax purposes. The 2003 Iowa return reported a tax liability of $1,600. Individual A had $2,000 of Iowa estimated payments and a $500 ethanol blended gasoline tax credit, and received a $900 Iowa tax refund in 2004. Of the $900 refund reported as income on the federal return, Individual A will be allowed a $400 ($2,000 - $1,600) reduction on the Iowa return for 2004.

This rule is intended to implement Iowa Code section 422.9.

[Filed 12/12/74]
[Filed 12/10/76, Notice 9/22/76—published 12/29/76, effective 2/2/77]
[Filed 10/28/77, Notice 9/21/77—published 11/16/77, effective 12/21/77]
[Filed 9/18/78, Notice 7/26/78—published 10/18/78, effective 11/22/78]
[Filed 12/7/79, Notice 10/31/79—published 12/26/79, effective 1/30/80]
[Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]
[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/15/82]
[Filed 12/3/82, Notice 10/27/82—published 12/22/82, effective 1/26/83]
[Filed 8/25/83, Notice 7/20/83—published 9/14/83, effective 10/19/83]
[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
[Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]
[Filed 8/10/84, Notice 7/4/84—published 8/29/84, effective 10/3/84]
[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
[Filed emergency 12/23/87—published 1/13/88, effective 12/23/87]
[Filed 12/23/87, Notice 11/18/87—published 1/13/88, effective 2/17/88]
[Filed 2/19/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 8/19/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]
[Filed 1/19/90, Notice 12/13/89—published 2/7/90, effective 3/14/90]
[Filed 11/7/91, Notice 10/2/91—published 11/27/91, effective 1/1/92]
[Filed 9/11/92, Notice 8/5/92—published 9/30/92, effective 11/4/92]
[Filed 3/26/93, Notice 2/17/93—published 4/14/93, effective 5/19/93]
[Filed 1/12/96, Notice 12/6/95—published 1/31/96, effective 3/6/96]
[Filed 6/14/96, Notice 5/8/96—published 7/3/96, effective 8/7/96]
[Filed 8/23/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
[Filed 9/19/97, Notice 8/13/97—published 10/8/97, effective 11/12/97]
[Filed 12/12/97, Notice 11/5/97—published 12/31/97, effective 2/4/98]
[Filed 2/20/98, Notice 1/14/98—published 3/11/98, effective 4/15/98]
[Filed 3/15/02, Notice 1/23/02—published 4/3/02, effective 5/8/02]
[Filed 10/11/02, Notice 9/4/02—published 10/30/02, effective 12/4/02]
[Filed 9/26/03, Notice 8/20/03—published 10/15/03, effective 11/19/03]
[Filed 11/6/03, Notice 10/1/03—published 11/26/03, effective 12/31/03]
[Filed 1/30/04, Notice 12/24/03—published 2/18/04, effective 3/24/04]
[Filed 9/22/05, Notice 8/3/05—published 10/12/05, effective 11/16/05]
[Filed 7/28/06, Notice 6/21/06—published 8/16/06, effective 9/20/06]
[Filed 11/1/06, Notice 8/16/06—published 11/22/06, effective 12/27/06]
[Filed 3/7/08, Notice 1/30/08—published 3/26/08, effective 4/30/08]
[Filed 10/31/08, Notice 9/24/08—published 11/19/08, effective 12/24/08]
[Filed ARC 7761B (Notice ARC 7632B, IAB 3/11/09), IAB 5/6/09, effective 6/10/09]
[Filed ARC 8589B (Notice ARC 8430B, IAB 12/30/09), IAB 3/10/10, effective 4/14/10]
[Filed ARC 8702B (Notice ARC 8512B, IAB 2/10/10), IAB 4/21/10, effective 5/26/10]
[Filed ARC 9820B (Notice ARC 9740B, IAB 9/7/11), IAB 11/2/11, effective 12/7/11]
[Filed ARC 1101C (Notice ARC 0976C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]
[Filed ARC 1138C (Notice ARC 0998C, IAB 9/4/13), IAB 10/30/13, effective 12/4/13]
[Filed ARC 1303C (Notice ARC 1231C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 1665C (Notice ARC 1590C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]

Two or more ARCs
CHAPTER 42
ADJUSTMENTS TO COMPUTED TAX AND TAX CREDITS
[Prior to 12/17/86, Revenue Department[730]]

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 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. Effective for tax years beginning on or after January 1, 1998, taxpayers who pay tuition and textbook expenses of dependents who attend grades kindergarten through 12 in an Iowa school may receive a tax credit of 25 percent of up to $1,000 of qualifying expenses for each dependent attending an elementary or secondary school located in Iowa. In order for the taxpayer to qualify for the tax credit for tuition and textbooks, 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. The following definitions and criteria apply to the determination of the tax credit for amounts paid by the taxpayer for tuition and textbooks for a dependent attending an elementary or secondary school in Iowa:

42.4(1) Tuition. For purposes of the tuition and textbook tax credit, “tuition” means any charge made by an elementary or secondary school for the expense of personnel, buildings, equipment and materials other than textbooks, and other expenses of elementary or secondary schools 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 private instruction of a child who is physically unable to attend classes at the site of the elementary or secondary school.

“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 private instruction of a dependent who attends an elementary or secondary school in Iowa. Amounts paid to a school for meals, lodging, or clothing for a dependent do not qualify for the tax credit for tuition.

Amounts paid to an individual or organization for home schooling of a dependent or the teaching of a dependent outside of an elementary or secondary school may not be claimed for purposes of the tuition and textbook tax credit.

42.4(2) Textbooks. For purposes of the tuition and textbook tax credit, “textbooks” means books and other instructional materials used in elementary and secondary schools in Iowa to teach only those subjects legally and commonly taught in public elementary and secondary schools in Iowa. “Textbooks” includes fees or charges by the elementary or secondary school 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. “Textbooks” also 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.

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 if provided at a school, 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 that may qualify for the tuition and textbook tax credit:

(1) Fees for participation in school sports activities.
(2) Fees for field trips.
(3) Rental fees for instruments for school bands or orchestras but not rental fees in rent-to-own contracts.

(4) Driver’s education fees, if paid to a school.

(5) Cost of activity tickets or admission tickets to school sporting, music and dramatic events.

(6) Fees for events such as homecoming, winter formal, prom, or similar events.

(7) Rental of costumes for school plays.

(8) Purchase of costumes for school 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 school academic or athletic awards.

(11) Trumpet grease, woodwind reeds, guitar picks, violin strings and similar types of items for maintenance of instruments used in school bands or orchestras.

(12) Band booster club or athletic booster club dues, but only if dues are for the dependent attending the school and not the parent or adult.

(13) Rental of formal gown or tuxedo for school dance or other school event.

(14) Dues paid to school clubs or school-sponsored organizations such as chess club, photography club, debate club, or similar organizations.

(15) Amounts paid for music that will be used in school music programs, including vocal music programs.

(16) Fees paid for 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 if paid to the school.

b. The following are specific examples of expenditures related to a dependent’s participation in or attendance at extracurricular activities that will not qualify for the tuition and textbook credit.

(1) Purchase of a musical instrument used in a school 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 school activity trips which involve payment for meals and lodging.

(5) Fees paid to K-12 schools 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 for high school students.

(8) Payment for private instrumental lessons, voice lessons or similar lessons.

(9) Amounts paid for a school yearbook, annual or class ring.

(10) 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.

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.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9820B, IAB 11/2/11, effective 12/7/11]

701—42.5(422) Nonresident and part-year resident credit. For tax years beginning on or after January 1, 1982, 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, which is included in the Iowa individual income tax booklet. The following subrules clarify how the nonresident and part-year resident credit is computed for nonresidents of Iowa and taxpayers who are part-year residents of Iowa during the tax year.

42.5(1) Nonresident/part-year resident credit for nonresidents of Iowa. A nonresident of Iowa shall complete the Iowa individual return in the same way an Iowa resident completes the form by reporting the individual’s total net income, including income earned outside Iowa, on the front of the IA 1040 return form. A nonresident individual is allowed the same deduction for federal income tax and the same itemized deductions as an Iowa resident taxpayer with identical deductions for these expenditures. Thus, a nonresident with a taxable income of $40,000 would have the same initial Iowa income tax liability as a resident taxpayer with a taxable income of $40,000 before the nonresident/part-year resident credit is computed.

The nonresident/part-year resident credit is computed on Schedule IA 126. The lines referred to in this subrule are from Schedule IA 126 and Form IA 1040 for the 2008 tax year. Similar lines on the schedule and form may apply for subsequent tax years. The individual’s Iowa source net income from lines 1 through 25 of the schedule is totaled on line 26 of the schedule. If the nonresident’s Iowa source net income is less than $1,000, the taxpayer is not subject to Iowa income tax and is not required to file an Iowa income tax return for the tax year. However, if the Iowa source net income amount is $1,000 or more, the Iowa source net income is then divided by the person’s all source net income on line 27 of Schedule IA 126 to determine the percentage of the Iowa net income to all source net income. This Iowa income percentage, which is rounded to the nearest tenth of a percent, is inserted on line 28 of the schedule, and this percentage is then subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage or the percentage of the individual’s total income which was earned outside Iowa. The nonresident/part-year resident credit percentage is entered on line 29 of Schedule IA 126. The Iowa income tax on total income from line 43 of the IA 1040 is entered on line 30 of Schedule IA 126. The total of nonrefundable credits from line 49 of the IA 1040 is then shown on line 31 of Schedule IA 126. The amount on line 31 is subtracted from the amount on line 30, which results in the Iowa total tax after nonrefundable credits, which is entered on line 32. This Iowa tax-after-credits amount is multiplied by the nonresident/part-year resident credit percentage from line 29 to compute the nonresident/part-year resident credit. The amount of the credit is inserted on line 33 of Schedule IA 126 and on line 51 of the IA 1040.

EXAMPLE A. A single resident of Nebraska had Iowa source net income of $15,000 in 2008 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 an all source net income of $40,000 and a taxable income of $30,000 due to a federal tax deduction of $7,000 and itemized deductions of $3,000. The Iowa income percentage is computed by dividing the Iowa source net income of $15,000 by the taxpayer’s all source net income of $40,000, which results in a percentage of 37.5. This percentage is subtracted from 100 percent which leaves a nonresident/part-year resident credit percentage of 62.5.
The Iowa tax from line 43 of the IA 1040 is $1,508. The total nonrefundable credit from line 49 is $40, which leaves a tax amount of $1,468 when the credit is subtracted from $1,508. When $1,468 is multiplied by the nonresident/part-year resident credit percentage of 62.5, a nonresident credit of $918 is computed which is entered on line 33 of Schedule IA 126 as well as on line 51 of the IA 1040 for 2008.

EXAMPLE B. A California resident, who was married, had $20,000 of Iowa source income in 2008 from an Iowa farm. This individual had an additional $80,000 in income that was attributable to sources outside Iowa, but the individual’s spouse had no income. The taxpayers had paid $18,000 in federal income tax in 2008 and had itemized deductions of $12,000 in 2008.

The taxpayers’ taxable income on their joint Iowa return was $70,000. The taxpayers had an Iowa income tax liability of $4,583 after application of the personal exemption credits of $80. The taxpayers had an Iowa source income of $20,000 and an all source net income of $100,000. Therefore, the Iowa income percentage was 20. Subtracting the Iowa income percentage of 20 percent from 100 percent leaves a nonresident/part-year resident credit percentage of 80.

When the Iowa income tax liability of $4,583 is multiplied by 80 percent, this results in a nonresident/part-year resident credit of $3,666. This credit amount is entered on line 33 of the Schedule IA 126 and on line 51 of Form IA 1040.

42.5(2) Nonresident/part-year resident credit for part-year residents of Iowa. An individual who is a resident of Iowa for part of the tax year shall complete the front of the IA 1040 income tax return form as a resident taxpayer by showing the taxpayer’s total income, including income earned outside Iowa, on the front of the IA 1040 return form. A part-year resident of Iowa is allowed the same federal tax deduction and itemized deductions as a resident taxpayer who has paid the same amount of federal income tax and has paid for the same deductions that can be claimed on Schedule A in the tax year. Therefore, a part-year resident would have the same initial Iowa income tax liability as an Iowa resident with the same taxable income before computation of the nonresident/part-year resident credit.

The nonresident/part-year resident credit for a part-year resident is computed on Schedule IA 126. The lines referred to in this subrule are from the IA 1040 income tax return form and the Schedule IA 126 for 2008. Similar lines may apply for tax years after 2008. The individual’s Iowa source income is totaled on line 26 of Schedule IA 126 and includes all the individual’s income received while the taxpayer was a resident of Iowa and all the Iowa source income received during the period of the tax year when the individual was a resident of a state other than Iowa. Iowa source income includes, but is not limited to, wages earned in Iowa while a resident of another state as well as income from Iowa farms and other Iowa businesses that was earned during the portion of the year that the taxpayer was a nonresident of Iowa. In the case of interest from a part-year resident’s account at an Iowa financial institution, only interest earned during the period of the individual’s Iowa residence is Iowa source income unless the account is for an Iowa business. If the part-year resident’s account at a financial institution is for an Iowa business, all interest earned in the year by the part-year resident from the account is taxable to Iowa.

Income earned outside Iowa by the part-year resident during the portion of the year the individual was an Iowa resident is taxable to Iowa and is part of the individual’s Iowa source income. To compute the nonresident/part-year resident credit for a part-year resident, the taxpayer’s Iowa source income on Schedule IA 126 is totaled. If the Iowa source income is less than $1,000, the taxpayer is not subject to Iowa income tax and is not required to file an Iowa return. If the Iowa source income is $1,000 or more, it is divided by the taxpayer’s all source net income on line 27 of Schedule IA 126. The percentage computed by this procedure is the Iowa income percentage and is entered on line 28 of the Schedule IA 126. The Iowa income percentage, which is rounded to the nearest tenth of a percent, is then subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage, which is entered on line 29 of Schedule IA 126. The Iowa tax from line 43 of the IA 1040 is then shown on line 30 of Schedule IA 126. The total of the Iowa nonrefundable credits from line 49 of the IA 1040 is entered on line 31 of Schedule IA 126 and is subtracted from the Iowa tax amount on line 30. The tax-after-credits amount on line 32 is next multiplied by the nonresident/part-year resident credit percentage from line 28. The amount calculated from this procedure is the nonresident/part-year resident credit, which is shown on line 33 of Schedule IA 126 and on line 51 of Form IA 1040.
EXAMPLE A. A single individual was a resident of Nebraska for the first half of 2008 and moved to
Iowa on July 1, 2008, 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, 2008, through June 30, 2008. In
the last half of 2008, this person had wages of $30,000, interest income of $300, and $4,000 from the
Nebraska ranch. This part-year resident had federal income tax paid in 2008 of $11,000 and had itemized
deductions of $3,000.

The part-year resident’s all 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 2008 was $44,500, which included
the federal income tax deduction of $11,000 and itemized deductions of $3,000. The individual’s Iowa
income percentage was 58.6 which was determined by dividing the Iowa source income of $34,300 by
the all source income of $58,500. Subtracting the Iowa income percentage of 58.6 from 100 percent
results in a nonresident/part-year resident credit percentage of 41.4. The Iowa tax on total income was
$2,529 which was reduced to $2,489 after subtraction of the personal exemption credit of $40.

When $2,489 is multiplied by the nonresident/part-year resident percentage of 41.4, a
nonresident/part-year resident credit of $1,030 is computed for this part-year resident.

EXAMPLE B. A single individual moved from Minnesota to Iowa on July 1, 2008. This person had
received $5,000 in income from an Iowa farm in March of the tax year and another $10,000 from this
farm in September of 2008. 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 last half of 2008. This
person had $2,000 in interest from a Minnesota bank in the first half of the year and $2,000 in interest
from an Iowa bank in the last six months of 2008. This taxpayer had $8,000 in federal income tax
withheld from wages in 2008 and claimed the standard deduction on both the Iowa and federal income
tax returns.

The part-year resident’s all source income was $44,000 and the Iowa source 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, the farm income received in the first half of 2008 was taxable to Iowa
as well as the farm income received while the individual was an Iowa resident. The individual’s Iowa
taxable income was $34,250 which was computed after subtracting the federal income tax deduction of
$8,000 and a standard deduction of $1,750. The taxpayer’s Iowa income tax liability was $1,757 after
subtraction of a personal exemption credit of $40.

The taxpayer’s Iowa income percentage was 72.7 which was computed by dividing the Iowa
source income of $32,000 by the all source income of $44,000. The nonresident/part-year resident
credit percentage was 27.3 which was arrived at by subtracting the Iowa income percentage of 72.7 from 100 percent. The taxpayer’s nonresident/part-year resident credit is $480. This was determined by
multiplying the Iowa income tax liability after personal exemption credit amount of $1,757 by the
nonresident/part-year resident percentage of 27.3.

This rule is intended to implement Iowa Code section 422.5.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 1665C, IAB 10/15/14, effective 11/19/14]

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

42.6(1) General rule. Iowa residents are allowed an out-of-state tax credit for taxes paid to another
state or foreign country on income which is also reported on the taxpayer’s Iowa return. The out-of-state
tax credit is allowable only if the taxpayer files an Iowa resident income tax return.

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 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 income 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 42.6(2).
However, if the partnership, S corporation, limited liability company or trust is directly subject to tax in another state and the 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 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 purposes and a corporation income tax is imposed directly on the S corporation, then the out-of-state tax credit is not allowed for the Iowa resident shareholder on the corporation income tax paid to the other state.

42.6(2) Limitation of out-of-state tax credit. If an Iowa resident taxpayer pays income tax to another state or foreign country on any of the taxpayer’s income, the taxpayer is entitled to a net tax credit; that is, the taxpayer may deduct from the taxpayer’s Iowa net tax (not from gross income) the amount of income tax actually paid to the other state or country, provided the amount deducted as a credit does not exceed the amount of Iowa net income tax on the same income which was taxed by the other state or foreign country.

42.6(3) Computation of tax credit.

a. The limitation on the tax credit must be computed according to the following formula: Gross income taxed by another state or foreign country that is also taxed by Iowa 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 against the Iowa net tax. This quotient shall be computed as a percentage rounded to the nearest tenth of a percent. However, if the income tax paid to the other state or foreign country on the gross income taxed by the other state or foreign country is less than the maximum tax credit against the Iowa tax, the out-of-state credit allowed against the Iowa tax may not exceed the income tax paid to the other state or foreign country. The income tax paid to the other state or foreign country is the net state or foreign income tax actually paid for the tax year on the income taxed by the other state or foreign country and not the state or foreign income tax paid during the tax year, such as state income tax or foreign income tax withheld from the income taxed by the other state or foreign country.

b. Out-of-state tax credit examples. An individual who is an Iowa resident for the entire tax year can claim an out-of-state tax credit against the person’s Iowa income tax liability for any income tax paid to another state or foreign country for the tax year on any gross income received by the individual for the year which was derived from sources outside of Iowa to the extent this gross income is also subject to Iowa income tax.

However, in the case of an individual who is a part-year resident of Iowa for the tax year, that individual can only claim an out-of-state tax credit against the person’s Iowa income tax liability for income tax paid to another state or foreign country on gross income derived from sources outside of Iowa during the period of the tax year that the individual was an Iowa resident and only to the extent this gross income derived from sources outside of Iowa was also subject to Iowa income tax.

The taxpayer’s out-of-state credit is computed on Schedule IA 130 which is to be filed with the taxpayer’s Iowa individual income tax return. The taxpayer’s income tax return or other document of the other state or foreign country supporting the income tax paid to the other state or foreign country shall be filed with the individual’s Iowa income tax return to support the out-of-state tax credit claimed.

EXAMPLE 1. Gene Miller was an Iowa resident for the entire year 2008. Mr. Miller lived in Council Bluffs and worked the entire year for a company in Omaha, Nebraska. Mr. Miller had wages of $30,000 and Nebraska income tax withheld of $1,000. He also had income of $10,000 from rental of an Iowa farm and another $10,000 in interest income from a personal savings account in an Iowa bank. The amount of Mr. Miller’s gross income that was taxed by Nebraska (the other state or foreign country) was $30,000. His total gross income in 2008 was $50,000. Thus, 60 percent of his income was earned in Nebraska. Mr. Miller’s Iowa tax on line 54 of Form IA 1040 was $917, which resulted in a potential out-of-state credit of 60 percent of the Iowa tax or $550 because 60 percent of Mr. Miller’s income was earned outside Iowa and was taxed by Nebraska. However, Mr. Miller’s income tax liability on the Nebraska income tax return was only $500. Thus, the out-of-state tax credit allowed was $500, because that was less than the potential out-of-state tax credit of $550.
EXAMPLE 2. Ben Smith was a part-year Iowa resident in 2008. He resided in Missouri for the first six months of the year until he moved to Keokuk, Iowa, on July 1. Mr. Smith was employed in Missouri for the entire year and had wages of $30,000 and had Missouri income tax liability of $1,000. Half of Mr. Smith’s wages or $15,000 of the wages was earned during the time Mr. Smith was an Iowa resident. Mr. Smith also had $10,000 in farm rental income from farmland located in Iowa. The amount of gross income taxed by Missouri while Mr. Smith was an Iowa resident was $15,000. Mr. Smith’s gross income earned while an Iowa resident for the year was $25,000. Thus, 60 percent of the gross income was earned in the other state while Mr. Smith was an Iowa resident. Mr. Smith’s Iowa income tax on line 54 of the IA 1040 was $1,292. This resulted in a potential out-of-state credit of $775 because 60 percent of the gross income was earned in Missouri during the period Mr. Smith was an Iowa resident. However, since 50 percent of the income earned in Missouri was earned while Mr. Smith was a resident of Iowa and the Missouri income tax liability for the year was $1,000, the out-of-state credit was $500 or 50 percent of the Missouri income tax liability. The out-of-state credit allowed was $500, because this was less than the Iowa income tax of $775 that was applicable to the gross income earned in Missouri during the period Mr. Smith was an Iowa resident.

42.6(4) Proof of claim for tax credit. The credit may be deducted from Iowa net income tax if written proof of such payment to another state or foreign country is furnished to the department. The department will accept any one of the following as proof of such payment:

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, 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 (whether wages, salaries, property or business) of total income on which such tax was paid.

b. A copy of the income tax return filed with the other state or foreign country 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.

This rule is intended to implement Iowa Code section 422.8.
[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 1665C, IAB 10/15/14, effective 11/19/14]

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.

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

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 less credits 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 less credits 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 less credits 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 credits including 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]

701—42.11(15,422) Research activities credit. Effective for tax years beginning on or after January 1, 1985, taxpayers are allowed a credit equal to 6½ percent of the state’s apportioned share of qualified
expenditures for increasing research activities. Effective for tax years beginning on or after January 1, 1991, the Iowa research activities credit will be computed on the basis of the qualifying expenditures for increasing research activities as allowable under Section 41 of the Internal Revenue Code in effect on January 1, 1999. The state’s apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in Iowa to the total qualified research expenditures. The Iowa research activities credit is made permanent for tax years beginning on or after January 1, 1991, even though there may no longer be a research activities credit for federal income tax purposes.

42.11(1) Qualified expenditures in Iowa are:

a. Wages for qualified research services performed in Iowa.
b. Cost of supplies used in conducting qualified research in Iowa.
c. Rental or lease cost of personal property used in Iowa in conducting qualified research. Where personal property is used both within and without Iowa in conducting qualified research, the rental or lease cost must be prorated between Iowa and non-Iowa use by the ratio of days used in Iowa to total days used both within and without Iowa.
d. Sixty-five percent of contract expenses paid by a corporation to a qualified organization for basic research performed in Iowa.

42.11(2) Total qualified expenditures are:

a. Wages paid for qualified research services performed everywhere.
b. Cost of supplies used in conducting qualified research everywhere.
c. Rental or lease cost of personal property used in conducting qualified research everywhere.
d. Sixty-five percent of contract expenses paid by a corporation to a qualified organization for basic research performed everywhere.

“Qualifying expenditures for increasing research activities” is the smallest of the amount by which the qualified research expenses for the taxable year exceed the base period research expenses or 50 percent of the qualified research expenses for the taxable year.

A taxpayer may claim on the taxpayer’s individual income tax return the pro-rata share of the credit for qualifying research expenditures incurred in Iowa by a partnership, subchapter S corporation, or estate or trust. The portion of the credit claimed by the individual must 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.

Any research credit in excess of the individual’s tax liability, less the nonrefundable credits authorized in Iowa Code chapter 422, division II, may be refunded to the taxpayer or may be credited to the estimated tax of the taxpayer for the following year.

42.11(3) Research activities credit for tax years beginning in 2000. Effective for tax years beginning on or after January 1, 2000, the taxes imposed for individual income tax purposes will be reduced by a tax credit for increasing research activities in this state.

a. The credit equals the sum of the following:

1. Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities.

2. Six and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities. The state’s apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research activities.

b. In lieu of the credit computed under paragraph 42.11(3)“a,” a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code for tax years beginning on or after January 1, 2000, but beginning before January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer’s federal income tax return. The election made under this paragraph is for the tax year, and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative incremental research
credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 1.65 percent, 2.20 percent, and 2.75 percent, respectively.

### c. In lieu of the credit computed under paragraph 42.11(3) “a,” a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative simplified credit described in Section 41(c)(5) of the Internal Revenue Code for tax years beginning on or after January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer’s federal income tax return. The election made under this paragraph is for the tax year, and the taxpayer may use another method or this same method for any subsequent tax year.

For purposes of this alternative simplified research credit computation, the credit percentages applicable to qualified research expenses described in Section 41(c)(5)(A) and clause (ii) of Section 41(c)(5)(B) of the Internal Revenue Code are 4.55 percent and 1.95 percent, respectively.

### d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 42.11(3) “b” and the alternative simplified credit described in paragraph 42.11(3) “c,” such amounts are limited to research activities conducted within this state. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2014.

### e. An individual may claim a research activities credit incurred by a partnership, S corporation, limited liability company, estate, or trust electing to have the income of the business entity taxed to the individual. The amount claimed by an individual from the business entity shall be based upon the pro-rata share of the individual’s earnings from a partnership, S corporation, estate or trust. Any research credit in excess of the individual’s tax liability, less the nonrefundable credits authorized in Iowa Code chapter 422, division II, may be refunded to the individual or may be credited to the individual’s tax liability for the following tax year.

### f. An eligible business approved under the new jobs and income program prior to July 1, 2005, is eligible for an additional research activities credit as described in 701—subrule 52.7(4). An eligible business approved under the enterprise zone program is eligible for an additional research activities credit as described in 701—subrules 52.7(5) and 52.7(6).

### g. Tax years ending on or after July 1, 2005, but before July 1, 2009. For eligible businesses approved under the enterprise zone program and the high quality job creation 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. These expenses are not eligible for the federal credit for increasing research activities. These 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 shall not exceed $1 million in the aggregate.

These expenses are available only for the additional research activities credit set forth in subrule 42.11(3), paragraph “f,” for businesses in enterprise zones and the additional research activities credit set forth in subrule 42.29(1) for businesses approved under the high quality job creation program. These expenses are not available for the research activities credit set forth in subrule 42.11(3), paragraphs “a,” “b” and “c.”

### h. 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 42.42(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 42.11(3), paragraph “f,” for businesses in enterprise zones and the additional research activities credit set forth in subrule 42.42(1) for businesses approved under the high quality jobs program, and are not applicable to the research activities credit set forth in subrule 42.11(3), paragraphs “a,” “b,” and “c.”

42.11(4) Reporting of research activities credit claims. Beginning with research activities credit claims filed on or after July 1, 2009, the department shall issue an annual report to the general assembly of all research activities credit claims in excess of $500,000. The report, which is due by February 15 of each year, will contain the name of each claimant and the amount of the research activities credit for all claims filed during the previous calendar year in excess of $500,000.

This rule is intended to implement Iowa Code sections 15.335 and 422.10 as amended by 2014 Iowa Acts, House File 2435.

[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]

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 subsection 96.19(37) for the year in which the taxpayer elects to take the new jobs tax credit. For fiscal year taxpayers, “taxable wages” shall not be greater than the maximum wage upon which an employer is required to contribute to the state unemployment fund for the calendar year in which the taxpayer’s fiscal year begins.

d. The term “agreement” means an agreement entered into under Iowa Code chapter 260E after July 1, 1985, an amendment to that agreement, or an amendment to an agreement entered into before July 1, 1985, if the amendment sets forth the base employment level as of the date of the amendment. The term “agreement” also includes a preliminary agreement entered into under Iowa Code chapter 260E provided the preliminary agreement contains all the elements of a contract and includes the necessary elements and commitments relating to training programs and new jobs.

e. The term “base employment level” means the number of full-time jobs an industry employs at a plant site which is covered by an agreement under Iowa Code chapter 260E on the date of the agreement.
f. The term “project” means a training arrangement which is the subject of an agreement entered into under Iowa Code chapter 260E.

g. The term “industry” means a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health, and professional services. “Industry” does not include a business which closes or substantially reduces its operations in one area of the state and relocates substantially the same operation in another area of the state. “Industry” is a business engaged in the above-listed activities rather than the generic definition encompassing all businesses in the state engaged in the same activities. For example, in the meat-packing business, an industry is considered to be a single corporate entity or operating division, rather than the entire meat-packing business in the state.

h. The term “new employees” means the same as new jobs or jobs directly related to new jobs.

i. The term “full-time job” means any of the following:

1. An employment position requiring an average work week of 35 or more hours;
2. An employment position for which compensation is paid on a salaried full-time basis without regard to hours worked; or
3. An aggregation of any number of part-time or job-sharing employment positions which equal one full-time employment position. For purposes of this subrule, each part-time or job-sharing employment position shall be categorized with regard to the average number of hours worked each week as one-quarter, half, three-quarters, or full-time position, as set forth in the following table:

<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 Iowa department of economic development 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. For business applications received by the Iowa department of economic development 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 Iowa department of economic development 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 attached to 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 Iowa department of economic development 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 attached to 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.

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]

701—42.15(422) Child and dependent care credit. Effective for tax years beginning on or after January 1, 1990, 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.

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 taxpayers whose federal child and dependent care credit is limited to their federal tax liability, the Iowa child shall be computed based on the lesser amount for tax years beginning on or after January 1, 2012, but before January 1, 2015. 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 adjusted gross income is below $0. The credit is computed so that taxpayers with lower adjusted gross incomes (net incomes in tax years beginning on or after January 1, 1991) are allowed higher percentages of their federal child care credit than taxpayers with higher adjusted gross incomes (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 federal adjusted gross incomes (or net incomes) of the taxpayers for tax years beginning on or after January 1, 1993.
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 separately on the combined return form. For tax years beginning on or after January 1, 1991, the taxpayers’ net incomes are used to compute the Iowa child and dependent care credit and allocate the credit between spouses in situations where the taxpayers file separate Iowa returns or separately on the combined return form.

EXAMPLE A. A married couple has filed a joint federal return on which they showed a federal adjusted gross income of $40,000 or a combined net income of $40,000 on their state return for the tax year beginning January 1, 2007. 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 federal adjusted gross income of $30,000 or a net income of $30,000 and the second spouse had a federal adjusted gross income of $10,000 or 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 to the combined net income of both spouses as shown below:

\[
\frac{180 \times 30,000}{40,000} = 135 \quad \text{child and dependent care credit for spouse with $30,000 net income for 2007}
\]

\[
\frac{180 \times 10,000}{40,000} = 45 \quad \text{child and dependent care credit for spouse with $10,000 net income for 2007}
\]

EXAMPLE B. A married couple filed a joint federal return for 2007 and filed their 2007 Iowa return using the married filing separately on the combined return form filing status. 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.

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 net income as it relates to the combined net income of both spouses as shown below:

\[
\frac{320 \times \frac{25,000}{37,500}}{\text{child and dependent care credit for spouse}} = 213 \\
\frac{320 \times \frac{12,500}{37,500}}{\text{child and dependent care credit for spouse}} = 107
\]

\(42.15(3)\) Computation of the Iowa child and dependent care credit for nonresidents and part-year residents. Nonresidents and part-year residents who have incomes from Iowa sources in the tax year may claim child and dependent care credits on their Iowa returns. 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:

\[
\begin{align*}
\text{Federal child and dependent care credit} & \quad \times \quad \text{Percentage of federal child and dependent care credit allowed on Iowa return from table in subrule 42.15(1)} \quad \times \quad \frac{\text{Iowa net income}}{\text{Federal adjusted gross income or all source net income}}
\end{align*}
\]

*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 of the Iowa source incomes less the Iowa source adjustments to income on line 26 of the Form IA 126.

In cases where married taxpayers are nonresidents or part-year residents of Iowa and are filing separate Iowa returns or separately on the combined 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 wages and other income from Iowa sources or an Iowa net income of $15,000. That spouse had an all source net income of $18,000. The second spouse had an Iowa net income of $10,000 and an all source net income of $12,000. 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 for the 2007 tax year:

\[
\begin{align*}
\text{Federal child and dependent care credit} & \quad \times \quad \text{Percentage of federal child and dependent care credit allowed on Iowa return} \\
$800 & \quad \times \quad 50\% = 400 \quad \times \quad \frac{25,000}{30,000} = 333
\end{align*}
\]

The $333 credit is allocated between the spouses as shown below for the 2007 tax year:
\[
\begin{align*}
    \$333 \times \frac{\$10,000}{\$25,000} &= \$133 \text{ for spouse with Iowa source net income of } \$10,000 \\
    \$333 \times \frac{\$15,000}{\$25,000} &= \$200 \text{ for spouse with Iowa source net income of } \$15,000
\end{align*}
\]

This rule is intended to implement Iowa Code section 422.12C as amended by 2014 Iowa Acts, Senate File 2337.  
[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 0337C, IAB 9/19/12, effective 10/24/12; ARC 1665C, IAB 10/15/14, effective 11/19/14]

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 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 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 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 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.

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 Iowa department of economic development 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 attached to 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 Iowa department of economic development 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.

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 Iowa department of economic development, 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 Iowa department of economic development 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 Iowa Code section 15E.193B.

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

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 attached to 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 attach a copy of the certificate of entitlement and the statement of allocation of the assistive device credit to 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]

701—42.19(404A,422) Historic preservation and cultural and entertainment district tax credit. 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 administrative rules for the historic preservation and cultural and entertainment district tax credit for the historical division of the department of cultural affairs may be found under 223—Chapter 48.

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. For fiscal years beginning on or after July 1, 2000, $2.4 million shall be appropriated for historic preservation and cultural and entertainment district tax credits for each year. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional $4 million of tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than $4 million of tax credits is appropriated during a fiscal year, the remaining amount shall be applied to reserved tax credits for projects not located in cultural and entertainment districts in the order of original reservation by the department of cultural affairs. For the fiscal year beginning July 1, 2007, $10 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2008, $15 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2009, through the fiscal year beginning July 1, 2011, $50 million in historic preservation and cultural and entertainment district tax credits is available. The allocation of the $50 million of credits for the fiscal year beginning July 1, 2009, through the fiscal year beginning July 1, 2011, is set forth in rule 223—48.7(303,404A). For fiscal years beginning on or after July 1, 2012, $45 million in historic preservation and cultural and entertainment district tax credits is available. Tax credits shall not be reserved by the department of cultural affairs for more than three years except for tax credits issued for contracts entered into prior to July 1, 2007.

b. For the state fiscal year beginning on July 1, 2009, $20 million of the credits may be claimed on tax returns beginning on or after January 1, 2009, and $30 million of the credits may be claimed on tax returns beginning on or after January 1, 2010. For the state fiscal year beginning July 1, 2010, $20 million of the credits may be claimed on tax returns beginning on or after January 1, 2010, and $30 million of tax credits may be claimed on tax returns beginning on or after January 1, 2011. For the state fiscal year beginning July 1, 2011, $20 million of the credits may be claimed on tax returns beginning on or after January 1, 2011, and $30 million of tax credits may be claimed on tax returns beginning on or after January 1, 2012.

c. 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.

d. The state historic preservation office (SHPO) shall establish selection criteria and standards for rehabilitation projects involving eligible property. The approval process shall not exceed 90 days from the date the application is received by SHPO. To the extent possible, the standards used by SHPO shall be consistent with the standards of the United States Secretary of the Interior for rehabilitation of eligible property.

e. Once SHPO approves a particular historic preservation and cultural and entertainment district tax credit project application, the office will encumber an estimated historic preservation and cultural and entertainment district tax credit under the name of the applicant(s) for the year the project is approved.

**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 SHPO for a project for a particular taxpayer to the extent those rehabilitation costs are actually expended by that taxpayer.
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. 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.

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.

For 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. However, for tax years beginning only in the 2000 calendar year, the basis of the building for Iowa income tax purposes would have been $600,000, since for those tax periods, any qualified rehabilitation expenses used to compute the historic preservation and cultural and entertainment district tax credit for the tax year could not be added to the basis of the property. 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. If the building in this example were eligible for the federal rehabilitation credit provided in Section 47 of the Internal Revenue Code, the basis of the building for Iowa tax purposes would be reduced accordingly by the same amount as the reduction required for federal tax purposes.

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 attached to 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 the 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 and the amount of the tax credit being transferred, 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 attached to the income tax return for the period in which the project was completed. If the amount of the historic preservation and cultural and entertainment district tax credit exceeds the taxpayer’s income tax liability for the tax year for which the credit applies, the taxpayer is entitled to a refund of the excess portion of the credit at a discounted value for tax periods ending prior to July 1, 2007. However, the refund cannot exceed 75 percent of the allowable tax credit. The refund of the tax credit shall be computed on the basis of the following table:

<table>
<thead>
<tr>
<th>Annual Interest Rate</th>
<th>Five-Year Present Value/Dollar Compounded Annually</th>
</tr>
</thead>
<tbody>
<tr>
<td>5%</td>
<td>$.784</td>
</tr>
<tr>
<td>6%</td>
<td>$.747</td>
</tr>
<tr>
<td>7%</td>
<td>$.713</td>
</tr>
<tr>
<td>8%</td>
<td>$.681</td>
</tr>
<tr>
<td>9%</td>
<td>$.650</td>
</tr>
<tr>
<td>10%</td>
<td>$.621</td>
</tr>
<tr>
<td>11%</td>
<td>$.594</td>
</tr>
<tr>
<td>12%</td>
<td>$.567</td>
</tr>
<tr>
<td>13%</td>
<td>$.543</td>
</tr>
<tr>
<td>14%</td>
<td>$.519</td>
</tr>
<tr>
<td>15%</td>
<td>$.497</td>
</tr>
<tr>
<td>16%</td>
<td>$.476</td>
</tr>
<tr>
<td>17%</td>
<td>$.456</td>
</tr>
<tr>
<td>18%</td>
<td>$.437</td>
</tr>
</tbody>
</table>

**EXAMPLE:** The following is an example to show how the table can be used to compute a refund for a taxpayer. An individual has a historic preservation and cultural and entertainment district tax credit of $800,000 for a project completed in 2001. The individual had an income tax liability prior to the credit of $300,000 on the 2001 return, which leaves an excess credit of $500,000. The annual interest rate for tax refunds issued by the department of revenue in the 2001 calendar year is 11 percent. Therefore, to compute the five-year present value of the $500,000 excess credit, $500,000 is multiplied by the compound factor for 11 percent of .594 in the table, which results in a refund of $297,000.

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:**

a. **Projects beginning prior to July 1, 2005.** When the taxpayer that has earned a historic preservation and cultural and entertainment district tax credit is a partnership, limited liability company, S corporation, estate or trust where the individual owners of the business entity are taxed on the income of the entity, the historic preservation and cultural and entertainment district tax credit shall be allocated
to the individual owners. The business entity shall allocate the historic preservation and cultural and entertainment district tax credit to each individual owner on the same pro-rata basis as the earnings of the business are allocated to the owners for projects beginning prior to July 1, 2005. For example, if a partner of a partnership received 25 percent of the earnings or income of the partnership for the tax year in which the partnership had earned a historic preservation and cultural and entertainment district tax credit, 25 percent of the credit would be allocated to this partner.

b. Projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012. For projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012, which used low-income housing credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the rehabilitation project, 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 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.

c. 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.

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 state historic preservation office of the department of cultural affairs, along with a statement which contains the transferee’s name, address and tax identification number and 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 state historic preservation office shall 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 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.

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.

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 refund shall be discounted as described in subrule 42.19(4) for tax years ending prior to July 1, 2007, just as the refund would have been discounted on the Iowa income tax return of the taxpayer. For tax years ending on or after July 1, 2007, any historic preservation and cultural and entertainment district tax credit of the transferee in excess of the transferee’s tax liability is 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.
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 gasoline.

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 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 proportion 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 proportion 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. 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 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.

The department of revenue will be notified by the Iowa capital investment board or 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 a qualifying business or community-based seed capital 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. 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.

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.

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.

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.

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.

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 2014 Iowa Acts, Senate File 2359.

[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]

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 Iowa department of economic development 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 attached to 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 Iowa department of economic development 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.
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]

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.

**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 422.11I.

**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 12 months.

(4) A computation of the amount of credit being requested.

(5) The address and state of residence of each new employee.

(6) The date that the qualified new job was filled.
(7) An indication of whether the job is a qualified new job or a retained qualified new job for which an application was filed for a previous year.
(8) The type of tax for which the credit will be applied.
(9) If the business is a partnership, S corporation, limited liability company, or estate or trust, a schedule of the partners, shareholders, members or beneficiaries. This schedule shall include the names, addresses and federal identification numbers of the partners, shareholders, members or beneficiaries, along with their percentage of the pro-rata share of earnings of the partnership, S corporation, limited liability company, or estate or trust.

b. Upon receipt of the application, the department has 45 days either to approve or deny the application. If the department does not act on the application within 45 days, the application is deemed approved. If the department denies the application, the business may appeal the decision to the Iowa economic development board within 30 days of the notice of denial.

c. If the application is approved, or if the Iowa economic development board approves the application that was previously denied by the department, a tax credit certificate will be issued by the department to the business, subject to the availability of the amount of credits that may be issued. The tax credit certificate shall contain the name, address and tax identification number of the business (or individual, estate or trust, if applicable), the date of the qualified new job(s), the wage and benefits paid for each job(s) for the 12-month period, the amount of the credit, the tax period for which the credit may be applied, and the type of tax for which the credit will be applied.

d. The tax credit certificates that are issued in a fiscal year cannot exceed $10 million for the fiscal year ending June 30, 2007, and shall not exceed $4 million for the fiscal years ending June 30, 2008, through June 30, 2011. The tax credit certificates are issued on a first-come, first-served basis. Therefore, if tax credit certificates have already been issued for the $10 million limit for the fiscal year ending June 30, 2007, any applications for tax credit certificates received after the $10 million limit has been reached will be denied. Similarly, if tax credit certificates have already been issued for the $4 million limit for the fiscal years ending June 30, 2008, through June 30, 2011, any applications for tax credit certificates received after the $4 million limit has been reached will be denied. If a business failed to receive all or a part of the tax credit due to the $10 million or $4 million limitation, the business may reapply for the tax credit for the retained new job for a subsequent tax period.

e. A business which qualifies for the tax credit for the fiscal year ending June 30, 2007, is eligible to receive the tax credit certificate for each of the fiscal years ending June 30, 2008, through June 30, 2011, subject to the $4 million limit for tax credits for the fiscal years ending June 30, 2008, through June 30, 2011, if the business retains the qualified new job during each of the fiscal years ending June 30, 2008, through June 30, 2011. The business must reapply by June 30 of each fiscal year for the tax credit, and the percentage of the wages and benefits allowed for the credit set forth in subrule 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.

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 attach the tax credit certificate to 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]

**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. 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).

**42.28(1) Application and review process for the renewable energy tax credit.** A provider or purchaser of a renewable energy facility must be approved 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, 2017.

The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed 363 megawatts. 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. 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.

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).

42.28(2) Computation of the credit. The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or 44 cents 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.

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.

The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that are generated and purchased from an eligible facility or used for on-site consumption by the producer during the tax year. The department will calculate the credit and issue a tax credit certificate to the purchaser or producer. 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(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 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). In addition, the department will not issue a tax credit certificate to any person who received a wind energy production tax credit in accordance with Iowa Code chapter 476B.

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 renewable energy facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours, standard cubic feet or British thermal units generated and purchased or 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, 2024.

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) Transfer of the renewable energy tax credit certificate. 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.

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 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.

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.

42.28(4) 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).

This rule is intended to implement Iowa Code section 422.11J and Iowa Code chapter 476C as amended by 2014 Iowa Acts, Senate File 2343.

[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 1665C, IAB 10/15/14, effective 11/19/14]

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 Iowa department of economic development 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 attached to 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 Iowa department of economic development 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.

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 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.

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]

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. Effective for tax years beginning on or after January 1, 2006, 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 $45,000. 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 the tax year beginning in the 2006 calendar year only, amounts paid for early childhood development expenses in November and December of 2005 shall be considered paid in 2006 for purposes of computing the credit.

For married taxpayers who elect to file separately on a combined form or elect to file separate returns for Iowa tax purposes, the combined income of the taxpayers must be less than $45,000 to be eligible for the credit. If the combined income is less than $45,000, 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 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 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]

701—42.32(422) School tuition organization tax credit. Effective for the tax year beginning on or after January 1, 2006, but beginning before January 1, 2007, a school tuition organization tax credit is available which is equal to 65 percent of the amount of the voluntary cash contributions made by a taxpayer to a school tuition organization. For tax years beginning on or after January 1, 2007, the 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. 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 for tax years beginning on or after January 1, 2007.

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 three 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.

For the tax year beginning in the 2006 calendar year only, each qualified school served by a school tuition organization must submit to the department a participation form postmarked on or before August 1, 2006, which provides the certified enrollment as of the third Friday of September 2005, along with 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 tax year. For the tax year beginning in the 2006 calendar year only, the department, by September 1, 2006, will authorize school tuition organizations to issue tax credit certificates for the 2006 calendar year only. The total amount of tax credit certificates that may be authorized is $2.5 million for the 2006 calendar year, $5 million for the 2007 calendar year, $7.5 million for the 2008 through 2011 calendar years, $8.75 million for the 2012 and 2013 calendar years, and $12 million for 2014 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 2008 calendar year, if the certified enrollment of each qualified school in Iowa, as provided to the department by November 1, 2007, was 37,500, the per-student tax credit would be $200 ($7.5 million divided by 37,500). 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 $280,000 ($200 times 1,400) of tax credit certificates for the 2008 calendar year. The department would notify this school tuition organization by December 1, 2007, of the authorization to issue $280,000 of tax credit certificates for the 2008 calendar year. This authorization would allow the school tuition organization to solicit contributions totaling $430,769 ($280,000 divided by 65%) during the 2008 calendar year which would be eligible for the tax credit.

42.32(5) 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, which will be designed by the department, will 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.

For tax years beginning on or after July 1, 2009, a tax credit certificate may be issued to corporation income taxpayers. For tax years beginning on or after January 1, 2013, 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 attach the tax credit certificate to the tax return for which the credit is claimed. 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 may 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 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(7) Reporting requirements. Each school tuition organization that issues tax credit certificates must report to the department, postmarked by January 12 of each tax 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 tax year.

c. The total number and dollar value of tax credit certificates issued by the school tuition organization for the previous tax year.

d. A list of each taxpayer who received a tax credit certificate for the previous tax year, including the amount of the contribution and the amount of tax credit issued to each taxpayer for the previous tax 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 as amended by 2013 Iowa Acts, House File 625.

[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]

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. 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 2017 16 cents

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, for the same tax year for the same ethanol gallons.

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.

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(1) 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, 2018, a taxpayer whose tax year ends prior to December 31, 2017, may continue to claim the tax credit in the following tax year for any E-85 gallons sold through December 31, 2017. 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(1) for examples illustrating how this subrule is applied.

42.33(2) Allocation of credit to owners of a business entity. 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 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—42.34(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 which meets the standards provided in Iowa Code section 214A.2. The biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel, if the formulation meets the standards provided by Iowa Code section 214A.2, to qualify for the tax credit for gallons sold on or after January 1, 2006, but before January 1, 2013. For gallons sold on or after January 1, 2013, but before January 1, 2018, the biodiesel blended fuel must be formulated with a minimum percentage of 5 percent by volume of biodiesel, if the formulation meets the standards provided by Iowa Code section 214A.2, to qualify for the tax credit. In addition, of the total gallons of diesel fuel sold by the retail dealer, 50 percent or more must be biodiesel blended fuel to be eligible for the tax credit for tax years beginning prior to January 1, 2009. For tax years beginning on or after January 1, 2009, but before 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. 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.
The tax credit equals three cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year for gallons sold through December 31, 2011. For gallons sold during the 2012 calendar year, the tax credit equals the sum of two cents multiplied by the qualifying number of biodiesel blended fuel gallons that have a minimum percentage of 2 percent by volume of biodiesel but less than 5 percent by volume of biodiesel and 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. For gallons sold during the 2013 to 2017 calendar years, 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. 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.

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.

Example: 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: 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, and the other site sold 10,000 gallons of biodiesel fuel. 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. If the facts in this example had occurred during the 2009 tax year, the taxpayer could 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.

42.34(1) 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, 2018, a taxpayer whose tax year ends prior to December 31, 2017, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, 2017.

See 701—subrule 52.31(1) for examples illustrating how this subrule is applied.

42.34(2) Allocation of credit to owners of a business entity. 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 2011 Iowa Acts, Senate Files 531 and 533.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9821B, IAB 11/2/11, effective 12/7/11]

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 attach the tax credit certificate to 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]

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 attach the tax credit certificate to 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]

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>
</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 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 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—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 noninclusive examples illustrate how this rule applies:

EXAMPLE 1. A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2009 equals 100,000 gallons. This consisted of 5,000 gallons of E-85 gasoline, 80,000 gallons of E-10 (10% ethanol blended gasoline) and 15,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold at this site during 2009 15,000 gallons of diesel fuel, of which 5,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 11,950 (5,000 E-85 gasoline 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 0.65 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 0.53%. 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:
The ethanol gallonage of 27,900 is divided by the gasoline gallonage of 240,000 to arrive at a biofuel distribution percentage of 11.63%. Since this exceeds the biofuel threshold percentage of 10% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity percentage is 0%. The credit is computed separately for each motor fuel site, and the ethanol promotion credit equals $1,813.50, as shown below:

| Site A – 70,000 times 10% equals | 7,000 |
| Site B – 70,000 times 10% equals | 7,000 |
| Site C – 60,000 times 10% equals | 6,000 |
| Site C – 10,000 times 79% equals | 7,900 |
| Total | 27,900 |

Since the biofuel distribution percentage and the biofuel threshold percentage disparity are computed on a statewide basis for all gallons sold in Iowa, the 6.5 cent tax credit rate is applied to the total ethanol gallonage, even if Sites A and B did not meet the biofuel threshold percentage of 10% for 2009.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 10,000 gallons, or $2,000.

**EXAMPLE 4.** A taxpayer that is a retail dealer of gasoline has a fiscal year ending March 31, 2011, and operates one motor fuel site in Iowa. The taxpayer sold more than 200,000 gallons of gasoline during the 2010 calendar year and expects to sell more than 200,000 gallons of gasoline during the 2011 calendar year. The ethanol gallonage is 30,000 for the period from April 1, 2010, through December 31, 2010, and the ethanol gallonage is 8,000 for the period from January 1, 2011, through March 31, 2011. The biofuel distribution percentage is 11.5% for the period from April 1, 2010, through December 31, 2010, and the biofuel distribution percentage is 11.8% for the period from January 1, 2011, through March 31, 2011. This results in a biofuel threshold percentage disparity of 0% (11.0 minus 11.5) for the period from April 1, 2010, through December 31, 2010, and a biofuel threshold percentage disparity of .2% (12.0 minus 11.8) for the period from January 1, 2011, through March 31, 2011. The taxpayer is entitled to an ethanol promotion tax credit of $2,310 for the fiscal year ending March 31, 2011, as shown below:

| 30,000 times 6.5 cents equals | $1,950 |
| 8,000 times 4.5 cents equals | 360 |
| Total | $2,310 |

**EXAMPLE 5.** A taxpayer that is a retail dealer of gasoline has a fiscal year ending April 30, 2009, and operates one motor fuel site in Iowa. The taxpayer expects to sell more than 200,000 gallons of gasoline during the 2009 calendar year. The ethanol gallonage is 50,000 gallons for the period from January 1, 2009, through April 30, 2009. The biofuel distribution percentage is 7.7% for the period from January 1, 2009, through April 30, 2009, which results in a biofuel threshold percentage disparity of 2.3% (10.0 minus 7.7). The taxpayer is entitled to claim an ethanol promotion tax credit of $1,250 (50,000 gallons times 2.5 cents) on the taxpayer’s Iowa income tax return for the period ending April 30, 2009.

In lieu of claiming the credit on the return for the period ending April 30, 2009, the taxpayer may claim the ethanol promotion tax credit on the tax return for the period ending April 30, 2010, including the ethanol gallonage for the period from January 1, 2009, through April 30, 2010. In this case, the taxpayer will compute the biofuel distribution percentage for the period from January 1, 2009, through December 31, 2009, to determine the proper tax credit rate to be applied to the ethanol gallonage for the period from January 1, 2009, through December 31, 2009.
EXAMPLE 6. Assume the same facts as Example 3, except that the gallons were sold in 2011. The taxpayer chose the companywide method to compute the biofuel threshold percentage disparity and the tax credit. The biofuel distribution percentage is 11.63%, and since the biofuel threshold percentage is 12% for retailers selling more than 200,000 gallons of motor fuel, the biofuel threshold percentage disparity is 0.37%. This results in an ethanol promotion tax credit on a companywide basis of 6 cents multiplied by the ethanol gallonage of 27,900 or $1,674.

EXAMPLE 7. Assume the same facts as Example 3, except that the gallons were sold in 2011. The taxpayer chose the site-by-site method to compute the biofuel threshold percentage disparity and the tax credit. The biofuel threshold percentage is still 12% since the retailer sold more than 200,000 gallons of motor fuel at all sites in Iowa. The biofuel distribution percentage for Site A and Site B is 7,000 divided by 80,000, or 8.75%. The biofuel threshold percentage disparity for Site A and Site B is 3.25%, or 12% less than 8.75%. The biofuel distribution percentage for Site C is 13,900 divided by 80,000, or 17.38%. The biofuel threshold percentage disparity for Site C is 0% since the biofuel distribution percentage exceeds the biofuel threshold percentage. This results in an ethanol promotion tax credit on a site-by-site basis of $1,462, as shown below:

| Site A – 7,000 times 2.5 cents equals | $175 |
| Site B – 7,000 times 2.5 cents equals | $175 |
| Site C – 13,900 times 8 cents equals | $1,112 |
| Total | $1,462 |

This rule is intended to implement Iowa Code section 422.11N as amended by 2011 Iowa Acts, Senate File 531.

[ARC 870IA, IAB 4/21/10, effective 5/26/10; ARC 982IA, 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 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.

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 attach a copy of federal Form 8283, Noncash Charitable Contributions, which reflects the calculation of the fair market value of the real property interest, to 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 attached to federal Form 8283 for federal tax purposes, the appraisal and other relevant information must also be attached to 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 equals 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]

701—42.41(15,422) Redevelopment tax credit. 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 may claim a redevelopment tax credit. The credit is based on the taxpayer’s qualifying investment in a brownfield or grayfield site. The administrative rules for a redevelopment project for the brownfield redevelopment authority which qualifies for the tax credit, 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 the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was $1 million, and the amount of credits authorized for any one redevelopment project could not 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, and subsequent fiscal years, 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.

42.41(2) Computation and claiming of the credit.

a. 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).

b. Upon completion of the project, the Iowa department of economic development 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(3).

c. 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.

d. 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 whereby 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).

e. To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the 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. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit.

42.41(3) Transfer of the credit. The redevelopment tax credit can be transferred 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 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. 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.

This rule is intended to implement Iowa Code sections 15.293A and 422.11V and section 15.119 as amended by 2013 Iowa Acts, House File 620.

[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]

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.

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]

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 equal amount 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.

701—42.44(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.5, 422.8, 422.10 through 422.12C, and 422.110 shall be claimed in the following sequence:

1. Personal exemption credit.
2. Tuition and textbook credit.
3. Volunteer fire fighter and volunteer emergency medical services personnel tax credit.
4. Nonresident and part-year resident credit.
5. Franchise tax credit.
6. S corporation apportionment credit.
7. Disaster recovery housing project tax credit.
8. School tuition organization tax credit.
9. Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit).
10. Endow Iowa tax credit.
11. Agricultural assets transfer tax credit.
12. Custom farming contract tax credit.
13. Film qualified expenditure tax credit.
14. Film investment tax credit.
15. Redevelopment tax credit.
16. From farm to food donation tax credit.
17. Investment tax credit.
18. Wind energy production tax credit.
19. Renewable energy tax credit.
20. Redeemed Iowa fund of funds tax credit.
21. New jobs tax credit.
22. Economic development region revolving fund tax credit.
23. Geothermal heat pump tax credit.
24. Solar energy system tax credit.
25. Charitable conservation contribution tax credit.
26. Alternative minimum tax credit.
27. Historic preservation and cultural and entertainment district tax credit.
28. Ethanol promotion tax credit.
29. Research activities credit.
30. Out-of-state tax credit.
31. Child and dependent care tax credit or early childhood development tax credit.
32. Motor fuel tax credit.
33. Claim of right credit (if elected in accordance with rule 701—38.18(422)).
34. Wage-benefits tax credit.
35. Refundable portion of investment tax credit, as provided in subrule 42.14(2).
36. E-85 gasoline promotion tax credit.
37. Biodiesel blended fuel tax credit.
38. E-15 plus gasoline promotion tax credit.
39. Earned income tax credit.
40. Iowa taxpayers trust fund tax credit.
41. Estimated payments, payment with vouchers, and withholding tax.

This rule is intended to implement Iowa Code sections 422.5, 422.8, 422.10, 422.11, 422.11A, 
422.11B, 422.11D, 422.11F, 422.11H, 422.11I, 422.11J, 422.11L, 422.11M, 422.11N, 422.11O, 422.11P, 
422.11Q, 422.11S, 422.11W, 422.11X, 422.12, 422.12B, 422.12C and 422.110 and 2013 Iowa Acts, 
House File 599, and 2013 Iowa Acts, Senate Files 295 and 452.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 0398C, IAB 10/17/12, effective 
11/21/12; ARC 1303C, IAB 2/5/14, effective 3/12/14]

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. 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. The administrative rules for the aggregate tax credit limit for the Iowa economic 
development authority may be found at 261—Chapter 76.

This rule is intended to implement Iowa Code section 15.119 as amended by 2013 Iowa Acts, House 
File 620.

[ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9104B, IAB 9/22/10, effective 10/27/10; ARC 1102C, IAB 10/16/13, effective 
11/20/13]

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 IA138. 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 2014-2017 calendar years | 3 cents |
| Gallons sold from June 1 through September 15 for the 2014-2017 calendar years | 10 cents |

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 for the same tax year 
for the same ethanol gallons.

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.

42.46(1) 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, 2018, a taxpayer whose tax year 
ends prior to December 31, 2017, may continue to claim the tax credit in the following tax year for 
any E-15 plus gallons sold through December 31, 2017. 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 before 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 times 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, 2018. The taxpayer sold 20,000 gallons of E-15 plus gasoline for the period from March 1, 2017, through February 28, 2018, of which 16,000 gallons were sold between March 1, 2017, and December 31, 2017. Six thousand of these 16,000 gallons were sold between June 1, 2017, and September 15, 2017. The taxpayer is entitled to claim an E-15 plus gasoline promotion tax credit of $900 (10,000 gallons times 3 cents plus 6,000 gallons times 10 cents) on the taxpayer’s Iowa income tax return for the period ending February 28, 2018.

42.46(2) Allocation of credit to owners of a business entity. 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 2014 Iowa Acts, Senate File 2344.

[ARC 9821B, IAB 11/2/11, effective 12/7/11; ARC 1665C, IAB 10/15/14, effective 11/19/14]

701—42.47(422) Geothermal heat pump tax credit. For tax years beginning on or after January 1, 2012, a geothermal heat pump tax credit is available for residential property located in Iowa.

42.47(1) Calculation of credit. The credit is equal to 20 percent of the federal residential energy efficient tax credit allowed for geothermal heat pumps provided in Section 25D(a)(5) of the Internal Revenue Code. The federal residential energy efficient tax credit for geothermal heat pumps is currently allowed for installations that are completed on or before December 31, 2016. Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years. The geothermal heat pump must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a geothermal heat pump and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a $6,000 geothermal tax credit on the 2011 federal return due to an installation that was completed in 2011. The taxpayer applied $2,000 of the credit on the taxpayer’s 2011 federal return since the federal tax liability was $2,000. The remaining $4,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was completed before January 1, 2012.
42.47(2) Claiming the tax credit. The geothermal heat pump tax credit will be claimed on Form IA 148, Tax Credit Schedule. The taxpayer must attach federal Form 5695, Residential Energy Credits, to any Iowa tax return claiming the geothermal heat pump credit. 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.

This rule is intended to implement 2012 Iowa Acts, Senate File 2342, section 1.

[ARC 0361C, IAB 10/3/12, effective 11/7/12]

701—42.48(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 both residential property and business property located in Iowa.

42.48(1) Property eligible for the tax credit. The following property located in Iowa is eligible for the tax credit:

a. Qualified solar water heating property described in Section 25D(d)(1) of the Internal Revenue Code.

b. Qualified solar energy electric property described in Section 25D(d)(2) of the Internal Revenue Code.

c. Equipment which uses solar energy to generate electricity, to heat or cool (or to provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purposes of heating a swimming pool) and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(i) of the Internal Revenue Code.

d. Equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code.

42.48(2) Calculation of credit for systems installed during tax years beginning on or after January 1, 2012, but before January 1, 2014. The credit is equal to the sum of the following federal tax credits:

a. Fifty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code.

b. Fifty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code.

c. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

d. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(2) “a” and “b” cannot exceed $3,000 for a tax year. The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(2) “c” and “d” cannot exceed $15,000 for a tax year.

The federal residential energy efficient tax credits are allowed for installations that are completed and the federal energy tax credits for solar energy systems are allowed for installations that are placed in service before January 1, 2014. The solar energy system must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a $9,000 residential energy efficient tax credit on the 2011 federal return due to an installation of a solar energy system that was placed in service in 2011. The taxpayer applied $4,000 of the credit on the taxpayer’s 2011 federal return since the federal tax liability was $4,000. The remaining $5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was placed in service before January 1, 2012.

42.48(3) Calculation of credit for systems installed during tax years beginning on or after January 1, 2014, but before January 1, 2017. The credit is equal to the sum of the following federal tax credits:

a. Sixty percent of the federal residential energy property credit provided in Section 25D(a)(1) of the Internal Revenue Code.
b. Sixty percent of the federal residential energy property credit provided in Section 25D(a)(2) of the Internal Revenue Code.

c. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

d. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(3) “a” and “b” cannot exceed $5,000 for a tax year. The amount of tax credit claimed by a taxpayer related to paragraphs 42.48(3) “c” and “d” cannot exceed $20,000 for a tax year.

The federal residential energy efficient tax credits are allowed for installations that are completed on or before December 31, 2016, and the federal energy tax credits for solar energy systems are allowed for installations that are placed in service on or before December 31, 2016. Therefore, the Iowa tax credit is available for installations that are either completed or placed in service before January 1, 2017. If the federal residential energy property tax credits or the federal energy credits are extended to installations completed or placed in service on or after January 1, 2017, the Iowa tax credit will also be extended.

**42.48(4) Application for the tax credit.** No more than $1.5 million of tax credits for solar energy systems are allowed for tax years 2012 and 2013. The $1.5 million cap also includes the solar energy system tax credits provided in rule 701—52.44(422) for corporation income tax. No more than $4.5 million of tax credits for solar energy systems is allowed for each of the tax years 2014 to 2016. The $4.5 million cap does not include any dollars allocated to a previous tax year that roll over to the 2015 and 2016 tax years. The $4.5 million 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. Awards of tax credits are made on a first-come, first-served basis. At least $1 million of the $4.5 million cap for the 2014 to 2016 tax years is reserved for residential installations. 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. If the $4.5 million cap for the 2014 and 2015 tax years is not reached, the remaining amount below $4.5 million will be allowed to be carried forward to the following tax year and shall not count toward the cap for that year.

a. A taxpayer may claim one tax credit for each separate and distinct solar installation. In order for an installation to be considered a separate and distinct solar installation, both of the following factors must be met:

   1. Each installation must be eligible for the federal residential energy property credit or the federal energy credit as provided in subrule 42.48(3).

   2. Each installation must have separate metering.

b. In order to request the tax credit, a taxpayer must complete an application for the solar energy tax credit for each separate and distinct installation. 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.

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.

   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 for the solar energy system.

   6. Amount of Iowa tax credit requested.

   7. For nonresidential installations, a completion sheet from a local utility company verifying that the system has been placed in service. If a completion sheet is not available from the local utility company, 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.

c. 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 number. The solar energy system tax credit will be claimed on Form IA 148, Tax Credits Schedule. 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. 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.

If the department receives applications for tax credits in excess of the $1.5 million available for 2012 and 2013 and the $4.5 million available for 2014 to 2016, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the $1.5 or $4.5 million of tax credits available, the department shall establish a wait list for the next year’s allocation of tax credits and the applications shall first be funded in the order listed on the wait list. However, if the $4.5 million cap of tax credit is reached for 2016, no applications in excess of the $4.5 million cap will be carried over to the next year, assuming there is no extension of the federal credit.

EXAMPLE: A taxpayer submitted an application for a $2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the $1.5 million cap had already been reached for 2012. The taxpayer will be placed on a wait list and will receive priority for receiving the tax credit for the 2013 tax year. However, if the application was submitted on December 1, 2016, for an installation that occurred in 2016 and the $4.5 million cap had already been reached for 2016, no tax credit will be allowed for the 2017 tax year, assuming there is no extension of the federal credit.

d. 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(5) Allocation of tax credit to owners of a business entity. 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 proportion 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 2014 to 2016.

This rule is intended to implement Iowa Code section 422.11L as amended by 2014 Iowa Acts, Senate File 2340, and 2014 Iowa Acts, House File 2473, section 77.

[ARC 8361C; 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]

701—42.49(422) Volunteer fire fighter, volunteer emergency medical services personnel and reserve peace officer tax credit. Effective for tax years beginning on or after January 1, 2013, a tax credit is available for individual income tax for volunteer fire fighters and volunteer emergency medical services (EMS) personnel. Effective for tax years beginning on or after January 1, 2014, a tax credit is available for individual income tax for reserve peace officers.

42.49(1) Definitions. The following definitions are applicable to this rule:

“Emergency medical services personnel” or “EMS personnel” 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” or “EMS personnel” 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 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 $50 for the tax year beginning January 1, 2013, if the volunteer fire fighter or volunteer EMS personnel was a volunteer for the entire year. The credit is equal to $100 for tax years beginning on or after January 1, 2014, if the volunteer fire fighter, volunteer EMS personnel or reserve peace officer was a volunteer for the entire year.

b. If the individual was not a volunteer fire fighter or volunteer EMS personnel for the entire 2013 calendar year, the $50 credit is prorated based on the number of months the individual was a volunteer. Beginning in the 2014 calendar year, if the individual was not a volunteer fire fighter, volunteer EMS personnel or reserve peace officer for the entire year, the $100 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, 2013, and remained a volunteer for the rest of calendar year 2013. The individual is considered a volunteer for nine months of 2013. The tax credit for 2013 is equal to $38 ($50 multiplied by 9/12 equals $37.50; rounding to the nearest dollar results in a $38 credit).

c. If an individual is both a volunteer fire fighter and a volunteer EMS personnel during the same month, a credit can be claimed for only one volunteer position for that month. Therefore, if an individual was both a volunteer fire fighter and volunteer EMS personnel for all of 2013, the tax credit will equal $50. In addition, beginning in calendar year 2014, if a reserve peace officer is also either a volunteer fire fighter or a volunteer EMS personnel, a credit can be claimed for only one volunteer position for that month.

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 for the months for which the tax credit is being claimed. Beginning with the 2014 tax year, 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 individual may be requested to provide the written statement upon request by the department.

This rule is intended to implement Iowa Code section 422.12 as amended by 2014 Iowa Acts, House File 2459.

[ARC 0398C, IAB 10/17/12, effective 11/21/12; ARC 1665C, IAB 10/15/14, effective 11/19/14]

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 Iowa tax computed after all other nonrefundable credits allowed in division II of Iowa Code chapter 422 (excluding the Iowa taxpayers trust fund tax credit) are deducted, after the amount of school district surtax described in rule 701—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,4F52) 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 Web site. The department will maintain a list of recognized organizations on the department’s Web site.

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. 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]

701—42.52(422) Adoption tax credit. Effective for tax years beginning on or after January 1, 2014, an adoption tax credit is available for individual income tax equal to the amount of qualified adoption expenses paid or incurred by a taxpayer related to the adoption of a child during the tax year, not to exceed $2,500 per adoption.

42.52(1) Definitions. The following definitions are applicable to this rule:

“Adoption” means the permanent placement in Iowa of a child by the department of human services, by a licensed agency under Iowa Code chapter 238, by an agency that meets the provision of the interstate compact in Iowa Code section 232.158, or by a person making an independent placement according to the provisions of Iowa Code chapter 600.

“Child” means an individual who is under the age of 18 years.

“Qualified adoption expenses” means unreimbursed expenses paid or incurred in connection with the adoption of a child, including medical and hospital expenses of the biological mother which are incident to the child’s birth, welfare agency fees, legal fees, and all other fees and costs related to the adoption of a child. Expenses which 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.
42.52(2) Claiming the credit. The first $2,500 of qualified adoption expenses is eligible for the credit. If the qualified adoption expenses are less than $2,500, then the total amount of qualified expenses can be claimed as a credit. 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. The amount of tax credit claimed cannot be used as an itemized deduction for adoption expenses provided in 701—subrule 41.5(3).

This rule is intended to implement 2014 Iowa Acts, House File 2468.

[Filed 12/2/74]
[Filed 12/10/76, Notice 9/22/76—published 12/29/76, effective 2/2/77]
[Filed 10/28/77, Notice 9/21/77—published 11/16/77, effective 12/21/77]
[Filed 12/7/79, Notice 10/31/79—published 12/26/79, effective 1/30/80]
[Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]
[Filed 12/3/82, Notice 10/27/82—published 12/22/82, effective 1/26/83]
[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
[Filed 5/31/85, Notice 4/24/85—published 6/19/85, effective 7/24/85]
[Filed 8/23/85, Notice 7/17/85—published 9/11/85, effective 10/16/85]
[Filed 9/6/85, Notice 7/31/85—published 9/25/85, effective 10/30/85]
[Filed 1/24/86, Notice 12/18/85—published 2/12/86, effective 3/19/86]
[Filed 6/27/86, Notice 5/7/86—published 7/16/86, effective 8/20/86]
[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]
[Filed 10/3/86, Notice 8/27/86—published 10/22/86, effective 11/26/86]
[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
[Filed emergency 12/23/87—published 1/13/88, effective 12/23/87]
[Filed 12/23/87, Notice 11/18/87—published 1/13/88, effective 2/17/88]
[Filed 2/19/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 8/19/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]
[Filed 1/19/90, Notice 12/13/89—published 2/7/90, effective 3/14/90]
[Filed 8/30/90, Notice 7/25/90—published 9/19/90, effective 10/24/90]
[Filed 10/26/90, Notice 9/19/90—published 11/14/90, effective 12/19/90]
[Filed 11/9/90, Notice 10/3/90—published 11/28/90, effective 12/9/91]
[Filed 11/7/91, Notice 10/2/91—published 11/27/91, effective 1/1/92]
[Filed 10/23/92, Notice 9/16/92—published 11/11/92, effective 12/16/92]
[Filed 11/20/92, Notice 10/14/92—published 12/9/92, effective 1/13/93]
[Filed 1/12/96, Notice 12/6/95—published 1/31/96, effective 3/6/96]
[Filed 8/23/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
[Filed 10/17/97, Notice 9/10/97—published 11/5/97, effective 12/10/97]
[Filed 7/10/98, Notice 6/3/98—published 7/29/98, effective 9/2/98]
[Filed 10/2/98, Notice 8/26/98—published 10/21/98, effective 11/25/98]
[Filed 11/13/98, Notice 10/7/98—published 12/2/98, effective 1/6/99]
[Filed 12/23/99, Notice 11/17/99—published 1/12/00, effective 2/16/00]
[Filed 1/5/01, Notice 11/29/00—published 1/24/01, effective 2/28/01]
[Filed 5/24/01, Notice 4/18/01—published 6/13/01, effective 7/18/01]
[Filed 12/7/01, Notice 10/31/01—published 12/26/01, effective 1/30/02]
[Filed 2/1/02, Notice 12/26/01—published 2/20/02, effective 3/27/02]
[Filed 3/15/02, Notice 1/23/02—published 4/3/02, effective 5/8/02]
[Filed 3/15/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]
[Filed 10/11/02, Notice 9/4/02—published 10/30/02, effective 12/4/02]
[Filed 11/8/02, Notice 10/2/02—published 11/27/02, effective 1/1/03]
[Filed 1/17/03, Notice 12/11/02—published 2/5/03, effective 3/12/03]
[Filed 9/26/03, Notice 8/20/03—published 10/15/03, effective 11/19/03]
[Filed 10/24/03, Notice 9/17/03—published 11/12/03, effective 12/17/03]
[Filed 11/6/03, Notice 10/1/03—published 11/26/03, effective 12/31/03]
[Filed 12/5/03, Notice 10/15/03—published 12/24/03, effective 1/28/04]
[Filed 12/31/03, Notice 11/26/03—published 1/21/04, effective 2/25/04]
[Filed 1/30/04, Notice 12/24/03—published 2/18/04, effective 3/24/04]
[Filed 8/12/04, Notice 7/7/04—published 9/1/04, effective 10/6/04]
[Filed 9/24/04, Notice 8/18/04—published 10/13/04, effective 11/17/04]
[Filed 10/22/04, Notice 9/15/04—published 11/10/04, effective 12/15/04]
[Filed 12/3/04, Notice 10/27/04—published 12/22/04, effective 1/26/05]
[Filed 1/14/05, Notice 12/8/04—published 2/2/05, effective 3/9/05]
[Filed 9/22/05, Notice 8/3/05—published 10/12/05, effective 11/16/05]
[Filed 10/20/05, Notice 9/14/05—published 11/9/05, effective 12/14/05]
[Filed 12/30/05, Notice 11/23/05—published 1/18/06, effective 2/22/06]
[Filed 1/27/06, Notice 12/21/05—published 2/15/06, effective 3/22/06]
[Filed 6/2/06, Notice 3/29/06—published 6/21/06, effective 7/26/06]
[Filed 7/28/06, Notice 6/21/06—published 8/16/06, effective 9/20/06]
[Filed 9/8/06, Notice 7/19/06—published 9/27/06, effective 11/1/06]
[Filed 10/5/06, Notice 8/30/06—published 10/25/06, effective 11/29/06]
[Filed 11/1/06, Notice 8/16/06—published 11/22/06, effective 12/27/06]
[Filed 12/13/06, Notice 11/8/06—published 1/3/07, effective 2/7/07]
[Filed 1/11/07, Notice 12/6/06—published 1/31/07, effective 3/7/07]
[Filed 10/5/07, Notice 8/15/07—published 10/24/07, effective 11/28/07]
[Filed 10/5/07, Notice 8/29/07—published 10/24/07, effective 11/28/07]
[Filed 10/19/07, Notice 9/12/07—published 11/7/07, effective 12/12/07]
[Filed 3/7/08, Notice 1/30/08—published 3/26/08, effective 4/30/08]
[Filed 5/2/08, Notice 3/26/08—published 5/21/08, effective 6/25/08]
[Filed 10/31/08, Notice 9/24/08—published 11/19/08, effective 12/24/08]

[A ARC 8702B (Notice ARC 8512B, IAB 2/10/10, IAB 4/21/10, effective 5/26/10)]
[A ARC 9104B (Notice ARC 8954B, IAB 7/28/10, IAB 9/22/10, effective 10/27/10)]
[A ARC 9821B (Notice ARC 9741B, IAB 9/7/11, IAB 11/2/11, effective 12/7/11)]
[A ARC 9820B (Notice ARC 9940B, IAB 9/7/11, IAB 11/2/11, effective 12/7/11)]
[A ARC 9876B (Notice ARC 9796B, IAB 10/5/11, IAB 11/30/11, effective 1/4/12)]
[A ARC 9966B (Notice ARC 9856B, IAB 11/16/11, IAB 1/11/12, effective 2/15/12)]
[A ARC 0251C (Notice ARC 0145C, IAB 5/30/12, IAB 8/8/12, effective 9/12/12)]
[A ARC 0337C (Notice ARC 0232C, IAB 7/25/12, IAB 9/19/12, effective 10/24/12)]
[A ARC 0361C (Notice ARC 0253C, IAB 8/8/12, IAB 10/3/12, effective 11/7/12)]
[A ARC 0398C (Notice ARC 0292C, IAB 8/22/12, IAB 10/17/12, effective 11/21/12)]
[A ARC 1101C (Notice ARC 0976C, IAB 8/21/13, IAB 10/16/13, effective 11/20/13)]
[A ARC 1102C (Notice ARC 0975C, IAB 8/21/13, IAB 10/16/13, effective 11/20/13)]
[A ARC 1138C (Notice ARC 0998C, IAB 9/4/13, IAB 10/30/13, effective 12/4/13)]
[A ARC 1303C (Notice ARC 1231C, IAB 12/11/13, IAB 2/5/14, effective 3/12/14)]
[A ARC 1545C (Notice ARC 1469C, IAB 5/28/14, IAB 7/23/14, effective 8/27/14)]
[A ARC 1665C (Notice ARC 1590C, IAB 8/20/14, IAB 10/15/14, effective 11/19/14)]
[A ARC 1666C (Notice ARC 1589C, IAB 8/20/14, IAB 10/15/14, effective 11/19/14)]

Two or more ARCs
CHAPTER 43
ASSESSMENTS AND REFUNDS
[Prior to 12/17/86, Revenue Department[730]]

701—43.1(422) Notice of discrepancies.
43.1(1) Notice of adjustments. A department employee designated by the director to examine returns and make audits who discovers discrepancies in returns or learns that the income of the taxpayer may not have been listed, in whole or in part, or that no return was filed when one was due is authorized to notify the taxpayer of this discovery by ordinary mail. The notice shall not be termed an assessment, and it may inform the taxpayer what amount would be due if the information discovered is correct.

43.1(2) Right of taxpayer upon receipt of notice of adjustment. A taxpayer who has received notice of an adjustment in connection with a return may pay the additional amount stated to be due. If payment is made, and the taxpayer wishes to contest the matter, the taxpayer should then file a claim for refund. However, payment will not be required until assessment has been made (although interest will continue to accrue if payment is not made). If no payment is made, the taxpayer may discuss with the agent, auditor, clerk or employee who notified the taxpayer of the discrepancy, either in person or through correspondence, all matters of fact and law which the taxpayer considers relevant to the situation. Documents and records supporting the taxpayer’s position may be required.

43.1(3) Rescinded, effective 7/24/85.

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

701—43.2(422) Notice of assessment, supplemental assessments and refund adjustments. If after following the procedure outlined in 43.1(2) no agreement is reached, and the taxpayer does not pay the amount determined to be correct, a notice of assessment shall be sent to the taxpayer by mail. If the period in which the correct amount of tax can be determined is nearly at an end, either a notice of assessment without compliance with 43.1(2) or a jeopardy assessment may be issued. All notices of assessment shall bear the signature of the director.

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 the appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation. Nothing in this rule shall prevent the making of an assessment or refund adjustment for the purpose of taking into account the impact upon Iowa net income of federal audit adjustments.

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

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

701—43.3(422) Overpayments of tax. The following are provisions for refunding or crediting to the taxpayer’s deposits or payments for tax in excess of amounts legally due.

43.3(1) Claims for refund. A claim for refund is a formal request made by the taxpayer or the taxpayer’s personal representative to the department of revenue for repayment of state income tax that was paid with the taxpayer’s previously filed individual income tax return. In order for a claim for refund to be considered to be a valid document, the taxpayer or the taxpayer’s personal representative must file the claim on an IA 1040X Amended Return Form or on an IA 1040 Income Tax Return Form for the appropriate tax year, with the notation “Amended for Refund” clearly shown on the face of the return form. The taxpayer or the taxpayer’s personal representative must file the claim for refund with the department under separate cover so the claim is not filed with another tax return or with other documents or forms submitted to the department.
In addition, the claim for refund must be filed within one of the time periods specified in Iowa Code section 422.73(1) in order for the refund claim to be timely so that the claim may be considered on its merits by the department.

If the department determines that the taxpayer’s claim is without merit and the claim for refund should be rejected, the department will notify the taxpayer or the taxpayer’s personal representative by mail that the claim for refund has been rejected and of the reason for rejection. In addition, the rejection letter will advise the taxpayer that the taxpayer has 60 days from the date of the letter to file a protest of the department’s rejection of the claim for refund. The taxpayer’s appeal of the rejection of the claim for refund must be filed in accordance with rule 701—7.8(17A).

43.3(2) **Offsetting refunds.** A taxpayer shall not offset a refund or overpayment of tax for one year as a prior payment of tax of a subsequent year on the return of a subsequent year without authorization in writing by the department. The department, may, however, apply an overpayment, or a refund otherwise due the taxpayer, to any tax due or to become due from the taxpayer.

43.3(3) **Setoffs of qualifying debts administered by the department of administrative services.** Before any refund or rebate from a taxpayer’s individual income tax return is considered for purposes of setoff, the refund or rebate must be applied first to any outstanding tax liability of that taxpayer with the department of revenue. After all outstanding tax liabilities are satisfied, any remaining balance of refund or rebate will be set off against any debt of the taxpayer, setoff of which is overseen by the department of administrative services pursuant to 2003 Iowa Acts, House File 534, section 86.

43.3(4) **College loan setoff.** Rescinded IAB 11/12/03, effective 12/17/03.

43.3(5) **District court debts setoff.** Rescinded IAB 11/12/03, effective 12/17/03.

43.3(6) **Overpayment credited to estimated tax.** Any remaining balance of overpayment, at the election of the taxpayer, will be refunded to the taxpayer or credited as a first payment of the taxpayer’s estimated tax for the following year. However, a taxpayer may elect to credit an overpayment from a return to the estimated tax for the following tax year only in cases when the return is filed in the same calendar year that the return is due. For example, a taxpayer’s 1994 return is due on April 30, 1995. If the taxpayer files that return on or before December 31, 1995, the taxpayer can elect to credit an overpayment on that return to estimated tax for 1995, and this election will be honored by the department. See also rule 701—49.7(422).

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

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

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

43.3(7) **Refunds—statute of limitations for years ending before January 1, 1979.** Rescinded IAB 10/12/94, effective 11/16/94.

43.3(8) **Refunds—statute of limitations for tax years ending on or after January 1, 1979.** The statute of limitations with respect to which refunds or credit may be claimed are:

a. The later of
   (1) Three years after due date of payment upon which refund or credit is claimed; or
   (2) One year after which such payment was actually made.

b. Six months from the date of final disposition of any federal income tax matter with respect to the particular tax year. The taxpayer, however, must have notified the department of the matter within six months after the specified three-year period, contained in paragraph “a,” subparagraph (1), above. The term “matter” includes, but is not limited to, the execution of waivers and commencement of audits.
The refund is limited to those matters between the taxpayer and the Internal Revenue Service which affect Iowa taxable income. *Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review*, 414 N.W.2d 113 (Iowa 1987).

c. For federal audits finalized on or after July 1, 1991, the taxpayer must claim a refund or credit within six months of final disposition of any federal income tax matter with respect to the particular tax year regardless when the tax year ended. It is not necessary for the taxpayer to have previously notified the department within the period of limitations specified in 43.3(8)”a”(1) above of a matter between the taxpayer and the Internal Revenue Service in order to receive a refund or credit. The term “matter” includes, but is not limited to, the execution of waivers and commencement of audits. The refund or credit is limited to those matters between the taxpayer and the Internal Revenue Service which affect Iowa taxable income. *Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review*, 414 N.W. 2d 113 (Iowa 1987).

d. Three years after the date of the return for the year in which a net operating loss or capital loss occurs, which if carried back results in a reduction of tax in a prior period and an overpayment results.

43.3(9) Refunds—statute of limitations for individuals who died as a result of hostile action. Rescinded IAB 10/12/94, effective 11/16/94.

43.3(10) Refunds—statute of limitations for MIAs and spouses of MIAs. Rescinded IAB 10/12/94, effective 11/16/94.

43.3(11) Refunds—statute of limitations for insolvent farmers who received capital gains from farmland sold in 1982 and 1983. Rescinded IAB 10/12/94, effective 11/16/94.

43.3(12) Refunds—statute of limitations for individuals with certain charitable contributions. Rescinded IAB 10/12/94, effective 11/16/94.

43.3(13) Refunds—statute of limitations for taxpayers who paid state income tax on 1988 returns on certain supplemental assistance payments. Rescinded IAB 11/24/04, effective 12/29/04.

43.3(14) Refunds—statute of limitations for taxpayers who paid state income tax on returns for tax years where federal income tax was refunded due to a provision of the Taxpayer Relief Act of 1997. Rescinded IAB 9/19/12, effective 10/24/12.

43.3(15) Refunds—statute of limitations for taxpayers who paid 90 percent of the tax by the due date and filed the original return in the six-month extended period. If a taxpayer has paid 90 percent of the income tax required to be shown due by the original due date of the return and has filed the original income tax return sometime in the six-month extended period after the original due date, the taxpayer may file an amended return by October 31 of the third year following the year the original return was due and shall be within the statute of limitations for refund. This position is supported by the Iowa Supreme Court in *Conoco, Inc. v. Iowa Department of Revenue and Finance*, 477 N.W.2d 377 (Iowa 1991). See also 701—subrule 39.2(4) which pertains to the extended period for filing the Iowa income tax return when 90 percent of the tax is paid by the original due date of the Iowa income tax return.

**Example 1.** Joe Barnes had paid at least 90 percent of the tax shown due on his 1999 Iowa income tax return by the April 30 original due date and filed his original 1999 Iowa return on May 15, 2000. Mr. Barnes determined that he had failed to claim several deductions on the original 1999 Iowa return, so he filed an amended 1999 return on October 31, 2003. The amended return was filed within the three-year statute of limitations for refund since it was filed within three years of the extended due date of the return, October 31, 2000. The six-month extended due date applied in this case because the original return was filed within the six-month extended period.

**Example 2.** Fred Jones paid 90 percent of the tax shown due on his 1999 return by the April 30 original due date and filed the original return on or before the April 30, 2000, original due date for this return. Mr. Jones determined that when he filed the original 1999 Iowa return, he failed to claim the Iowa income tax withheld from a part-time job he held in 1999. Mr. Jones filed an amended 1999 Iowa return on May 15, 2003, to claim the Iowa tax withheld that he had failed to claim on the original return. This amended return was rejected by the department because it was not filed within three years of the
due date of the return. Although Mr. Jones had paid 90 percent of the tax by the due date, the due date
was not extended because the original return had been filed by the due date of April 30, 2000.

This rule is intended to implement Iowa Code sections 421.17, 422.2 and 422.16 and section 422.73
as amended by 2012 Iowa Acts, Senate File 2328.

[ARC 0251C, IAB 8/8/12, effective 9/12/12; ARC 0337C, IAB 9/19/12, effective 10/24/12; ARC 1303C, IAB 2/5/14, effective
3/12/14]

701—43.4(68A,422,456A) Optional designations of funds by taxpayer.

43.4(1) Iowa fish and game protection fund. The taxpayer may designate an amount to be donated
to the Iowa fish and game protection fund. The donation must be $1 or more, and the designation must
be made on the original return for the current year. The donation is allowed only after obligations of
the taxpayer to the department of revenue, the child support recovery unit of the department of human
services, the foster care recovery unit of the department of human services, the college student aid
commission, the office of investigations of the department of human services, the district courts, other
state agencies, and the Iowa election campaign checkoff have been satisfied. The designation to the
fund is irrevocable and cannot be made on an amended return. If the amount of refund claimed on the
original return or the payment remitted with the return is adjusted by the department, the amount of the
designation to the fund may be adjusted accordingly.

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

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

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

43.4(2) Iowa election campaign fund. A person with a tax liability of $1.50 or more on the Iowa
individual income tax return may direct or designate that a $1.50 contribution be made to a specific
political party or that the contribution be made to the Iowa election campaign fund to be shared by all
political parties as clarified further in this paragraph. In the case of married taxpayers filing a joint Iowa
individual return with a tax liability of $3.00 or more, each spouse may direct or designate that a $1.50
contribution be made to a specific political party or that a $1.50 contribution be made to the Iowa election
campaign fund as a contribution to be shared by all political parties. The designation or direction of a
contribution to a political party or to the election campaign fund is irrevocable and cannot be changed
on an amended return. The designation to a political party or the election campaign fund is allowed
only after obligations of the taxpayer to the department of revenue, the child support recovery unit of
the department of human services, the foster care recovery unit of the department of human services,
the college student aid commission, the office of investigations of the department of human services,
the district courts and other state agencies are satisfied. Note that for purposes of this subrule, “political
party” means a party as defined in Iowa Code section 43.2.

In a tax year when there are two political parties for purposes of the Iowa election campaign fund,
all undesignated contributions to the fund made on individual income tax returns for that tax year are
to be divided equally between the two parties. In a tax year where there are more than two political
parties for purposes of the Iowa election campaign fund, all undesignated contributions to the fund made
on income tax returns for that tax year are to be divided among the political parties on the basis of the
number of registered voters for a particular political party on December 31 of that tax year to the total
number of registered voters on December 31 of that tax year that have declared an affiliation with any
of the recognized political parties.

Thus, if there were 400,000 registered voters for “x” political party, 500,000 registered voters for
“y” political party, and 100,000 registered voters for “z” political party on December 31 of a tax year
where there were three recognized political parties, 40 percent of the undesignated political contributions
on 1997 returns would be paid to “x” political party since 40 percent of the registered voters with an affiliation to a political party on December 31 had an affiliation with party “x” on that day.

43.4(3) Domestic abuse services checkoff. Rescinded IAB 11/30/11, effective 1/4/12.

43.4(4) State fair foundation fund checkoff. For tax years beginning on or after January 1, 1993, a taxpayer filing a state individual income tax return can designate a checkoff of $1 or more to the foundation fund of the Iowa state fair foundation. If the overpayment on the return or the payment made with the filing of the return is not sufficient to cover the amount designated to the foundation fund checkoff, the amount credited to the foundation fund checkoff will be reduced accordingly. The designation to the foundation fund checkoff is irrevocable.

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

On or before January 31 of the year following the year in which returns with the foundation fund checkoff are due, the department of revenue shall transfer the total amount designated to the foundation fund.

43.4(5) Limitation of checkoffs on the individual income tax return. For tax years beginning on or after January 1, 1995, but before January 1, 2004, no more than three checkoffs are allowed on the individual income tax return. The election campaign fund checkoff is not considered for purposes of limiting the number of checkoffs on the income tax return. When the same three checkoffs have been provided on the income tax return for three consecutive years, the checkoff for which the least amount has been contributed in the aggregate for the first two years and through March 15 of the third tax year will be repealed.

For example, the 1999 Iowa individual income tax return due in 2000 includes checkoffs A, B and C which also were shown on the Iowa returns for 1997, 1998 and 1999. Through March 15, 2000, $90,000 was contributed on the 1997, 1998 and 1999 returns for checkoff A, $60,000 was contributed for checkoff B and $120,000 for checkoff C. Since the least amount contributed in the aggregate was for checkoff B, that checkoff is repealed and will not appear on the 2000 Iowa income tax return to be filed in 2001.

For tax years beginning on or after January 1, 2004, no more than four checkoffs are allowed on the individual income tax return. The election campaign fund checkoff is not considered for purposes of limiting the number of checkoffs on the income tax return. When the same four checkoffs have been provided on the income tax return for two consecutive years, the two checkoffs for which the least amount has been contributed in the aggregate for the first year and through March 15 of the second tax year will be repealed.

If more checkoffs are enacted in the same session of the general assembly than there is space for inclusion on the individual income tax return form, the earliest enacted checkoffs for which there is space will be included on the income tax return form, and all other checkoffs enacted during that session of the general assembly are repealed. If the same session of the general assembly enacts more checkoffs on the same day than there is space for inclusion on the individual income tax form, the director of revenue shall determine which checkoffs shall be included on the individual income tax form.

43.4(6) Keep Iowa beautiful fund checkoff. For tax years beginning on or after January 1, 2001, but before January 1, 2006, a taxpayer filing an individual income tax return can designate a checkoff of $1 or more to the keep Iowa beautiful fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the keep Iowa beautiful fund, the amount credited to the keep Iowa beautiful fund will be reduced accordingly. Once the taxpayer has designated a contribution to the keep Iowa beautiful fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend the designation.

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

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the keep Iowa beautiful fund are due, the department of revenue shall transfer the total amount designated to the keep Iowa beautiful fund.

**43.4(7) Volunteer fire fighter preparedness fund checkoff.** For tax years beginning on or after January 1, 2004, but before January 1, 2006, a taxpayer filing an individual income tax return can designate a checkoff of $1 or more to the volunteer fire fighter preparedness fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the volunteer fire fighter preparedness fund, the amount credited to the volunteer fire fighter preparedness fund will be reduced accordingly. Once the taxpayer has designated a contribution to the volunteer fire fighter preparedness fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

A designation to the volunteer fire fighter preparedness fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff, the state fair foundation checkoff and the keep Iowa beautiful fund checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the volunteer fire fighter preparedness fund are due, the department of revenue is to certify to the state treasurer the amount designated to the volunteer fire fighter preparedness fund on those returns.

**43.4(8) Veterans trust fund checkoff.** For tax years beginning on or after January 1, 2006, but before January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of $1 or more to the veterans trust fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the veterans trust fund, the amount credited to the veterans trust fund will be reduced accordingly. Once the taxpayer has designated a contribution to the veterans trust fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

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

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the veterans trust fund are due, the department of revenue shall transfer the total amount designated to the veterans trust fund.

**43.4(9) Joint keep Iowa beautiful fund and volunteer fire fighter preparedness fund checkoff.** For tax years beginning on or after January 1, 2006, but before January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of $1 or more to the joint keep Iowa beautiful fund and volunteer fire fighter preparedness fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the joint keep Iowa beautiful fund and volunteer fire fighter preparedness fund, the amount credited to the joint keep Iowa beautiful fund and volunteer fire fighter preparedness fund will be reduced accordingly. Once the taxpayer has designated a contribution to the joint keep Iowa beautiful fund and volunteer fire fighter preparedness fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

A designation to the joint keep Iowa beautiful fund and volunteer fire fighter preparedness fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child
support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff, the state fair foundation checkoff and the veterans trust fund checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the joint keep Iowa beautiful fund and volunteer fire fighter preparedness fund are due, the department of revenue shall transfer one-half of the total amount designated to the keep Iowa beautiful fund, and the remaining one-half will be transferred to the volunteer fire fighter preparedness fund.

**43.4(10) Child abuse prevention program fund checkoff.** For tax years beginning on or after January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of $1 or more to the child abuse prevention program fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the child abuse prevention program fund, the amount credited to the child abuse prevention program fund will be reduced accordingly. Once the taxpayer has designated a contribution to the child abuse prevention program fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

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

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

**43.4(11) Joint veterans trust fund and volunteer fire fighter preparedness fund checkoff.** For tax years beginning on or after January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of $1 or more to the joint veterans trust fund and volunteer fire fighter preparedness fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the joint veterans trust fund and volunteer fire fighter preparedness fund, the amount credited to the joint veterans trust fund and volunteer fire fighter preparedness fund will be reduced accordingly. Once the taxpayer has designated a contribution to the joint veterans trust fund and volunteer fire fighter preparedness fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

A designation to the joint veterans trust fund and volunteer fire fighter preparedness fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff, the state fair foundation fund checkoff and the child abuse prevention program fund checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the joint veterans trust fund and volunteer fire fighter preparedness fund are due, the department of revenue shall transfer one-half of the total amount designated to the veterans trust fund, and the remaining one-half will be transferred to the volunteer fire fighter preparedness fund.

This rule is intended to implement Iowa Code sections 422.12D, 422.12E, 422.12H, 422.12K and 422.12L and 2014 Iowa Acts, House File 2473.

[ARC 9103B, IAB 9/22/10, effective 10/27/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 0337C, IAB 9/19/12, effective 10/24/12; ARC 1665C, IAB 10/15/14, effective 11/19/14]
701—43.5(422) Abatement of tax. For notices of assessment issued on or after January 1, 1995, if the statutory period for appeal has expired, the director may abate any portion of unpaid tax, penalties or interest which the director determines to be erroneous, illegal, or excessive. See rule 701—7.31(421) for procedures on requesting abatement of tax.

This rule is intended to implement Iowa Code section 421.60.

701—43.6(422) 1978 Income tax rebate. Rescinded IAB 11/24/04, effective 12/29/04.

701—43.7(422) Special refund for taxpayers with net long-term capital gains in the tax year. Rescinded IAB 11/24/04, effective 12/29/04.

701—43.8(422) Livestock production credit refunds for corporate taxpayers and individual taxpayers. For tax years beginning on or after January 1, 1996, corporate and individual taxpayers who own certain livestock, who have livestock production operations in Iowa in the tax year, and who meet certain qualifications are eligible for a livestock production credit refund. The amount of a livestock production credit refund is determined by adding together for each head of livestock in the taxpayer’s operation the product of 10 cents for each corn equivalent deemed to have been consumed by that animal in the taxpayer’s operation in the tax year. For tax years beginning on or after January 1, 1998, only qualified taxpayers that have cow-calf livestock operations described in paragraph “a” of subrule 43.8(2) will be eligible for the livestock production refunds, notwithstanding the other types of livestock operations mentioned in this rule. Note that the livestock production credit refund is also available to taxpayers who meet the qualifications described in subrule 43.8(1) and operate certain types of poultry operations in this state and own the poultry in the operations. The amounts of the livestock production credit refunds for these taxpayers are determined on the basis of 10 cents for each corn equivalent deemed to have been consumed by the chickens or the turkeys in the taxpayers’ poultry operations in the tax year. However, the amount of livestock production credit refund may not exceed $3,000 per livestock or poultry operation for a tax year. In addition, the amount of livestock production credit refund per taxpayer for a tax year may not exceed $3,000. Therefore, if a particular taxpayer is involved in a cow-calf beef operation, a sheep-ewe flock operation, and a farrow-to-finish hog operation, the maximum livestock production credit refund for this taxpayer may not exceed $3,000.

General references in this rule to livestock, livestock production, and livestock production operations also apply to poultry, poultry production, and poultry production operations.

In the case of married taxpayers, each of the spouses may be eligible for a livestock production refund of up to $3,000 if each of the spouses was involved in a livestock production operation independently from the other spouse and independently from other taxpayers in the tax year. If both spouses are involved in the same livestock operation, the maximum refund from that operation is $3,000 which may be allocated between the individuals in the ratio of each spouse’s ownership interest in the operation. If a livestock production operation is conducted by a partnership, limited liability company, subchapter S corporation, estate, or a trust, the livestock production credit refund from the entity is to be allocated to the owners of the entity in the same ratio as earnings are allocated to the owners. In situations where a livestock production operation is conducted partly within and partly without Iowa, only the livestock production activity in Iowa during the tax year will be considered for purposes of the livestock credit refund. The livestock production refund amounts for these taxpayers is to be allocated on the basis of sales of Iowa livestock which qualify taxpayers for the livestock production refund to total sales of livestock which qualify taxpayers for the refund. However, the refunds from any operations may not exceed $3,000. The following subrules outline how the livestock production credit refund program is to be administered by the department of revenue:

43.8(1) Qualifications for the livestock production credit refunds. For tax years beginning on or after January 1, 1997, individual and corporate taxpayers will be eligible for the livestock production credit refund if the taxpayer’s federal taxable income is $99,600 or less. In the case of married taxpayers, their combined federal taxable income must be considered to determine if they are eligible for the credit.
For each tax year beginning after 1997, the federal taxable income specified previously in this subrule shall be multiplied by the cumulative index factor for that tax year to calculate the federal taxable income that will be used to determine whether a taxpayer is eligible for the livestock production refund that is authorized for that tax year. “Cumulative index factor” means the product of the annual index factor for the 1997 calendar year and all annual index factors for subsequent calendar years. The annual index factor equals the annual inflation factor for that calendar year as computed in Iowa Code section 422.4 for purposes of indexing of the tax rates for individual income tax.

43.8(2) Definitions related to the livestock production credit refunds. The following definitions explain livestock and poultry for purposes of this rule. The definitions also describe the various types of livestock operations of taxpayers which may qualify the taxpayers for the livestock production credit refunds and specify how the refunds are to be computed for the various types of livestock operations:

a. For the purposes of this rule, the term “livestock” means domestic bovine animals which will be referred to as bulls, heifers, cattle, calves, or cows in this rule, domestic ovine animals which will be referred to as sheep, lambs, rams, or ewes, or domestic swine which will be referred to as hogs or pigs. That is, for purposes of this rule, “livestock” includes only those farm animals which may qualify their owners for the livestock production credit refund. “Livestock” does not include horses, goats, donkeys, mules, oxen, fur-bearing mammals, other mammals, or other classes of animals, although some of these animals or species may be considered to be “livestock” in other contexts or situations.

b. For purposes of this rule the term “poultry” means only domestic chickens and domestic turkeys as only these types of birds may qualify their owners for the livestock production credit refunds. “Poultry” does not include ducks, geese, wild turkeys, emus, ostriches, or other fowl or birds, although some of these species may be considered to be poultry in other contexts or situations.

c. For purposes of this rule, the term “farrow-to-finish” hog operations comprises those hog production operations where the majority of the hogs sold from the operation are from animals farrowed and raised in the operation which are sold at a prime market weight of 200 pounds or more.

In order to compute the livestock production credit refund amounts for the “farrow-to-finish” hog production operations, the corn equivalent factor of 13 per animal sold, or $1.30, is multiplied by the number of hogs sold at prime market weight in the tax year which were farrowed and raised in the operation. No corn equivalent credits are given for hogs sold at the prime market weight which have been in the operation less than three months on the date of sale. In the “farrow-to-finish” operations, hogs sold at a weight that is less than the prime market weight also are considered for purposes of computing the livestock production credit refund for the operation, but only at the corn equivalent factor of 2.6 or $.26 per pig sold.

In “farrow-to-finish” hog operations, if any pigs are purchased at the feeder pig weight of less than 60 pounds and are sold at prime market weight (200 pounds or more), see paragraph “e” in this subrule for the corn equivalent factor which applies to these transactions.

d. For purposes of this rule, the term “farrow-to-feeder-pig” hog operations includes those operations where essentially all the pigs farrowed in the operation are sold at an average weight of less than 60 pounds per pig, or at “feeder pig” weight.

The potential livestock production credit refunds for these operations are computed by multiplying the corn equivalent factor of 2.6 or $.26 times the number of pigs sold at the “feeder pig” weight from these operations in the tax year. However, the corn equivalent factor of 13 or $1.30 per animal sold can be used for hogs sold at the prime market weight (200 pounds or more) from these operations for those animals where there is documentation that the hogs were born and raised in the operation or that the hogs were in the operation for a minimum of three months at the time the hogs were sold.

e. The term “finishing feeder pigs” hog operations comprises those operations where the majority of the hogs in this operation are purchased when these animals weighed less than 60 pounds or at the “feeder pig” weight and the animals are sold at the time the animals are at the prime market weight of 200 pounds or more per hog. The potential livestock production credit refunds for these operations are computed by multiplying the corn equivalent factor of 10.4 or $1.04 times the number of animals sold in the year at the prime market weight. However, only those animals that were in the operation for a minimum of three months at the time the hogs were sold at prime market weight can be considered
for purposes of the livestock production credit refund. Corn equivalent factor credits of 2.6 or $.26 are
given for animals which are purchased at the “feeder pig” weight of less than 60 pounds and were in the
operation for a minimum of three months when the hogs were sold at a weight which is less than the
prime market weight of 200 pounds or more per hog.

f. For purposes of this rule, the term “layer poultry operations” includes operations where the eggs
produced by the chickens in the operation are sold for human consumption. The livestock production
credit refunds for these operations are computed on the basis of the average number of chickens in the
operation in the tax year multiplied by the corn equivalent factor of .88 or $.088. The average number
of chickens in the operation in the tax year is the aggregate of the number of chickens in the operation
on the first day in the tax year that the operation was in production and the number of chickens in the
operation on the last day of the tax year in which the operation was in production divided by 2.

However, in a situation where the operation was started or was shut down sometime during the tax
year, the livestock refund amount otherwise computed must be reduced by 8.33 percent for each month
in the tax year in which the operation was not in production. Thus, in the case where the computed
livestock refund amount was $2,000 and the operation was in production for only nine months of the
tax year, the adjusted refund amount would be $1,500 ($2,000 x 0.0833 x 3 = $500). ($2,000 - 500 =

$1,500)

g. For purposes of this rule, the term “turkey production operations” means operations involved
in raising domestic turkeys for sale for human consumption and where the turkeys are sold at a prime
market weight. The prime market weight for male or tom turkeys is between 30 and 35 pounds. The
prime market weight for hen turkeys is between 22 and 25 pounds. The livestock production credit
refund for this type of operation is computed by multiplying the number of turkeys sold in the tax year
at the prime market weight times the corn equivalent factor of 1.5 or $.15. However, only those turkeys
that were in the operation for a minimum of three months on the date the turkeys were sold may be
considered for purposes of computing the livestock production credit for the turkey operation.

h. For purposes of this rule, the term “broiler poultry operations” means poultry production
operations whereby the chickens raised in the operations are sold for human consumption at a prime
market weight or broiler weight between 3 pounds and 6 pounds depending on the breed or breeds of
chickens. The livestock production credit refund for this type of operation is computed by multiplying
the number of chickens sold in the tax year at broiler weight by the corn equivalent factor of .15 or
$.015. However, only chickens that are in the broiler operation for a minimum of six weeks before
the chickens are sold at broiler weight may be considered for purposes of computing the livestock
production credit for these operations.

i. Recinded IAB 5/6/09, effective 6/10/09.

j. For purposes of this rule, “stocker cattle operations” are beef cattle operations where essentially
all cattle in the operations are purchased as calves, raised in the operation at least two months, and the
cattle are sold in a range from 700 to 900 pounds per head which is deemed to be the “stocker weight.”
Cattle in the operation that were sold at a weight of less than 700 pounds may not be counted for purposes
of computing the livestock production credit refund for the operation. The livestock production credit
refunds for these operations is computed on the basis of the number of cattle sold in the year at the stocker
weight times the corn equivalent factor of 41.5 or $4.15 per head. Cattle sold in the tax year must be
reported on a first-in, first-out basis unless records of the taxpayer can support a different order of sale of
the animals. If this operation includes calves that were raised on the farm where they were born, these
calves qualify for the corn equivalent factor of 41.5 or $4.15 per head if the calves were unsold at the
end of the tax year and the calves were in the operation for a minimum of two months after the calves
were weaned.

k. For purposes of this rule, “beef feedlot operations” include those beef cattle operations whereby
the cattle are purchased as calves approximately 60 days from the time the calves were weaned or at a
“stocker weight” and are sold at a feedlot weight of 900 pounds or more after a three-month period when
the animals were on a high concentrate diet. Note that any animals which are purchased for the operation
and are maintained in the herd for less than four months at the time of sale do not qualify for the livestock
production credit refund of $7.50 per head of cattle sold. The livestock production
credit refund for these operations is computed by multiplying the number of cattle sold in the year at the feedlot weight times the corn equivalent amount of 75 or $7.50 per animal. However, if any cattle in the operation are sold at the “stocker” weight of at least 700 pounds but less than 900 pounds, these animals may be counted for the livestock production credit refund at a corn equivalent amount of 41.5 or $4.15 per head of cattle sold to the extent the cattle were in the operation for two months or more at the time of sale. If any cattle in the operation in the tax year were sold at a weight of less than 700 pounds, the sales of these cattle may not be counted for the livestock production credit refund. Cattle sold in the tax year must be reported on a first-in, first-out basis unless records of the taxpayer can support a different order of sale of the cattle.

l. For purposes of this rule, “dairy cattle operations” includes those cattle operations where the primary purpose of the operations is the production of milk and milk products for human consumption. The livestock production credit refund is computed by multiplying the aggregate of the number of milking cows in lactation on December 31 of the tax year and the number of cows bred to calve within 60 days of December 31 and the number of breeding bulls in inventory on December 31 times the corn equivalent number of 350 or $35 per cow. However, cattle that were purchased in the period between July 1 and December 31 of the calendar year may not be considered for purposes of computation of the livestock production credit for the dairy operation. In the case of a “dairy cattle operation” which started or ceased production in the tax year, the livestock production credit refund otherwise computed must be reduced by 8.33 percent for each month in the tax year in which the livestock operation was not in production. Heifers in the operation are not counted for purposes of the credit until the animals are bred to calve.

m. For purposes of this rule, “ewe flock sheep operations” are sheep operations whereby the majority of the sheep and lambs sold from the operation were born and raised in the operation. The livestock production credit refunds for these operations are computed by multiplying the number of ewes or rams in inventory on December 31 of the tax year times the corn equivalent factor of 20.5 or $2.05 per ewe or ram. Any ewes or rams purchased within three months before December 31 of the tax year may not be considered for purposes of computing the livestock production credit for the operation. In addition, lambs sold in the tax year from the operation may be counted for the production credit refund at 4.1 corn equivalents or $.41 for each lamb sold to the extent the lambs were in the operation for a minimum of three months prior to the date of sale.

n. For purposes of this rule, “sheep feedlot operations” are sheep production operations where lambs born and raised in the operation are sold after the lambs have been in the operation for a minimum of three months prior to the date of sale. The livestock production credit refunds are computed by multiplying the number of lambs sold in the tax year times the corn equivalent factor of 4.1 or $.41.

o. For the purposes of this rule and for tax years beginning on or after January 1, 1998, “cow-calf operations” means those livestock cattle production operations that include bred cows, bred heifers, and breeding bulls. The livestock production credit refunds for cow-calf operations are determined only on the number of bred cows, bred heifers, and breeding bulls in inventory of the operations on December 31 of the tax year times the corn equivalent factor of 111.5 or $11.15. However, only those bred cows, bred heifers, and breeding bulls in inventory on December 31 which were also in inventory on July 1 of the same calendar year may be counted for purposes of computing the livestock production refunds.

43.8(3) Filing claims for the livestock production credit refunds. Taxpayers who are eligible for the livestock production credit refunds must file refund requests on claim forms provided by the department that must be attached to their income tax returns for the tax year in which the livestock production occurred. The claim forms must be filed with the income tax returns within ten months after the end of the tax year of the return in order for the refund claims to be timely. Thus, in the case of a taxpayer filing a livestock production refund claim form with the 1996 Iowa income tax return for calendar year 1996, the claim forms must be filed by October 31, 1997, in order for the claims to be timely. Taxpayers may not request extensions for filing claims for the livestock production refunds.

The department will determine by February 28 of the year after the year in which the livestock production credit refund claims are to be filed if the total amount requested on the refund claims exceeds the amount appropriated for the refunds for that tax year. If a taxpayer’s refund claim is not payable on
February 28 because the taxpayer is a fiscal year filer, that taxpayer’s claim will be considered to be a claim for the following tax year. However, in order for this claim to be considered to be a valid refund claim for the following tax year, the refund claim must have been filed within ten months after the end of the fiscal year of the taxpayer. However, in the case of livestock production credit refund claims for fiscal year periods beginning in 1996 which are not received soon enough to be considered for the refunds to be issued in February 1998, only claims for cow-calf livestock production operations will be considered with the livestock production refund claims for the 1997 tax year.

If a taxpayer files a fraudulent claim for a livestock production credit refund for a tax year, the taxpayer will be considered to have forfeited any right or interest to a livestock production refund for any subsequent tax year after the year of the fraudulent claim.

43.8(4) Records needed to establish livestock production credit refunds. The burden is on the taxpayer to maintain those records and documents which support the livestock production credit refund that was claimed by the taxpayer. Necessary records and documents must include, but are not limited to, the ones mentioned in this subrule. Some of the necessary records are inventory schedules showing the number of livestock or poultry in the livestock operation on certain dates in the tax year. Sales of livestock or poultry in the tax year must be supported by scale tickets, packing house invoices, sales receipts, sales barn invoices, and similar documents. Dairy herd improvement association records and similar inventory forms can be used to establish the number of animals or the number of birds on hand in the operation on a certain day in the tax year. These documents are not to be submitted with the taxpayer’s income tax return with the livestock production credit refund claim form. Instead, the documents are to be retained with other tax records for at least three years in case of possible audit by the department of revenue.

43.8(5) Repeal of the livestock production credit refund. The livestock production credit was repealed on November 1, 2008, for refund claims filed on or after that date. Any livestock production credit refunds requested on Iowa tax returns filed on or after November 1, 2008, will not be issued.

This rule is intended to implement Iowa Code sections 422.120, 422.121, and 422.122 as amended by 2009 Iowa Acts, Senate File 478, section 152.

[ARC 7761B, IAB 5/6/09, effective 6/10/09; ARC 8605B, IAB 3/10/10, effective 4/14/10]

[Filed 12/12/74]
[Filed 9/18/78, Notice 7/26/78—published 10/18/78, effective 11/22/78]
[Filed 12/7/79, Notice 10/31/79—published 12/26/79, effective 1/30/80]
[Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]
[Filed 12/5/80, Notice 10/29/80—published 12/24/80, effective 1/28/81]
[Filed 5/7/82, Notice 3/31/82—published 5/26/82, effective 6/30/82]
[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/15/82]
[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
[Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]
[Filed 8/10/84, Notice 7/4/84—published 8/29/84, effective 10/3/84]
[Filed 5/31/85, Notice 4/24/85—published 6/19/85, effective 7/24/85]
[Filed 9/6/85, Notice 7/31/85—published 9/25/85, effective 10/30/85]
[Filed 1/24/86, Notice 12/18/85—published 2/12/86, effective 3/19/86]
[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]
[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]
[Filed 10/3/86, Notice 8/27/86—published 10/22/86, effective 11/26/86]
[Filed emergency 12/23/87—published 1/13/88, effective 12/23/87]
[Filed 2/19/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 8/19/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]
[Filed 1/4/89, Notice 11/30/88—published 1/25/89, effective 3/1/89]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]
[Filed 1/19/90, Notice 12/13/89—published 2/7/90, effective 3/14/90]
[Filed 9/13/91, Notice 8/7/91—published 10/2/91, effective 11/6/91]
[Filed 10/25/91, Notice 9/18/91—published 11/13/91, effective 12/18/91]
[Filed 11/7/91, Notice 10/2/91—published 11/27/91, effective 1/1/92]
[Filed 10/9/92, Notice 9/2/92—published 10/28/92, effective 12/2/92]
[Filed 7/1/93, Notice 5/26/93—published 7/21/93, effective 8/25/93]
[Filed 11/18/94, Notice 10/12/94—published 12/7/94, effective 1/11/95]
[Filed 6/14/96, Notice 5/8/96—published 7/3/96, effective 8/7/96]
[Filed 11/15/96, Notice 10/9/96—published 12/4/96, effective 1/8/97]
[Filed 9/19/97, Notice 8/13/97—published 10/8/97, effective 11/12/97]
[Filed 10/2/98, Notice 8/26/98—published 10/21/98, effective 11/25/98]
[Filed 12/23/99, Notice 11/17/99—published 1/12/00, effective 2/16/00]
[Filed 1/5/01, Notice 11/29/00—published 1/24/01, effective 2/28/01]
[Filed 3/15/02, Notice 1/23/02—published 4/3/02, effective 5/8/02]
[Filed 10/24/03, Notice 9/17/03—published 11/12/03, effective 12/17/03]
[Filed 1/30/04, Notice 12/24/03—published 2/18/04, effective 3/24/04]
[Filed 8/27/04, Notice 7/21/04—published 9/15/04, effective 10/20/04]
[Filed 12/13/06, Notice 11/8/06—published 1/3/07, effective 2/7/07]
[Filed 10/5/07, Notice 8/29/07—published 10/24/07, effective 11/28/07]
[Filed 3/7/08, Notice 1/30/08—published 3/26/08, effective 4/30/08]
[Filed 10/31/08, Notice 9/24/08—published 11/19/08, effective 12/24/08]
[Filed ARC 7761B (Notice ARC 7632B, IAB 3/11/09), IAB 5/6/09, effective 6/10/09]
[Filed ARC 8605B (Notice ARC 8481B, IAB 1/13/10), IAB 3/10/10, effective 4/14/10]
[Filed ARC 9103B (Notice ARC 8944B, IAB 7/28/10), IAB 9/22/10, effective 10/27/10]
[Filed ARC 9876B (Notice ARC 9796B, IAB 10/5/11), IAB 11/30/11, effective 1/4/12]
[Filed ARC 0251C (Notice ARC 0145C, IAB 5/30/12), IAB 8/8/12, effective 9/12/12]
[Filed ARC 0337C (Notice ARC 0232C, IAB 7/25/12), IAB 9/19/12, effective 10/24/12]
[Filed ARC 1303C (Notice ARC 1231C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 1665C (Notice ARC 1590C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]

◊ Two or more ARCs
CHAPTER 46
WITHHOLDING
[Prior to 12/17/86, Revenue Department[730]]

701—46.1(422) Who must withhold.

46.1(1) Requirement of withholding.

a. General rule. Every employer maintaining an office or transacting business within this state and required under provisions of Sections 3401 to 3404 of the Internal Revenue Code to withhold and pay federal income tax on compensation paid for services performed in this state to an individual is required to deduct and withhold from such compensation for each payroll period (as defined in Section 3401(b) of the Internal Revenue Code) an amount computed in accordance with subrules 46.2(1) and 46.2(2). Iowa income tax is not required to be withheld on any compensation paid in this state of a character which is not subject to federal income tax withholding (whether or not such compensation is subject to withholding for federal taxes other than income tax, e.g., FICA taxes), except as provided in rule 701—46.4(422).

b. Examples. Paragraph “a” above may be illustrated by the following examples:

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

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

3. Executives. A is a corporate executive. On January 1, 1998, A entered into an agreement with B corporation under which he was to be employed by B in an executive capacity for a period of five years. Under the contract, A is entitled to a stated annual salary and to additional compensation of $10,000 for each year. The additional compensation is to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of $5,000 on A's retirement beginning January 1, 2003. In the event of A's death prior to exhaustion of the account, the balance is to be paid to A's personal representative. A is not required to render any service to B after December 31, 2002. During 2003, A is paid $5,000 while a resident of Iowa. The $5,000 is not excluded from “wages” under Section 3401(a) of the Internal Revenue Code; therefore, B is required to withhold federal income tax, and, since it is compensation paid in this state, B must withhold Iowa income tax on A's deferred compensation.

4. Agricultural labor. Wages paid for agricultural labor are subject to withholding for state income tax purposes to the same extent that the wages are subject to withholding for federal income tax purposes.

c. Exemption from withholding. An employer may be relieved of the responsibility to withhold Iowa income tax on an employee who does not anticipate an Iowa income tax liability for the current tax year.

An employee who anticipates no Iowa income tax liability for the current tax year shall file with the employer a withholding allowance certificate claiming exemption from withholding. An employee who meets this criterion may claim an exemption from withholding at any time; however, this exemption from withholding must be renewed by February 15 of each tax year that the criterion is met. If the employee wishes to discontinue or is required to revoke the exemption from withholding, the employee must file a new withholding allowance certificate within ten days from the date the employee anticipates a tax liability or on or before December 31 if a tax liability is anticipated for the next tax year. See subrule 46.3(2).
d. **Withholding from lottery winnings.** Every person, including employees and agents of the Iowa lottery authority, making any payment of “winnings subject to withholding” shall deduct and withhold a tax in an amount equal to 5 percent of the winnings. The tax shall be deducted and withheld upon payment of the winnings to a payee by the person or payer making this payment. Any person or payee receiving a payment of winnings subject to withholding must furnish the payer with a statement as is required under Treasury Regulation §31.3402(q)-1, paragraph “e,” with the information required by that paragraph. Payers of winnings subject to withholding must file Form W-2G with the Internal Revenue Service, the department of revenue, and the payee of the lottery winnings by the dates specified in the Internal Revenue Code and in Iowa Code section 422.16. The W-2G form shall include the information described in Treasury Regulation §31.3402(q)-1, paragraph “f.”

“Winnings subject to withholding” means any payment where the proceeds from a wager exceed $600. The rules for determining the amount of proceeds from a wager under Treasury Regulation Section 31.3402(q)-1, paragraph “c,” shall apply when determining whether the proceeds from Iowa lottery winnings are great enough so that withholding is required. This rule shall apply to winnings from tickets purchased from the Powerball and Hot Lotto games or any other similar games to the extent the tickets were purchased within the state of Iowa.

e. **Withholding from prizes from games of skill, games of chance, or raffles.** Every person making any payment of a “prize subject to withholding” must deduct and withhold a tax in an amount equal to 5 percent of the prize from a game of skill, a game of chance, or a raffle. The tax must be deducted and withheld upon payment of the winnings to a payee by the person making this payment. Any person or payee receiving a payment of winnings subject to withholding must furnish the payer with a statement as is required under Treasury Regulation Section 31.3402(q)-1, paragraph “e,” with the information required by that paragraph. Payers of prizes subject to withholding must file Form W-2G with the Internal Revenue Service, the department of revenue, and the payee of the prize by the dates specified in the Internal Revenue Code and in Iowa Code section 422.16. The W-2G form must include the information described in Treasury Regulation Section 31.3402(q)-1, paragraph “f.”

“Prizes subject to withholding” means any payment of a prize where the amount won exceeds $600.

f. **Withholding from winnings from pari-mutuel wagers.** Every person making any payment of “winnings subject to withholding” must deduct and withhold a tax in an amount equal to 5 percent of the winnings from pari-mutuel wagers. The tax must be deducted and withheld upon payment of the winnings to a payee by the person making this payment. Any person or payee receiving a payment of winnings subject to withholding must furnish the payer with a statement as is required under Treasury Regulation Section 31.3402(q)-1, paragraph “e,” with the information required by that paragraph. Payers of winnings subject to withholding must file Form W-2G with the Internal Revenue Service, the department of revenue, and the payee of the winnings by the dates specified in the Internal Revenue Code and in Iowa Code section 422.16. The W-2G form must include the information described in Treasury Regulation Section 31.3402(q)-1, paragraph “f.”

“Winnings subject to withholding” are winnings in excess of $1,000.

g. **Withholding from winnings from slot machines on riverboat gambling vessels and from winnings from slot machines at racetracks.** Withholding of state income tax is required if the winnings from slot machines on riverboat gambling vessels or from slot machines at racetracks exceed $1,200.

46.1(2) **Withholding on pensions, annuities and other nonwage payments to Iowa residents.** State income tax is required to be withheld from payments of pensions, annuities, supplemental unemployment benefits and sick pay benefits and other nonwage income payments made to Iowa residents in those circumstances mentioned in the following paragraphs. This subrule covers those nonwage payments described in Sections 3402(o), 3402(p), 3402(s), 3405(a), 3405(b), and 3405(c) of the Internal Revenue Code. This includes, but is not limited to, payments from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts, lump-sum distributions from qualified retirement plans, other retirement plans, and annuities, endowments and life insurance contracts issued by life insurance companies. These payments are subject to Iowa withholding tax if they are also subject to federal withholding tax. However, no state income tax withholding is required from nonwage payments to residents to the extent those payments are not subject to state income tax. See paragraph 46.1(2) “h” for
threshold amounts for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement incomes which are made on or after January 1, 2001. In the case of some nonwage payments to residents, such as payments of pensions and annuities, no state income tax is required to be withheld if no federal income tax is being withheld from the payments of the pensions and annuities. The rate of withholding on the nonwage payments described in this subrule is 5 percent of the payment amounts or 5 percent of the taxable amounts unless specified otherwise.

For purposes of this subrule, an individual receiving nonwage payments will be considered to be an Iowa resident and subject to this subrule if the individual’s permanent residence is in Iowa. The fact that a nonwage payment is deposited in a recipient’s account in a financial institution located outside Iowa does not mean that the recipient’s permanent residence is established in the place where the financial institution is situated.

Payers of pension and annuity benefits and other nonwage payments have the option of either withholding Iowa income tax from these payments on the basis of tables and formulas included in the Iowa withholding tax guide of the department of revenue or withholding Iowa income tax from these payments at the rate of 5 percent. State income tax is required to be withheld by payers in situations when federal income tax is being withheld from the nonwage payments.

a. Withholding from pension and annuity payments to residents. Withholding of state income tax is required from payments of pensions and annuities to Iowa residents to the extent that the recipients of the payments have not filed with the payers of the benefits election forms which specify that no federal income tax is to be withheld. Therefore, state income tax is to be withheld when federal income tax is being withheld from the pensions or annuities. See paragraph 46.1(2)“h” for threshold amounts for withholding from payments of pensions, annuities, and other retirement incomes which are made on or after January 1, 2001. However, although Iowa income tax is ordinarily required to be withheld from pension and annuity payments made to Iowa residents if federal income tax is being withheld from the payments, no state income tax is required to be withheld if pension and annuity payments are not subject to Iowa income tax, as in the case of railroad retirement benefits which are exempt from Iowa income tax by a provision of federal law.

b. Withholding from payments to residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and from annuities, endowments and life insurance contracts issued by life insurance companies. Payments to Iowa residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and payments from life insurance companies for contracts for annuities, endowments or life insurance benefits are subject to withholding of state income tax if federal income tax is withheld from the benefits. However, no state income tax is to be withheld from the income tax payments described above to the extent those income tax payments are exempt from Iowa income tax. See paragraph 46.1(2)“h” for thresholds for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement incomes which are made on or after January 1, 2001.

In cases where the recipients elect withholding of state income tax from the income payments, the payers are to withhold from the payments at a rate of 5 percent on the taxable portion of the payment, if that can be determined by the payer or on the entire income payment if the payer does not know how much of the payment is taxable. Once a recipient makes an election for state income tax withholding, that election will remain in effect until a later election is made.

c. Withholding from payments to residents for supplemental unemployment compensation benefits and sick pay benefits. Income payments made for supplemental unemployment compensation benefits described in Section 3402(o)(2)(a) of the Internal Revenue Code and for sick pay benefits are subject to withholding of state income tax. In the case of supplemental unemployment compensation benefits, those benefits are treated as wages for purposes of state income tax withholding. Therefore, state income tax should be withheld from these payments when federal income tax is withheld. The amount of state income tax withholding should be determined by the withholding tables provided in the Iowa employers’ “Withholding Tax Guide.”
In the case of state income tax withholding for sick pay benefits paid by third-party payers in accordance with Section 3402(o)(1) of the Internal Revenue Code, state income tax is to be withheld from the benefits by the payer only if state income tax withholding is requested by the payee of the benefits. However, payees of sick pay benefits should probably not request withholding from the benefits if the payees are eligible for the disability income exclusion authorized in Iowa Code section 422.7 and described in rule 701—40.22(422). If withholding is requested by the payee, the withholding should be done at a 5 percent rate on the sick pay benefits. Once withholding is started, it should continue until such time as the payee requests that no state income tax be withheld. For sick pay benefits not paid by third-party payers, state income tax is required to be withheld since federal income tax is required to be withheld.

d. **Voluntary state income tax withholding from unemployment benefit payments.** Recipients of unemployment benefit payments described in Section 3402(p)(2) of the Internal Revenue Code may elect to have state income tax withheld from the benefit payments at a rate of 5 percent. An individual’s election to have state income tax withheld from unemployment benefits is separate from any election to have federal income tax withheld from the benefits.

e. **Withholding on lump-sum distributions from qualified retirement plans.** For lump-sum distribution payments from qualified retirement plans made to Iowa residents, state income tax is required to be withheld under the conditions described in this paragraph. No state income tax is required to be withheld from a lump-sum distribution payment to an Iowa resident in a situation where the payment is not subject to Iowa income tax. See paragraph 46.1(2) “h” for thresholds for withholding on lump-sum distributions issued on or after January 1, 2001. Iowa income tax is to be withheld from a lump-sum distribution made to an Iowa resident to the extent that federal income tax is being withheld from the distribution. The rate of withholding of state income tax from the lump-sum distribution is 5 percent from the total distribution or 5 percent from the taxable amount if that amount is known by the payer. Note that in the case of a lump-sum distribution, the Iowa income tax imposed on the taxable amount of the distribution is 25 percent of the federal income tax on the distribution.

f. **Withholding of state income tax from nonwage payments to residents on the basis of tax tables and tax formulas.** State income tax from the nonwage payments made to Iowa residents may be withheld on the basis of formulas and tables included in the Iowa withholding tax guide of the department of revenue. See paragraph 46.1(2) “h” for threshold amounts for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement incomes which are made on or after January 1, 2001. When state income tax is being withheld based upon the formulas or tables in the withholding guide, the amounts of the nonwage payments are treated as wage payments for purposes of the tables or the formulas.

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

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

In a situation when a payee of a nonwage payment completes Form IA W-4 and claims exemption from state income tax withholding when federal income tax is being withheld from the nonwage payment, the payer of the nonwage payment should withhold state income tax using one withholding allowance or exemption unless the payee has verified exemption from state income tax.

g. **Withholding on distributions from qualified retirement plans that are not directly rolled over.** State income tax is to be withheld at a rate of 5 percent from the gross amount or taxable amount
if known by the payer of the distribution made to Iowa residents if the distributions are not transferred directly to an IRA, Section 403(a) annuity or another qualified retirement plan. The distributions that are subject to state income tax withholding are those distributions that are subject to 20 percent withholding for federal income tax purposes. See paragraph 46.1(2) "h" for thresholds for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement plans which are made on or after January 1, 2001.

h. Withholding from distributions made on or after January 1, 2001, from pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement plans. Effective for distributions made on or after January 1, 2001, from pension plans, annuities, individual retirement accounts, deferred compensation plans, and other retirement plans, state income tax is generally required to be withheld from the distributions when federal income tax is being withheld from the distributions, unless one of the exceptions for withholding in this paragraph applies. For purposes of this paragraph, the term "pensions and other retirement plans" includes all distributions of retirement benefits covered by the partial exemption described in rule 701—40.47(422).

State income tax is not required to be withheld from a distribution from a pension or other retirement plan if the distribution is an income which is not subject to Iowa income tax, such as a distribution of railroad retirement benefits. State income tax is also not required to be withheld from a pension plan or other retirement plan if the amount of the distribution is $500 per month or less or if the taxable amount is $500 or less and the person receiving the distribution is eligible for the partial exemption of retirement benefits described in rule 701—40.47(422), if the state taxable amount can be determined by the payee of the distribution. There is also no requirement for withholding state income tax from a pension or other retirement plan if the distribution is $1,000 per month or less or if the taxable amount is $1,000 or less and the person receiving the distribution is eligible for the partial exemption of retirement benefits described in rule 701—40.47(422) and that person has indicated an intention to file a joint state income tax return for the year in which the distribution is made. In instances where the distribution amount or the taxable amount is more than $500 per month but less than $6,000 for the year, no state income tax will be required to be withheld, if the person receiving the distribution is eligible for the partial exemption of retirement benefits.

Finally, there is no requirement for withholding from a lump-sum payment from a qualified retirement plan if the lump-sum payment is $6,000 or less, the recipient is eligible for the partial exemption of distributions from pensions and other retirement plans, and the lump-sum payment is the only distribution from the retirement plan in the year.

46.1(3) Voluntary state income tax withholding from unemployment benefit payments. Rescinded IAB 3/2/05, effective 4/6/05.

This rule is intended to implement Iowa Code sections 96.3, 99B.21, 99D.16, 99E.19, 99F.18, 422.5, 422.7, and 422.16.

[ARC 8589B, IAB 3/10/10, effective 4/14/10; ARC 1303C, IAB 2/5/14, effective 3/12/14]

701—46.2(422) Computation of amount withheld.

46.2(1) Amount withheld.

a. General rules. Every employer required to deduct and withhold a tax on compensation paid in Iowa to an individual shall deduct and withhold for each payroll period an amount the total of which will approximate the employee’s annual tax liability. “Payroll period” for Iowa withholding purposes shall have the same definition as in Section 3401 of the Internal Revenue Code and shall include “miscellaneous payroll period” as that term is defined and used in that section and the associated regulations.

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

(1) Tables. An employer may elect to use the withholding tables provided in the Iowa employers’ withholding tax guide and withholding tables, which are available from the department of revenue.
(2) Formulas. Formulas that are provided in the Iowa employers’ withholding tax guide and tax tables are available for employers who have a computerized payroll system.

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

c. Supplemental wage payments. A supplemental wage payment is the payment of a bonus, commission, overtime pay, or other special payment that is made in addition to the employee’s regular wage payment in a payroll period. When such supplemental wages are paid, the amount of tax required to be withheld shall be determined by using the current withholding tables or formulas. If supplemental wages are paid at the same time as regular wages, the regular tables or formulas are used in determining the amount of tax to be withheld as if the total of the supplemental and regular wages were a single wage payment for the regular payroll period. If supplemental wages are paid at any other time, the regular tables or formulas are used in determining the amount of tax to be withheld as if the supplemental wage were a single wage payment for the regular payroll period. When a withholding agent makes a payment of supplemental wages to an employee and the employer withholds federal income tax on a flat-rate basis, pursuant to Treasury Regulation §31.3402(g)-1, state income tax shall be withheld from the supplemental wages at a rate of 6 percent without consideration for any withholding allowances or exemptions.

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

46.2(2) Correction of underwithholding or overwithholding.

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

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


46.2(3) Withholding on supplemental wage payments. Rescinded IAB 3/2/05, effective 4/6/05.
This rule is intended to implement Iowa Code section 422.16.

701—463(422) Forms, returns and reports.

46.3(1) Employer registration. Every employer or payer required to deduct and withhold Iowa income tax must register with the department of revenue by filing an “Iowa Business Tax Registration Form.” The form shall indicate the employer’s or payer’s federal identification number. If an employer or payer has not received a federal employer’s identification number, the department will issue a temporary identification number. The employer or payer must notify the department when the federal employer identification number is assigned.
When initial payment of wages subject to Iowa withholding tax occurs late in the calendar quarter, or before the employer’s or payer’s federal employer’s identification number is assigned by the Internal Revenue Service, the Iowa business tax registration form shall be forwarded along with the first quarterly withholding return. The responsible party(ies) shall be listed on the form.

If an employer deducts and withholds Iowa income tax but does not file the Iowa business tax registration form, the department may register the employer using the best information available. If an employer uses a service provider to report and remit Iowa withholding tax on behalf of the employer, the department may use information obtained from the service provider to register the employer if an Iowa business tax registration form is not filed. This information would include, but is not limited to, the name, address, federal employer’s identification number, filing frequency, withholding agent and responsible party(ies) of the employer.

46.3(2) Allowance certificate.

a. General rules. On or before the date on which an individual commences employment with an employer, the individual shall furnish the employer with a signed Iowa employee’s withholding allowance certificate (IA W-4) indicating the number of withholding allowances which the individual claims, which in no event shall exceed the number to which the individual is entitled. The employer is required to request a withholding allowance certificate from each employee. If the employee fails to furnish a certificate, the employee shall be considered as claiming no withholding allowances. See subrule 46.3(4) for information on Form IA W-4P which is to be used by payers of pensions, annuities, deferred compensation, individual retirement accounts and other retirement incomes.

The employer must submit to the department of revenue a copy of a withholding allowance certificate received from an employee if:

(1) The employee claimed more than a total of 22 withholding allowances, or
(2) The employee is claiming an exemption from withholding and it is expected that the employee’s wages from that employer will normally exceed $200 per week.

Employers required to submit withholding certificates should use the following address:

Iowa Department of Revenue
Compliance Division
Examination Section
Hoover State Office Building
P.O. Box 10456
Des Moines, Iowa 50306

The department will notify the employer whether to honor the withholding certificate or to withhold as though the employee is claiming no withholding allowances.

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

(1) Personal allowances. An employee can claim one personal allowance or two if the individual is eligible to claim head of household status. The employee can claim an additional allowance if the employee is 65 years of age or older and another additional allowance if the employee is blind.

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

(2) Dependent allowances. The employee can claim an allowance for each dependent that the employee will be able to claim on the employee’s Iowa return.

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

(4) Allowances for the child/dependent care credit. Employees who expect to be eligible for the child/dependent care credit for the tax year can claim withholding allowances for the credit. The allowances are determined from a chart included on the IA W-4 form on the basis of net income shown on the Iowa return for the employee. If the employee is married and has filed a joint federal return with a spouse who earns Iowa wages subject to withholding, the withholding allowances claimed by both spouses for the child/dependent care credit should not exceed the aggregate number of allowances to which both taxpayers are entitled. Taxpayers that expect to have a net income of $45,000 or more for a tax year beginning on or after January 1, 2006, should not claim withholding allowances for the child and dependent care credit, since these taxpayers are not eligible for the credit.

(5) Allowances for adjustments to income. For tax years beginning on or after January 1, 2008, employees can claim allowances for adjustments to income which are set forth in Treasury Regulation §31.3402(m)-1, paragraph “b.” This includes adjustments to income such as alimony, deductible IRA contributions, student loan interest and moving expenses which are allowed as deductions in computing income subject to Iowa income tax. In instances where an employee is married and the employee’s spouse is a wage earner, the withholding allowances claimed by both spouses for adjustments to income for the employee and spouse should not exceed the aggregate number of allowances to which both taxpayers are entitled.

c. Change in allowances which affect the current calendar year.

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

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

d. Change in allowances which affect the next calendar year. If, on any day during the calendar year, the number of withholding allowances to which the employee will be, or may reasonably be expected to be, entitled to for the employee’s taxable year which begins in, or with, the next calendar year is different from the number to which the employee is entitled on such day, the following rules shall apply:

(1) If such number is less than the number of withholding allowances claimed by an employee on an Iowa withholding allowance certificate in effect on such day, the employee must within a reasonable time furnish the employee’s employer with a new withholding allowance certificate reflecting the decrease.

(2) If such number is greater than the number of withholding allowances claimed by the employee on an Iowa withholding allowance certificate in effect on such day, the employee may furnish the employee’s employer with a new withholding allowance certificate reflecting the increase.

e. Duration of allowance certificate. An Iowa withholding allowance certificate which is in effect pursuant to these regulations shall continue in effect until another withholding allowance certificate takes effect. Employers should retain copies of the IA W-4 forms for at least four years.

46.3(3) Reports and payments of income tax withheld.

a. Returns of income tax withheld from wages.

(1) Quarterly returns. Every withholding agent required to withhold tax on compensation paid for personal services in Iowa shall make a return for the first calendar quarter in which tax is withheld and for each subsequent calendar quarter, whether or not compensation is paid therein, until a final return is filed. The withholding agent’s “Quarterly Withholding Return is the form prescribed for making the return required under this paragraph. Monthly tax deposits or semimonthly tax deposits may be
required in addition to quarterly returns. See subparagraphs (2) and (3) of paragraph 46.3(3)”a.” In some circumstances, only an annual return and payment of withheld taxes will be required; see paragraph 46.3(3)”c.”

Payments shall be based upon the tax required to be withheld and must be remitted in full.

A withholding agent is not required to list the name(s) of the agent’s employee(s) when filing quarterly returns, nor is the withholding agent required to show on the employee’s paycheck or voucher the amount of Iowa income tax withheld.

If a withholding agent’s payroll is not constant, and the agent finds that no wages or other compensation was paid during the current quarter, the agent shall enter the numeral “zero” on the return and submit the return as usual.

(2) Monthly deposits. Every withholding agent required to file a quarterly withholding return shall also file a monthly deposit if the amount of tax withheld during any calendar month exceeds $500, but is less than $10,000. A withholding agent needs to file a monthly deposit even if no payment is due. No monthly deposit is required for the third month in any calendar quarter. The information otherwise required to be reported on the monthly deposit for the third month in a calendar quarter shall be reported on the quarterly return filed for that quarter, and no monthly deposit need be filed for such month.

(3) Semimonthly deposits. Every withholding agent who withholds more than $5,000 in a semimonthly period must file a semimonthly tax deposit. A semimonthly period is defined as the period from the first day of a calendar month through the fifteenth day of a calendar month, or the period from the sixteenth day of a calendar month through the last day of a calendar month. When semimonthly deposits are required, a withholding agent must still file a quarterly return.

(4) Final returns. A withholding agent who in any return period permanently ceases doing business shall file the returns required by subparagraphs (1), (2) and (3) of paragraph 46.3(3)”a” as final returns for such period. The withholding agent shall cancel the withholding tax registration by notifying the department.

b. Time for filing returns.

(1) Quarterly returns. Each return required by subparagraph 46.3(3)”a”(1) shall be filed on or before the last day of the first calendar month following the calendar quarter for which such return is made.

(2) Monthly tax deposits. Monthly deposits required by subparagraph 46.3(3)”a”(2) shall be filed on or before the fifteenth day of the second and third months of each calendar quarter for the first and second months of each calendar quarter, respectively.

(3) Semimonthly tax deposits. Semimonthly deposits required by subparagraph 46.3(3)”a”(3) for the semimonthly period from the first day of the month through the fifteenth day of the month shall be filed with payment of the tax on or before the twenty-fifth day of the same month. The semimonthly deposits required by subparagraph 46.3(3)”a”(3) for the semimonthly period from the sixteenth day of the month through the last day of the month shall be filed with payment of the tax on or before the tenth day of the month following the month in which the tax is withheld.

For withholding that occurs on or after January 1, 2005, quarterly returns, amended returns, monthly deposits and semimonthly deposits shall be made electronically in a format and by means specified by the department of revenue. Tax payments are considered to have been made on the date that the tax is transmitted and released by the vendor to the department.

(4) Determination of filing status. Effective July 1, 2002, the department and the department of management have the authority to change filing thresholds by department rule. This paragraph sets forth the filing thresholds for each filer based on the amount withheld for withholding that occurs on or after January 1, 2003.

The following criteria will be used by the department to determine if a change in filing status is warranted.
<table>
<thead>
<tr>
<th>Filing Status</th>
<th>Threshold</th>
<th>Test Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Semimonthly</td>
<td>Greater than $120,000 in annual withholding taxes (more than $5,000 in a</td>
<td>Tax remitted in 3 of most recent 4 quarters examined exceeds $30,000.</td>
</tr>
<tr>
<td></td>
<td>semimonthly period).</td>
<td></td>
</tr>
<tr>
<td>Monthly</td>
<td>Between $6,000 and $120,000 in annual withholding taxes (more than $500</td>
<td>Tax remitted in 3 of most recent 4 quarters examined exceeds $1,500 per quarter.</td>
</tr>
<tr>
<td></td>
<td>in a monthly period).</td>
<td></td>
</tr>
<tr>
<td>Quarterly</td>
<td>Less than $6,000 in annual withholding taxes.</td>
<td>Tax remitted in 3 of most recent 4 quarters examined is less than $1,500 per quarter.</td>
</tr>
<tr>
<td>Annual</td>
<td>Less than 3 employees.</td>
<td></td>
</tr>
</tbody>
</table>

When it is determined that a withholding agent’s filing status is to be changed, the withholding agent shall be notified in writing. A withholding agent has the option of requesting, within 30 days of the department’s notice of a change in filing frequency, that the withholding agent file more or less frequently than required by the department. To request filing on a less frequent basis than assigned by the department, the request must be in writing and submitted to the department. A withholding agent’s written request to be allowed to file less frequently than the filing status assigned by the department will be reviewed by the department, and a written determination will be issued to the withholding agent who made the request.

A change in assigned filing status to file on a less frequent basis will be granted in only two instances:

- Incorrect historical data is used in the conversion. A business may meet the criteria based on the original filing data, but, upon investigation, the filing history may prove that the business does not meet the dollar criteria because of adjustments, amended returns, or requests for refunds.
- Data available may have been distorted by the fact that the data reflected an unusual pattern in tax collection. The factors causing such a distortion must be documented and approved by the department.

A withholding agent may also request to file more frequently than assigned by the department. This request may be made orally, in writing, in person, or by telephone.

The department and the department of management may perform review of filing thresholds every five years or as needed based on department discretion. Factors the departments will consider in determining if the filing thresholds need to be changed include, but are not limited to: tax rate changes, inflation, the need to maintain consistency with required multistate compacts, changes in law, and migration between filing brackets.

- Reporting annual withholding.

1. Any withholding agent who does not have employee withholding but who is required to withhold state income tax from other distributions is exempted from the provisions of subparagraphs (2) and (3) of paragraph 46.3(3) “a.” if these distributions are made annually in one calendar quarter. These withholding agents need only comply with the reporting requirements of the one calendar quarter in which the tax is withheld, and make the required year-end reports.

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

d. Reports for employee.

(1) General rule. Every employer required to deduct and withhold tax from compensation of an employee must furnish to each employee with respect to the compensation paid in Iowa by such employer during the calendar year, a statement containing the following information: the name, address, and federal employer identification number of the employer; the name, address, and social security number of the employee; the total amount of compensation paid in Iowa; the total amount deducted and withheld as tax under subrule 46.1(1).

(2) Form of statement. The information required to be furnished an employee under the preceding paragraph shall be furnished on an Internal Revenue Service combined Wage and Tax Statement, Form W-2, hereinafter referred to as “combined W-2.” Any reproduction, modification or substitution for a combined W-2 by the employer must be approved by the department. Employers should keep copies of the combined W-2 for four years from the end of the year for which the combined W-2 applies.

(3) Time for furnishing statement. Each statement required by paragraph “d” to be furnished for a calendar year and each corrected statement required for any prior year shall be furnished to the employee on or before January 31 of the year succeeding such calendar year, or if an employee’s employment is terminated before the close of a calendar year without expectation that it will resume during the same calendar year, within 30 days from the day on which the last payment of compensation is made, if requested by such employee. See paragraph 46.3(3)“e” for provisions relating to the filing of copies of the combined W-2 with the department of revenue.

(4) Corrections. An employer must furnish a corrected combined W-2 to an employee if, after the original statement has been furnished, an error is discovered in either the amount of compensation shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. Such statement shall be marked “corrected by the employer.” See paragraph 46.3(3)“e” for provisions relating to the filing of a corrected combined W-2 with the department.

(5) Undelivered combined W-2. Any employee’s copy of the combined W-2 which, after reasonable effort, cannot be delivered to an employee shall be transmitted to the department with a letter of explanation.

(6) Lost or destroyed. If the combined W-2 is lost or destroyed, the employer shall furnish a substitute copy to the employee. The copy shall be clearly marked “Reissued by Employer.”

e. Annual verified summary of payments reports.

(1) Every withholding agent required to withhold Iowa income tax under subrules 46.1(1), 46.1(2), 46.1(3), and 46.4(1) is to furnish to the department of revenue on or before the last day of February following the tax year an annual “Verified Summary of Payments Report” (VSP).

The withholding agent completing the VSP form must enter the total Iowa income tax withheld that is shown on the W-2 forms and 1099 forms for the year, the new jobs credits, supplemental jobs credits, accelerated career education credits and housing assistance credits claimed on withholding returns for the year. In addition, the withholding agent must enter on the VSP the withholding payments made for the year. If the amount of Iowa income tax withholding remitted to the department of revenue for the year is less than the withholding tax and withholding credits claimed, the withholding agent is to report the additional withholding tax due on an amended return and submit payment to the department.

If the Iowa income tax shown as withheld on the W-2s and 1099s issued for the tax year is less than the amount of withholding tax remitted to the department of revenue by the withholding agent, the agent should file an amended return with the department reflecting the excess tax paid.

(2) For Verified Summary of Payments Report forms filed with the department of revenue for the year 2000 and subsequent years, the withholding agents are not to submit W-2 forms and 1099 forms with the reports. However, the withholding agents should supply W-2 forms or 1099 forms as requested by personnel of the department of revenue if the request for the forms is made within three years from the end of the year for which the W-2 forms or 1099 forms apply. Therefore, if a request is made to a withholding agent for a W-2 form or a 1099 form for the year 2000, the request is valid if the request is postmarked, faxed or made on or before December 31, 2003.
f. Withholding deemed to be held in trust. Funds withheld from wages for Iowa income tax purposes are deemed to be held in trust for payment to the department of revenue. The state and the department shall have a lien upon all the assets of the employer and all the property used in the conduct of the employer’s business to secure the payment of the tax as withheld under the provisions of this rule. An owner, conditional vendor, or mortgagee of property subject to such lien may exempt the property from the lien granted to Iowa by requiring the employer to obtain a certificate from the department, certifying that such employer has posted with the department security for the payment of the amounts withheld under this rule.

g. Payment of tax deducted and withheld. The amount of tax shown to be due on each deposit or return required to be filed under subrule 46.3(3) shall be due on or before the date on which such deposit or return is required to be filed.

h. Correction of underpayment or overpayment of taxes withheld.

(1) Underpayment. If a return is filed for a return period under rule 701—46.3(422) and less than the correct amount of tax is reported on the return and paid to the department, the employer shall report and pay the additional amount due by filing an amended withholding tax return.

(2) Overpayment. If an employer remits more than the correct amount of tax for a return period, the employer must file an amended withholding tax return and request a refund of the withholding tax paid which was not due.

46.3(4) Iowa W-4P—Withholding certificate for pension or annuity payments. For payments made from pension plans, annuity plans, individual retirement accounts, or deferred compensation plans to residents of Iowa, payers of these retirement benefits are to use Form IA W-4P for withholding of state income tax from the benefits. Generally, state income tax is required to be withheld from payments of distributions from the retirement incomes described above when federal income tax is being withheld from the payments. However, no state income tax is required to be withheld to the extent the monthly payment amount is $500 or less or the taxable amount per month is $500 or less if the payee is eligible for the retirement benefits exclusion described in rule 701—40.47(422). In addition, no state income tax is required to be withheld to the extent the monthly payment amount is $1,000 or less or the taxable amount per month is $1,000 or less if the payee is married and eligible for the retirement benefits exclusion described in rule 701—40.47(422).

Form IA W-4P is available from the department for payers of retirement benefits that intend to withhold at a rate of 5 percent from the payment amount or taxable payment amount after the $6,000 to $12,000 exclusion is considered. Note that the $6,000 to $12,000 exclusion is to be allocated to all retirement benefit payments made in the year and not just the first $6,000 to $12,000 in payments made in the year to an individual. If an individual receives retirement benefits and has not completed Form IA W-4P, the payer is directed to withhold Iowa income tax from the retirement benefit payment after a $6,000 exclusion is allowed on an annual basis.

Payers of retirement benefits that want to use withholding formulas or tables to withhold state income tax instead of at the 5 percent rate may design their own IA W-4P withholding certificate form without approval of the department.

The payers are not responsible for improper choices made by a payee in completion of the IA W-4P. However, payers cannot accept a request for exemption from the withholding of state income tax made by a payee if federal income tax is being withheld unless the payee is eligible for exemption from withholding.

This rule is intended to implement Iowa Code sections 422.7 and 422.12C, and section 422.16 as amended by 2007 Iowa Acts, House File 904, section 3. [ARC 8589B, IAB 3/10/10, effective 4/1/10]

701—46.4(422) Withholding on nonresidents.

46.4(1) General rules. Payers of Iowa income to nonresidents are required to withhold Iowa income tax and to remit the tax to the department on all payments of Iowa income to nonresidents except payments of wages to nonresidents engaged in film production or television production described in subrule 46.4(5); income payments for agricultural commodities or products described in subrule
46.4(6); deferred compensation payments, pension, and annuity payments attributable to personal services in Iowa by nonresidents described in subrule 46.4(7); and partnership distributions from certain publicly traded partnerships described in subrule 46.4(8). Withholding agents should use the following methods and rates in withholding for nonresidents:

a. **Wages or salaries.** Use the same withholding procedures, tables, formulas, and rates as are used for residents. See rule 701—46.2(422). Subrule 46.4(5) is an exception to the general rule. In addition, in accordance with the reciprocal tax agreement between Iowa and Illinois described in 701—subrule 38.13(1), Iowa withholding tax is not withheld on wages of Illinois residents who perform personal services in Iowa.

b. **Payments other than wages, salaries, and other compensation for personal services.** In lieu of using withholding tables or computer formulas to determine the amount of Iowa income tax to be withheld from payments made to nonresidents other than for salaries, wages, or other compensation for personal services, or income payments to nonresidents for agricultural commodities or products, Iowa income tax should be withheld at a rate of 5 percent of the amount of the payment. Subrule 46.4(6) describes the optional exemption from withholding of income payments made to nonresidents for the sale of agricultural commodities or products.

Nonresidents who prefer to make Iowa estimate payments instead of having Iowa income tax withheld from income payments from Iowa sources should refer to subrule 46.4(3) and rule 701—49.3(422).

**46.4(2) Income of nonresidents subject to withholding.** Listed below are various types of income paid to nonresidents which are subject to withholding tax. The list is for illustrative purposes only and is not deemed to be all-inclusive.

1. Personal service, including salaries, wages, commissions and fees for personal service wholly performed within this state and such portions of similar income of nonresident traveling salespersons or agents as may be derived from services rendered in this state.
2. Rents and royalties from real or personal property located within this state.
3. Interest or dividends derived from securities or investments within this state, when such interests or dividends constitute income of any business, trade, profession or occupation carried on within this state and subject to taxation.
4. Income derived from any business of a temporary nature carried on within this state by a nonresident, such as contracts for construction and similar contracts.
5. The distributive share of a nonresident beneficiary of an estate or trust, limited, however, to the portion thereof subject to Iowa income tax in the hands of the nonresident.
6. Income derived from sources within this state by attorneys, physicians, engineers, accountants, and similar sources as compensation for services rendered to clients in this state.
7. Compensation received by nonresident actors, singers, performers, entertainers, and wrestlers for performances in this state. See subrule 46.4(5) for an exception to this rule.
8. Income received by a nonresident partner or shareholder of a partnership or S corporation doing business in Iowa. See subrule 46.4(8) for the exemption from withholding for partnership distributions from certain publicly traded partnerships.
9. The Iowa gross income of a nonresident who is employed and receiving compensation for services shall include compensation for personal services which are rendered within this state. Compensation for personal services rendered by a nonresident wholly without the state is excluded from gross income of the nonresident even though the payment of such compensation may be made by a resident individual, partnership or corporation.
10. The gross income from commissions earned by a nonresident traveling salesperson, agent or other employee for services performed or sales made whose compensation depends directly on volume of business transacted by the nonresident, includes that proportion of the total compensation received which the volume of business or sales by the employee within this state bears to the total volume of business or sales within and without the state.
11. Payments made to landlords by agents, including elevator operators, for grain or other commodities which have been received by the landlord as rent constitute taxable income of the landlord
when sold by the landlord. See subrule 46.4(6) for the exemption from withholding on incomes paid to nonresidents for the sale of agricultural commodities or products.

12. Wages paid to nonresidents of Iowa who earn the compensation from regularly assigned duties in Iowa and one or more other states for a railway company or for a motor carrier are not taxable to Iowa. Pursuant to the Amtrak Reauthorization and Improvement Act of 1990, the nonresidents in this situation are subject only to the income tax laws of their states of residence. Thus, when an Iowa resident performs regularly assigned duties in two or more states for a railroad or a motor carrier, the only state income tax that should be withheld from the wages paid for these duties is Iowa income tax.

13. Wages paid to nonresidents of Iowa who earn compensation from regularly assigned duties in Iowa and one or more states for an airline company. In accordance with Public Law 103-272 enacted by Congress, airline employees who are nonresidents of Iowa are subject only to the income tax laws of their states of residence or the state in which they perform 50 percent or more of their duties.

14. Wages paid to nonresidents of Iowa who earn compensation from regularly assigned duties in Iowa for a merchant marine company. In accordance with Public Law 106-489 enacted by Congress, interstate waterway workers who are nonresidents of Iowa are subject only to the income tax laws of their states of residence.

46.4(3) Nonresident certificate of release. Where a nonresident payee makes the option to pay estimated Iowa income tax, a certificate of release from withholding will be issued by the Iowa department of revenue to the designated payers. The certificate of release will be forwarded to the specified withholding agent(s) and payer(s), and will state the amount of income covered by the estimated tax payment. Any income paid in excess of the amount so stated will be subject to withholding tax at the current rate. See 701—Chapter 49 for information on making estimate payments.

46.4(4) Recovering excess tax withheld. A nonresident payee may recover any excess Iowa income tax withheld from income of the payee by filing an Iowa income tax return after the close of the tax year and reporting income from Iowa sources in accordance with the income tax return instructions.

46.4(5) Exemption from withholding of nonresidents engaged in film production or television production in this state. Nonresidents engaged in film production or television production in this state are not subject to state withholding on wages earned from this activity if the nonresidents’ employer has applied to the department for exemption from withholding of state income tax and the employer’s application includes the following information about the nonresident employees:

a. The employees’ names.
b. The employees’ permanent mailing addresses.
c. The employees’ social security numbers.
d. The estimated amounts the employees are to be paid for services provided by the employees in this state.

The employer’s application for exemption from withholding for the nonresident employees will not be approved by the department if the employer fails to provide all the required information.

Only those nonresident employees described in the application for exemption from withholding will be covered when the application is approved by the department. If additional nonresident employees are hired after the initial application for exemption is filed, those employees should be described in an amendment to the application for exemption which must be filed with the department of revenue.

Applications for exemption from withholding for nonresident employees engaged in film production or television production should be directed to the Iowa Department of Revenue, Compliance Division, Examination Section, Hoover State Office Building, P.O. Box 10456, Des Moines, Iowa 50306.

46.4(6) Exemption from withholding for the sale of agricultural commodities or products. Withholding agents are not required to withhold state income tax from income payments made to nonresidents or representatives of the nonresidents for the sales of agricultural commodities or products, if the withholding agents provide certain information to the department of revenue about the sales. The following paragraphs describe the agricultural commodities and products that are included in the exemption from withholding, specify the information needed on the sales and clarify other issues related to the exemption from withholding. 701—subrule 49.3(4) describes an election for
withholding agents to make estimate payments on behalf of nonresident taxpayers for net incomes of the nonresidents from agricultural commodities or products.

a. Agricultural commodities or products included in the exemption from withholding. Withholding agents are not required to withhold state income tax from income payments they make to nonresidents or representatives of the nonresidents for the sale of commodity credit certificates, grain (corn, soybeans, wheat, oats, etc.), livestock (cattle, hogs, sheep, horses, etc.), domestic fowl (chickens, ducks, turkeys, geese, etc.), or any other agricultural commodities or products, if the withholding agents provide the department of revenue with the information specified in paragraph “b” of this subrule.

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

1. Name of the nonresident (last name, first name and middle initial).
2. Home address of the nonresident.
3. Social security number of the nonresident.
4. Aggregate payments made in the calendar year for the nonresident (includes payments made to a representative of the nonresident on behalf of the nonresident).
5. Two-digit Iowa county code number of the first one of the following that applies to the nonresident:

   1. County in which the nonresident owns real property or personal property.
   2. County in which the nonresident leases real property or personal property.
   3. County in which the nonresident has agricultural products stored or in which livestock is located.
   4. County where the nonresident has performed custom farming activities in the year.
   5. County where the nonresident has other business activities in Iowa other than merely sales activities.

   If a nonresident does not own or lease property in Iowa or have other connection with Iowa as described in subparagraph 46.4(6)”b”(5), items “3,” “4,” and “5,” the nonresident is not subject to Iowa income tax on the income payments for agricultural commodities or products and the nonresident’s income payments should not be included on the listing.

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

The listing of aggregate income payments to nonresidents with an Iowa connection for sales of agricultural commodities and products in the calendar year should be sent to the department by the withholding agent on or before April 1 of the year following the year in which the income payments were made. In lieu of the listing, the withholding agent may compile the information on aggregate income payments to nonresidents on a magnetic tape, diskette or other electronic reporting, provided the submission meets departmental guidelines described in 701—paragraph 8.3(1)”e.”

The listing, magnetic tape or other electronic submission should be sent to the following address:
Iowa Department of Revenue, Compliance Division, Examination Section, Hoover State Office Building, P.O. Box 10456, Des Moines, Iowa 50306; idr@iowa.gov.

A withholding agent is not exempt from withholding of state income tax on income payments to nonresidents on sales of agricultural commodities or products if the withholding agent does not provide the department of revenue with information on income payments made during the year by April 1 of the subsequent year.

c. Rescinded IAB 3/2/05, effective 4/6/05.

46.4(7) Exemption from withholding of payments made to nonresidents for deferred compensation, pensions, and annuities. Iowa income tax withholding is not required from payments of deferred
compensation, pensions, and annuities made to nonresidents which are attributable to personal services of the nonresidents in Iowa since these payments are not subject to Iowa income tax. See rule 701—40.45(422) for the exclusion from Iowa income tax for these payments received by nonresidents.

46.4(8) Exemption from withholding of partnership distributions made to nonresidents of certain publicly traded partnerships. For tax years beginning on or after January 1, 2008, a nonresident who is a partner in a publicly traded partnership as defined in Section 7704(b) of the Internal Revenue Code is not subject to state withholding tax on the partner’s pro rata share, provided that the publicly traded partnership submits the following information to the department for each partner whose Iowa income from the partnership exceeded $500:

a. Partner’s name.
b. Partner’s address.
c. Partner’s taxpayer identification number.
d. Partner’s pro rata share of Iowa income from the partnership for the tax year.

A partnership is a publicly traded partnership if the interests in the partnership are traded on an established securities market or the interests in the partnership are readily traded on a secondary market or its substantial equivalent.

This rule is intended to implement Iowa Code section 422.15, Iowa Code section 422.16 as amended by 2007 Iowa Acts, House File 923, section 3, and Iowa Code sections 422.17 and 422.73.

[ARC 7761B, IAB 5/6/09, effective 6/10/09]

701—46.5(422) Penalty and interest.

46.5(1) Penalty. 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.

46.5(2) Computation of interest on unpaid tax. 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, with each fraction of a month considered to be 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.

46.5(3) Computation of interest on overpayments. 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 sections 421.27, 422.16 and 422.25.

701—46.6(422) Withholding tax credit to workforce development fund. Upon payment in full of a certificate of participation or other obligation issued to fund a job training program under Iowa Code chapter 260E, the community college which provided the training is to notify the economic development authority of the amount paid by the employer or business to the community college during the previous 12 months. The economic development authority is to notify the department of revenue of this amount. The department is to credit 25 percent of this amount to the workforce development fund in each quarter for the next ten years from the withholding tax paid by the employer or business. If the withholding tax paid by the employer or business for a quarter is not sufficient to cover the sum to be credited to the workforce development fund, the sum to be credited is to be reduced accordingly. The aggregate amount from all employers to be transferred to the workforce development fund in a year is not to exceed $4 million for fiscal years beginning on or after July 1, 2001, but before July 1, 2014. The aggregate amount is not to exceed $5,750,000 for the fiscal year beginning July 1, 2014, and the aggregate amount is not to exceed $6,000,000 for fiscal years beginning on or after July 1, 2015.

This rule is intended to implement Iowa Code section 422.16A as amended by 2014 Iowa Acts, House File 2460.

[ARC 1665C, IAB 10/15/14, effective 11/19/14]
701—46.7(422) ACE training program credits from withholding. The accelerated career education (ACE) program is a training program administered by the Iowa department of economic development to provide technical training in state community colleges for employees in highly skilled jobs in the state to the extent that the training is authorized in an agreement between an employer or group of employers and a community college for the training of certain employees of the employer or group of employers. If a community college and an employer or group of employers enter into a program agreement for ACE training, a copy of the agreement is to be sent to the department of revenue. No costs incurred prior to the date of the signing between a community college and an employer or group of employers may be reimbursed or are eligible for program job credits, including job credits from withholding unless the costs are incurred on or after July 1, 2000.

46.7(1) The costs of the ACE training program may be paid from the following sources:

a. Program job credits which the employer receives on the basis of the number of program job positions agreed to by the employer for the training program;

b. Cash or in-kind contributions by the employer toward the costs of the program which must be at least 20 percent of the total cost of the program;

c. Tuition, student fees, or special charges fixed by the board of directors of the college to defray costs of the program;

d. Guarantee by the employer of payments to be received under paragraphs “a” and “b” of this subrule.

This rule pertains only to the program job credits from withholding described in paragraph “a.”

46.7(2) ACE training programs financed by job credits from withholding. In situations when an employer or group of employers and a community college have entered into an agreement for training under the ACE program and the agreement provides that the training will be financed by credits from withholding, the amount of funding will be determined by the program job credits identified in the agreement. Eligibility for the program job credits is based on certification of program job positions and program job wages by the employer at the time established in the agreement with the community college. An amount of up to 10 percent of the gross program job wage as certified by the employer in the agreement shall be credited from the total amount of Iowa income tax withheld by the employer. For example, if there were 20 employees designated to be trained in the agreement and their gross wages were $600,000, the gross program job wage would be $600,000. Therefore, 10 percent of the gross program job wage in this case would be $60,000, and this amount would be credited against Iowa income tax which would ordinarily be withheld from the wages of all employees of the employer and remitted to the department of revenue on a quarterly basis. The amount credited against the withholding tax liability of the employer would be paid to the community college training the employer’s employees under the ACE program. The employer may take the credits against withholding tax on returns filed with the department of revenue until such time as the program costs of the ACE program are considered to be satisfied.

This rule is intended to implement Iowa Code sections 260G.4A and 422.16.

701—46.8(260E) New job tax credit from withholding. The Iowa industrial new jobs training program is a program administered by the economic development authority for projects established by a community college for the creation of jobs by providing education and training of workers for new jobs for new or expanding industries. For employers that have entered into an agreement with a community college under Iowa Code chapter 260E, a credit equal to 1.5 percent of the wages paid by the employer to each employee covered by the agreement can be taken on the Iowa withholding tax return. If the amount of withholding by the employer is less than 1.5 percent of the wages paid to the employees covered by the agreement, the employer can take the remaining credit against Iowa tax withheld for other employees. An employee does not include a resident of Illinois who earns wages in Iowa since these employees are not subject to Iowa withholding tax in accordance with the Iowa-Illinois reciprocal tax agreement discussed in 701—subrule 38.13(1). The administrative rules for the Iowa industrial
new jobs training program administered by the economic development authority may be found in 261—Chapter 5.

This rule is intended to implement Iowa Code section 260E.2 as amended by 2012 Iowa Acts, Senate File 2212, and section 260E.5.
[ARC 0337C, IAB 9/19/12, effective 10/24/12]

701—46.9(15) Supplemental new jobs credit from withholding and alternative credit for housing assistance programs.

46.9(1) Supplemental new jobs credit from withholding. For eligible businesses approved by the Iowa department of economic development under the new jobs and income program or the enterprise zone program, a credit equal to an additional 1.5 percent of the wages paid to employees in new jobs covered under these programs can be taken on the Iowa withholding tax return. This supplemental new jobs credit is in addition to the credit described in rule 46.8(260E). The administrative rules for the new jobs and income program and the enterprise zone program administered by the Iowa department of economic development may be found in 261—Chapters 58 and 59.

46.9(2) Alternative credit for housing assistance programs. As an alternative to the credit described in subrule 46.9(1) for eligible businesses in an enterprise zone, a business may provide a housing assistance program in the form of down payment assistance or rental assistance for employees in new jobs. A credit equal to 1.5 percent of the wages paid to employees participating in a housing assistance program may be claimed on the Iowa withholding tax return for wages paid prior to July 1, 2009. Effective July 1, 2009, the alternative credit for housing assistance programs was repealed. The administrative rules for the enterprise zone program administered by the Iowa department of economic development may be found in 261—Chapter 59.

This rule is intended to implement Iowa Code section 15E.196 as amended by 2009 Iowa Acts, Senate File 478, section 104, and section 15E.197.
[ARC 8605B, IAB 3/10/10, effective 4/14/10]

701—46.10(403) Targeted jobs withholding tax credit. For employers that enter into a withholding agreement with pilot project cities approved by the economic development authority and create or retain targeted jobs in a pilot project city, a credit equal to 3 percent of the gross wages paid to employees under the withholding agreement can be taken on the Iowa withholding tax return. The employer shall remit the amount of the credit to the pilot project city. The administrative rules for the targeted jobs withholding tax credit program administered by the economic development authority may be found in 261—Chapter 71.

If the amount of withholding by the employer is less than 3 percent of the wages paid to the employees covered under the withholding agreement, the employer can take the remaining credit against Iowa tax withheld for other employees or may carry the credit forward for up to ten years or until depleted, whichever is the earlier.

If an employer also has a new job credit from withholding provided in rule 701—46.8(260E) or the supplemental new jobs credit from withholding provided in subrule 46.9(1), these credits shall be collected and disbursed prior to the collection and disbursement of the targeted jobs withholding tax credit.

The following nonexclusive examples illustrate how this rule applies:

EXAMPLE 1: Company A does not have a withholding credit under Iowa Code chapter 260E or a supplemental new jobs credit under Iowa Code chapter 15E. Company A enters into a withholding agreement, and the withholding rate for employees covered under the agreement is 4 percent of the wages paid. Company A will be allowed a credit on the Iowa withholding return equal to 3 percent of the wages paid to each employee covered under the withholding agreement, since the targeted jobs withholding tax credit cannot exceed 3 percent.

EXAMPLE 2: Company B does not have a withholding credit under Iowa Code chapter 260E or a supplemental new jobs credit under Iowa Code chapter 15E. Company B enters into a withholding agreement, and the withholding rate for employees covered under the agreement is 2.5 percent of the wages paid. Company B will be allowed a credit on the Iowa withholding return equal to 3 percent of the
wages paid to each employee covered under the withholding agreement. The extra withholding credit equal to 0.5 percent may be used to offset withholding tax for Company B’s employees not covered under the withholding agreement.

**EXAMPLE 3:** Company C has a withholding credit under Iowa Code chapter 260E of 1.5 percent of the wages paid to new employees and a supplemental new jobs credit under Iowa Code chapter 15E of 1.5 percent of the wages paid to new employees. Company C also enters into a withholding agreement for the same employees covered under the 260E agreement and supplemental new jobs credit agreement, and the withholding rate for employees covered under these agreements is 5 percent of the wages paid. Company C will be allowed a credit on the Iowa withholding return equal to 5 percent of the wages paid to each employee covered under these agreements. Since the community college receives disbursement of the credit before the pilot project city, the community college will receive 3 percent of the wages paid to each employee covered under the agreements, and the pilot project city will receive the remaining 2 percent of the wages paid to each employee covered under the agreements.

**EXAMPLE 4:** Company D has a withholding credit under Iowa Code chapter 260E of 1.5 percent of the wages paid to new employees and a supplemental new jobs credit under Iowa Code chapter 15E of 1.5 percent of the wages paid to new employees. Company D also enters into a withholding agreement for the same employees covered under the 260E agreement and supplemental new jobs credit agreement, and the withholding rate for employees covered under the agreement is 2.5 percent of the wages paid. Company D will be allowed a credit on the Iowa withholding tax return equal to 6 percent of the wages paid to each employee covered under these agreements. The extra withholding credit equal to 3.5 percent may be used to offset withholding tax for Company D’s employees not covered under these agreements.

46.10(1) **Notification by the employer.** Once a withholding agreement is entered into with a pilot project city, the employer shall notify the department of revenue that an agreement has been executed. With this notification, the employer must also provide its address, tax identification number and the number of new jobs created under the agreement. In addition, for each year that the withholding agreement is in place, the employer must notify the department of revenue by January 31 of the number of new jobs created as of December 31 of the preceding year.

46.10(2) **Notification by the pilot project city.** The pilot project city must notify the department of revenue on a quarterly basis of the amount of the targeted jobs withholding credit that each employer covered by a withholding agreement remitted to the city. This notification must occur within 45 days after the end of each calendar quarter. In addition, the pilot project city must notify the department of revenue immediately when a withholding agreement with an employer is terminated.

This rule is intended to implement Iowa Code section 403.19A as amended by 2013 Iowa Acts, Senate File 433.

[ARC 1138C, IAB 10/30/13, effective 12/4/13]
[Filed emergency 7/2/87—published 7/29/87, effective 7/2/87]
[Filed 11/12/87, Notice 7/29/87—published 12/2/87, effective 1/6/88]
[Filed 8/19/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]
[Filed 1/4/89, Notice 11/30/88—published 1/25/89, effective 3/1/89]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]
[Filed 11/22/89, Notice 10/18/89—published 12/13/89, effective 1/17/90]
[Filed 8/30/90, Notice 7/25/90—published 9/19/90, effective 10/24/90]
[Filed 11/9/90, Notice 10/3/90—published 11/28/90, effective 1/2/91]
[Filed 11/20/91, Notice 10/16/91—published 12/11/91, effective 1/15/92]
[Filed emergency 2/14/92—published 3/4/92, effective 2/14/92]
[Filed 10/9/92, Notice 9/2/92—published 10/28/92, effective 12/2/92]
[Filed 11/20/92, Notice 10/14/92—published 12/9/92, effective 1/13/93]
[Filed 7/1/93, Notice 5/26/93—published 7/21/93, effective 8/25/93]
[Filed 2/24/95, Notice 1/4/95—published 3/15/95, effective 4/19/95]
[Filed 7/14/95, Notice 6/7/95—published 8/2/95, effective 9/6/95]
[Filed 1/12/96, Notice 12/6/95—published 1/31/96, effective 3/6/96]
[Filed 8/23/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
[Filed 10/2/98, Notice 8/26/98—published 10/21/98, effective 11/25/98]
[Filed 12/23/99, Notice 11/17/99—published 1/12/00, effective 2/16/00]
[Filed 3/30/00, Notice 2/23/00—published 4/19/00, effective 5/24/00]
[Filed 1/5/01, Notice 11/29/00—published 1/24/01, effective 2/28/01]
[Filed 5/24/01, Notice 4/18/01—published 6/13/01, effective 7/18/01]
[Filed 3/15/02, Notice 1/23/02—published 4/3/02, effective 5/8/02]
[Filed 11/8/02, Notice 10/2/02—published 11/27/02, effective 1/1/03]
[Filed 1/30/04, Notice 12/24/03—published 2/18/04, effective 3/24/04]
[Filed 2/11/05, Notice 1/5/05—published 3/2/05, effective 4/6/05]
[Filed 1/27/06, Notice 12/21/05—published 2/15/06, effective 3/22/06]
[Filed 7/28/06, Notice 6/21/06—published 8/16/06, effective 9/20/06]
[Filed 12/13/06, Notice 11/8/06—published 1/3/07, effective 2/7/07]
[Filed 10/19/07, Notice 9/12/07—published 11/7/07, effective 12/12/07]
[Filed 3/7/08, Notice 1/30/08—published 3/26/08, effective 4/30/08]
[Filed ARC 7761B (Notice ARC 7632B, IAB 3/11/09), IAB 5/6/09, effective 6/10/09]
[Filed ARC 8589B (Notice ARC 8430B, IAB 12/30/09), IAB 3/10/10, effective 4/14/10]
[Filed ARC 8605B (Notice ARC 8481B, IAB 1/13/10), IAB 3/10/10, effective 4/14/10]
[Filed ARC 0337C (Notice ARC 0232C, IAB 7/25/12), IAB 9/19/12, effective 10/24/12]
[Filed ARC 1138C (Notice ARC 0998C, IAB 9/4/13), IAB 10/30/13, effective 12/4/13]
[Filed ARC 1303C (Notice ARC 1231C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 1665C (Notice ARC 1590C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]
CHAPTER 49
ESTIMATED INCOME TAX FOR INDIVIDUALS
[Prior to 12/17/86, Revenue Department [730]]

701—49.1(422) Who must pay estimated income tax.

49.1(1) General rule. For tax years beginning on or after January 1, 1990, estimated payments are required if the taxpayer’s income tax liability attributable to incomes not subject to withholding is expected to be $200 or more. The amount of estimated tax paid must be used as a credit on the taxpayer’s individual income tax return.

49.1(2) Joint estimate payments by married taxpayers. A husband and wife may make a joint estimate tax payment on one form as if they were one taxpayer. If a joint estimate payment is made, but the husband and wife elect to file separate returns or separately on the combined return form, the estimate tax paid for the tax year by the husband and wife shall be allocated between the spouses on their returns in the proportion that each spouse’s net income not subject to withholding tax relates to the combined net income of both spouses not subject to withholding tax.

49.1(3) Separate estimate tax payments by married taxpayers. A husband and wife may each make separate estimate payments. If separate estimate payments are made by married taxpayers, each spouse is to claim only the estimate payments made by that spouse.

49.1(4) Examples of types of taxpayers who may be required to make estimate payments. Listed below are examples of various types of taxpayers who may be required to make estimated tax payments. The list is for illustrative purposes and is not deemed to be all-inclusive.

1. Self-employed. An individual having taxable income from a trade or business where the individual has control of the work, the services rendered, and the fees and charges for services rendered or merchandise sold.

2. Retiree. An individual receiving pensions, annuities, and social security benefits or other incomes not subject to withholding after the taxpayer has withdrawn from active employment.

3. Farmers and fishers. Individuals deriving at least two-thirds of yearly income from farming or fishing activities.

4. Nonresident. Any individual who resides out of state and receives taxable income from an Iowa source which is not subject to withholding.

5. Beneficiaries of estates and trusts. Any resident or nonresident individual who is the recipient of income from an estate or trust from an Iowa source.

6. Taxpayers with income in addition to wages. An individual drawing salary or wages subject to withholding tax, having additional taxable income from an Iowa source which is not subject to withholding, such as interest, dividends, capital gains, rents, royalties, business income, or farm income.

7. Agricultural worker. Any worker receiving a wage or salary for agricultural labor which is excluded by law for withholding tax purposes.

This rule is intended to implement Iowa Code section 422.16.

[ARC 0337C, IAB 9/19/12, effective 10/24/12]

701—49.2(422) Time for filing and payment of tax.

49.2(1) Time for filing.

a. General rule. The date for filing the first estimate tax payment is on or before the last day of the fourth month of the tax year. The estimate tax form is to be sent to: Estimate Processing, Iowa Department of Revenue, P.O. Box 10466, Des Moines, Iowa 50306.

b. Special rule for farmers and fishers. If the estimated gross income of a taxpayer from farming or fishing is at least two-thirds of the estimated gross income from all sources for the taxable year, one of the following three methods is available to the taxpayer for satisfying the requirement to make estimate tax payments.

(1) Make the first estimate payment on April 30 and make the other three payments by the dates specified under subrule 49.2(2).

(2) Make the entire estimate payment for the tax year by January 15 of the subsequent tax year and file the individual income tax return by April 30 of the subsequent tax year.
(3) File the individual income tax return and pay the tax in full on or before March 1 of the subsequent tax year.
   
c. Amended estimate payments.
      (1) General rule. Whenever a taxpayer who is required to make estimate payments has reason to believe that the anticipated income tax liability on which the estimate payments are based has increased or decreased, any subsequent estimate payments should be amended or adjusted accordingly.
      (2) Example. A married couple is making joint estimate tax payments on a calendar year basis, anticipating taxable income of $8,500, with an estimated tax liability of $300. The taxpayers paid the first quarter installment of $75 by the due date of April 30 of the current year and the second installment of $75 on June 30. On July 15, real estate owned jointly by the taxpayers is sold, creating additional taxable income for the year of $7,500. The new tax liability for the tax year is $900 less the estimate payments of $150 already paid for the first and second quarters. There is a balance of $750 to be paid in two equal installments of $375 each by September 30 of the current year and by January 31 of the succeeding year.

49.2(2) Payment of estimated tax.
   
a. General rule. Estimated tax due for the tax year may be paid in full on the date on which the first payment is due or in four equal installments. The taxpayer may elect to pay any installment prior to the date when the installment is due.
   
b. Calendar-year installments. The first estimate tax payment is due by April 30. The other installments shall be paid on or before June 30 and September 30 of the current year, and on or before January 31 of the succeeding year.
   
c. Fiscal-year installments. The installment dates for a taxpayer filing estimate tax payments on a fiscal-year basis are:
      Installment No. 1. The last day of the fourth month of the fiscal year.
      Installment No. 2. The last day of the sixth month of the fiscal year.
      Installment No. 3. The last day of the ninth month of the fiscal year.
      Installment No. 4. The last day of the first month of the next fiscal year.
      This rule is intended to implement Iowa Code section 422.16.

701—49.3(422) Estimated tax for nonresidents.

49.3(1) General rule. Except as noted in 49.3(2), payers of Iowa income to nonresidents of Iowa are required to withhold Iowa income tax and to remit the tax to the department. See rule 701—46.4(422) for withholding on payments to nonresidents.

49.3(2) Estimate payments in lieu of withholding. Nonresidents who prefer to pay estimated tax in lieu of having state income tax withheld by a state withholding agent must obtain a certificate or release from withholding. The nonresident estimated tax form must be accompanied by full payment and must include a list of the name(s) and address(es) of any tenant or farm manager, or cooperative elevator, or other Iowa agent or payer from which the taxpayer anticipates receiving income. The total gross income anticipated for the year must also be shown on the nonresident estimated tax form.

After the department’s receipt of and approval of the completed nonresident estimate tax form with the full payment of the tax shown due on the form, the certificate of release from withholding will be forwarded to the withholding agent or payer designated on the form. Since the nonresident estimate form is filed for the purpose of obtaining a release from withholding, the form must be filed prior to the time of the transactions which would subject the taxpayer to the state withholding tax requirements. The nonresident estimate tax form and payment should be mailed to Estimate Processing, Iowa Department of Revenue, P.O. Box 10466, Des Moines, Iowa 50306.

49.3(3) Example. Nonresident estimated tax payments may be illustrated with the following example:

A nonresident individual owns a farm in Iowa which is operated by a farm manager. For tax purposes the farm manager is considered to be the Iowa withholding agent when distributing proceeds from the farm to the nonresident. A crop is sold through the local farm cooperative elevator and a check is issued to the farm manager, who then sends the check to the nonresident. Before doing so, Iowa income taxes
must be withheld from the gross proceeds and remitted to the Iowa department of revenue for deposit and credit to the income tax liability of the nonresident, unless the farm manager has possession of a certificate of release from withholding issued by the department of revenue. In the event that the farm cooperative elevator sends the check for payment of the crops directly to the nonresident, the cooperative becomes the withholding agent.

49.3(4) Election by withholding agents to make estimated payments on behalf of nonresident taxpayers with net incomes from agricultural commodities or products. Effective for tax years beginning on or after January 1, 1989, withholding agents such as farm management companies can elect to make estimated tax payments on behalf of nonresidents for net incomes that the nonresidents will have for the tax year from sales of agricultural commodities or products. If the withholding agent elects to make the estimated tax payments for the nonresident taxpayers, the estimated tax payments should be submitted to the department of revenue on or before the last day of the first month after the end of the tax year of the nonresidents. The estimated payments should be sent with Form IA 1040ES (45-002) and mailed to: Estimate Processing, Iowa Department of Revenue, P.O. Box 10466, Des Moines, Iowa 50306. Net income from agricultural commodities or products means net incomes from those agricultural commodities or products described in paragraph “a” of 701—subrule 46.4(6). If the estimated tax payments made on behalf of the nonresident taxpayers by the withholding agents are not sufficient to pay the Iowa income taxes on the net incomes of the nonresidents from the agricultural commodities or products, the nonresidents may be subject to penalties for underpayment of estimated taxes.

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

701—49.4(422) Special estimated tax periods.

49.4(1) Short taxable year. A taxpayer having a taxable year of less than 12 months must make estimated tax payments if anticipating an Iowa tax liability of $50 or more for that short tax year if that tax year began prior to January 1, 1990. In the case of short tax years beginning on or after January 1, 1990, taxpayers would be required to make estimated payments if their anticipated Iowa tax liabilities were $200 or more from incomes not subject to withholding.

49.4(2) Part-year resident.

a. General rule. Part-year residents moving into or out of the state must determine their Iowa estimated tax on the ratio of income from Iowa sources not subject to withholding tax to incomes from all sources.

b. Example. An individual moving into the state on April 15, having taxable income from an Iowa source which is not subject to withholding and an expected tax liability of $150, must make the first estimated payment of $50 by June 30 and pay the remaining balance of $100 in two equal installments of $50 each by September 30 and by January 31 of the succeeding year if the tax year for which the estimated payments were made began prior to January 1, 1990. A similar procedure for making estimate payments would be followed for tax years beginning on or after January 1, 1990, when no estimate payments would be required unless the anticipated state income tax liability for the balance of the tax year would be $200 or more.

This rule is intended to implement Iowa Code section 422.16.

701—49.5(422) Reporting forms.

49.5(1) Resident forms. Resident taxpayers who have filed a prior year estimate tax form will receive by mail a preaddressed estimate tax reporting form. Blank estimate tax forms are available from the department for those individuals making state estimate payments for the first time or when the preaddressed form is misplaced or lost.

49.5(2) Nonresident forms. A special nonresident estimate tax form with instructions is available from the department for any nonresident wishing to make estimate tax payments in lieu of having Iowa income tax withheld by an Iowa withholding agent. The estimated payment should be submitted with the certificate or the release from withholding described in subrule 49.3(2).

This rule is intended to implement Iowa Code section 422.16.
**701—49.6(422) Penalty—underpayment of estimated tax.** The civil penalty provided by the Internal Revenue Code for underpayment of federal estimated tax also applies to persons required to make payments of estimated tax under provisions of the Iowa Code. The Iowa penalty for underpayment of estimated tax is computed on Form IA 2210 for individual taxpayers other than farmers and fishers and Form IA 2210F for individuals who have two-thirds of their gross annual incomes from farming or fishing activities.

49.6(1) Exceptions which may avoid the underpayment penalty. The following are the two exceptions under which taxpayers may avoid the penalty for underpayment of estimated tax:

a. Current year payments equal or exceed prior year’s liability. Taxpayers may avoid the penalty for underpayment of estimated tax if the estimated tax payments and other tax payments for the current tax year, such as withholding tax, are equal to or exceed the tax liability for the prior tax year. The prior tax year must cover a 12-month period and there must have been a tax liability on the return for the prior year. For tax years beginning on or after January 1, 1987, the requirement that the return for the prior tax year must have had a tax liability is eliminated although the return must have covered a 12-month period.

b. Current year payments equal or exceed 80 percent, or 90 percent for tax years beginning on or after January 1, 1987, of the tax on the taxpayer’s annualized income. Taxpayers may also avoid the penalty for underpayment of estimated tax, if their tax payments for the tax year are equal to or exceed 80 percent of the tax on the taxpayer’s annualized income for periods from the first of the tax year to the end of the month preceding the month in which an installment of estimated tax is due. For tax years beginning on or after January 1, 1987, taxpayers may avoid the penalty for underpayment of estimated tax if their tax payments for the tax year are equal to or exceed 90 percent of the tax on the taxpayer’s annualized income.

49.6(2) Waiver of penalty for underpayment of estimated tax. The following are two situations under which the penalty for underpayment of estimated tax may be waived for tax years beginning on or after January 1, 1986:

a. The underpayment was due to casualty, disaster, or other unusual circumstances and imposition of the penalty would be against equity and good conscience.

b. The underpayment was made by an individual who retired after having attained age 62, or who became disabled in the tax year for which the estimated payment was due or in the preceding tax year, and the underpayment was due to reasonable cause and not due to willful neglect.


This rule is intended to implement Iowa Code section 422.16.

**701—49.7(422) Estimated tax carryforwards and how the carryforward amounts are affected under different circumstances.** For tax years beginning on or after January 1, 1994, taxpayers that timely file their Iowa returns and have overpayments shown on their returns may elect to have the overpayments credited to their estimated tax payments for the following tax year.

For purposes of this rule, filing a return for a calendar-year period on or before the last day of the year in which the return is due will constitute timely filing of that return for purposes of being eligible to have an overpayment from that return applied to the estimated tax payments for the next tax year. The 1994 Iowa return is due on May 1, 1995, because the regular due date of April 30 falls on Sunday. Therefore, if a taxpayer files the 1994 return on or before December 31, 1995, showing an overpayment on the return, the taxpayer can elect to have the overpayment credited to the taxpayer’s estimated tax for the 1995 calendar year.

However, if a taxpayer files the 1994 return anytime after the end of the 1995 calendar year with an overpayment shown on the return, the overpayment will be refunded to the taxpayer notwithstanding that the taxpayer has shown that the overpayment is to be credited to estimated tax for 1995.

**Example 1.** Mark Jones filed his 1994 return on October 31, 1995, showing an overpayment of $400, and a credit to 1995 estimated tax for $400. Because the 1994 return was filed on or before December 31, 1995, Mr. Jones’ election to credit the $400 overpayment to 1995 estimated tax was honored.
EXAMPLE 2. Fred Mack filed his 1994 and 1995 Iowa returns in March 1996. The 1994 return showed an overpayment of $300 and credit to 1995 estimated tax of $300. The 1995 return showed an overpayment of $200 which was determined from estimated payments of $800, including the $300 credit from the 1994 return. The overpayment from the 1994 return was to be refunded because the taxpayer had filed that return after the deadline for crediting overpayments to estimated payments for 1994 returns. Because the $300 credit to 1995 estimated tax was not allowed, there was tax due of $100 on the 1995 return. The tax due for 1995 was satisfied with part of the refund from the 1994 return.

The following subrules show how the amounts of tax carryforwards from overpayments shown on state returns are affected by certain circumstances:

49.7(1) Estimated tax carryforward and how amount of carryover credit is affected by error on return. If a state return is filed timely with an overpayment shown on the return and the overpayment is to be credited to the taxpayer’s estimated payments for the following year, the amount credited to estimated payments will be affected by an error on the return. Thus, if the error on the return is corrected and results in a smaller overpayment than was shown when the return was filed, the credit to estimated tax from the return will be reduced accordingly.

EXAMPLE. Mike Green filed his 1994 return on March 20, 1995, showing an overpayment of $400 and a credit to 1995 estimated tax of $400. During processing of the return, it was determined that the federal income tax refund received was subtracted from net income instead of being added to net income. Correction of this error resulted in an overpayment of $200 instead of $400. Thus, the amount credited to the taxpayer’s estimated payments for 1995 was $200 instead of the $400 shown on the return form. The department notified Mr. Green of the error and advised him that only $200 was being credited to the taxpayer’s estimated tax for 1995 instead of the $400 shown on the return.

49.7(2) Estimated tax credit carryover, carryforward amount affected by amended return. A taxpayer files an original return timely with an overpayment and with the overpayment credited to the following year’s estimated tax payments. If the taxpayer files an amended return correcting an error on the original return and with a different amount credited to estimated tax than on the original return, the credit amount from the amended return will be credited to estimated tax, if the amended return is filed on or before the end of the year in which the return is due. Thus, if an amended 1994 return is filed by December 31, 1995, the amount shown as a credit to estimated tax from that amended return will be the amount credited to the taxpayer’s 1995 estimated tax, instead of the amount credited from the original 1994 return.

EXAMPLE. Velma Fox filed her original 1994 return on April 15, 1995, with an overpayment of $500 and all of that overpayment credited to her estimated tax for 1995. Later, in 1995, Ms. Fox determined that she had failed to claim a deduction on the return for depreciation on some business equipment she acquired in 1994. Therefore, she filed an amended 1994 Iowa return on October 31, 1995, showing an overpayment of $700 and a credit to 1995 estimated tax of the same amount. Ms. Fox’s amended return was filed on or before December 31, 1995, so the $700 credit to Ms. Fox’s 1995 estimated tax from the amended return was allowed.

Note that if the amended return had not been filed until sometime in January 1996, the credit from Ms. Fox’s original return would have been applied to Ms. Fox’s estimated payments for 1995. Since the amended return would have been filed too late for purposes of crediting the overpayment to the taxpayer’s estimated tax for the next year, the department would issue Ms. Fox a refund of $200 which is the portion of the overpayment from the amended return that had not been credited to estimated tax from the original return for 1994.

49.7(3) Estimated tax carryforward and how amount of carryover credit is affected by state tax liability or other state liability of the taxpayer. A taxpayer who files an Iowa return with an overpayment shown on the return and elects to have the overpayment credited to the taxpayer’s estimated tax for the next tax year will not have the overpayment credited to estimated tax if the taxpayer has tax liabilities or other liabilities with the state that are subject to setoff. Other liabilities with the state that are subject to setoff are those liabilities described in Iowa Code section 8A.504. These liabilities are for debts owed the state for public assistance overpayments, defaults on guaranteed student or parental college
loans, district court debts, delinquent child support, and any other debts of the taxpayer with a board, commission, department, or other administrative office or unit of the state of Iowa.

Example 1. Rose Peters filed her 1994 Iowa return in April 1995 showing an overpayment of $400 and a credit to 1995 estimated tax of $400. During processing of Rose’s 1994 return it was determined that she had a liability of $150 from her 1993 Iowa return. Thus, $150 of the 1994 overpayment was offset against the tax liability from the 1993 return. The remaining portion of the 1994 overpayment of $250 was credited to Ms. Peters’ estimated tax for 1995.

Example 2. Mike Moore filed his 1994 Iowa return in May 1995 with an overpayment of $500, a credit to 1995 estimated tax of $300 and a refund of $200. Mr. Moore is a “self-employed individual” as that phrase is to be understood for the purposes of Iowa Code section 252B.5, subsection 8, as amended by 2003 Iowa Acts, House File 534, section 220. During processing it was determined that Mr. Moore had a liability for unpaid child support of $1,000. After Mr. Moore was notified by the child support recovery unit of the department of human services that the overpayment from the 1994 return was going to be applied to the child support liability, the entire overpayment of $500 was set off against Mr. Moore’s liability for unpaid child support. Thus, since the $300 credit to estimated tax was set off against the delinquent child support, there was no credit to estimated tax for 1995. Responsibility for offsetting this type of obligation remains, as of July 1, 2003, with the department of revenue and has not been transferred to the department of administrative services.

49.7(4) Accrual of interest on an assessment of additional tax. If the taxpayer has not elected to have an overpayment credited to an installment other than the first installment, interest shall accrue on an assessment of additional tax as follows: If the overpayment was credited to the first installment, interest on an assessment of additional tax shall accrue from the due date of the return. If the overpayment was credited to an installment due after the overpayment arose, interest shall accrue from the date the return was filed. Interest on that portion of an assessment greater than the overpayment shall accrue from the due date of the return.

If the taxpayer has elected to have an overpayment of estimated tax credited to an installment other than the first installment, interest shall accrue on any assessment of additional tax up to the amount of the overpayment from the date the return was filed with the department. Interest on any assessment of additional tax greater than the amount of the overpayment shall accrue from the due date of the return, *Avon Products, Inc. v. United States*, 588 F.2d 342 (2nd Cir. 1978), Revenue Ruling 84-58.

This rule is intended to implement Iowa Code section 422.16.

[ARC 1665C, IAB 10/15/14, effective 11/19/14]

[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]
[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
[Filed emergency 12/23/87—published 1/13/88, effective 12/23/87]
[Filed 2/19/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed 8/19/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]
[Filed 11/18/94, Notice 10/12/94—published 12/7/94, effective 1/11/95]
[Filed 10/24/03, Notice 9/17/03—published 11/12/03, effective 12/17/03]
[Filed 7/28/06, Notice 6/21/06—published 8/16/06, effective 9/20/06]
[Filed ARC 0337C (Notice ARC 0232C, IAB 7/25/12), IAB 9/19/12, effective 10/24/12]
[Filed ARC 1665C (Notice ARC 1590C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]
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 if the only business activity within the state consists of the solicitation of orders of tangible personal property by or on behalf of a corporation by its employees or representatives. Such orders must be sent outside the state for approval or rejection and, if approved, must be filled by shipment or delivery from a point outside the state to be within the purview of Public Law 86-272. Public Law 86-272 does not extend to those corporations which sell services, real estate, or intangibles in more than one state or to domestic corporations. For example, Public Law 86-272 does not extend to brokers or manufacturers’ representatives or other persons or entities selling products for another person or entity.

a. If the only activities in Iowa of a foreign corporation selling tangible personal property are those of the type described in the noninclusive listing below, the corporation is protected from the Iowa corporation income tax law by Public Law 86-272.

1. The free distribution by salespersons of product samples, brochures, and catalogues which explain the use of or laud the product, or both.

2. The lease or ownership of motor vehicles for use by salespersons in soliciting orders.

3. Salespersons’ negotiation of a price for a product, subject to approval or rejection outside the taxing state of such negotiated price and solicited order.

4. Demonstration by salesperson, prior to the sale, of how the corporation’s product works.

5. The placement of advertising in newspapers, radio, and television.

6. Delivery of goods to customers by foreign corporation in its own or leased vehicles from a point outside the taxing state. Delivery does not include nonimmune activities, such as picking up damaged goods.

7. Collection of state or local-option sales taxes or state use taxes from customers.

8. Audit of inventory levels by salespersons to determine if corporation’s customer needs more inventory.

9. Recruitment, training, evaluation, and management of salespersons pertaining to solicitation of orders.

10. Salespersons’ intervention/mediation in credit disputes between customers and non-Iowa located corporate departments.

11. Use of hotel rooms and homes for sales-related meetings pertaining to solicitation of orders.

12. Salespersons’ assistance to wholesalers in obtaining suitable displays for products at retail stores.
(13) Salespersons’ furnishing of display racks to retailers.
(14) Salespersons’ advice to retailers on the art of displaying goods to the public.
(15) Rental of hotel rooms for short-term display of products.
(16) Mere forwarding of customer questions, concerns, or problems by salespersons to non-Iowa locations.

b. For tax years beginning on or after January 1, 1996, a foreign corporation will not be considered doing business in this state or deriving income from sources within this state if its only activities within this state are one or more of the following activities:

(1) Holding meetings of the board of directors or shareholders, or holiday parties, or employee appreciation dinners.
(2) Maintaining bank accounts.
(3) Borrowing money, with or without security.
(4) Utilizing Iowa courts for litigation.
(5) Owning and controlling a subsidiary corporation which is incorporated in or which is transacting business within this state where the holding or parent company has no physical presence in the state as that presence relates to the ownership or control of the subsidiary.
(6) Recruiting personnel where hiring occurs outside the state.

c. For tax years beginning on or after January 1, 1997, a foreign corporation will not be considered doing business in this state or deriving income from sources within this state if its only activities within this state, in addition to the activities listed in paragraph “b” above, are training its employees or educating its employees, or using facilities in this state for this purpose.

d. For tax years beginning on or after January 1, 2006, a foreign corporation will not be considered to be doing business in Iowa or deriving income from sources within Iowa if its only activities within Iowa, in addition to the activities listed in paragraphs “b” and “c” of this subrule, are utilizing a distribution facility in Iowa, owning or leasing property at a distribution facility in Iowa, or selling property shipped or distributed from a distribution facility in Iowa.

A distribution facility is an establishment at which shipments of tangible personal property are processed for delivery to customers. A distribution facility does not include an establishment at which retail sales of tangible personal property or returns of such property are undertaken with respect to retail customers more than 12 days in a year. However, an exception to the 12-day requirement is allowed for distribution facilities that process customer orders by mail, telephone, or electronic means, if the distribution facility also processes shipments of tangible personal property to customers, as long as no more than 10 percent of the goods are delivered or shipped to a purchaser in Iowa.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: A, a foreign corporation, stores its inventory of books at a facility in Iowa. The facility processes orders for these books solely by mail, telephone and the Internet on behalf of A, and customers are not allowed to purchase books at the facility’s site in Iowa. The facility processes shipments of these books, and 5 percent of the books at this facility are delivered to purchasers located in Iowa. A does not conduct any other business activities in Iowa. A is not considered to be doing business in Iowa because less than 10 percent of the books at the facility are delivered to an Iowa customer.

EXAMPLE 2: B, a foreign corporation, stores its inventory of compact disks at a facility in Iowa. The facility processes orders for these compact disks solely by mail, telephone and the Internet on behalf of B, and customers are not allowed to purchase compact disks at the facility’s site in Iowa. The facility processes shipments of these compact disks, and 15 percent of the compact disks at the facility are delivered to purchasers located in Iowa. B does not conduct any other business activities in Iowa. B is considered to be doing business in Iowa because more than 10 percent of the compact disks at the facility are delivered to an Iowa customer.

EXAMPLE 3: C, a foreign corporation, stores its inventory of doors and windows at a facility in Iowa. The facility processes orders for these windows and doors solely by mail, telephone and the Internet, and customers are not allowed to purchase these windows and doors at the facility’s site in Iowa. The facility processes shipments of these windows and doors, and 7 percent of the windows and doors are delivered to purchasers located in Iowa. C will also install these windows and doors in Iowa upon customer request.
C is considered to be doing business in Iowa even though less than 10 percent of the windows and doors are delivered to Iowa customers because C is also conducting installation activities in Iowa which are not protected under Public Law 86-272.

Example 4: D, a foreign corporation, stores its inventory of home decorating and craft kits at a facility in Iowa. The facility does not process any customer orders by mail, telephone or the Internet, and does not process any shipments of these kits directly to customers. D allows customers to come to the facility 14 days each year to directly purchase these kits, and customers must arrange for their own delivery of the kits. D is considered to be doing business in Iowa because sales to retail customers are conducted more than 12 days in a year, and the facility does not process customer orders or shipments to customers.

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.

a. Installation or assembly of the corporate product.
b. Ownership or lease of real estate by corporation.
c. Solicitation of orders for, or sale of, services or real estate.
d. Sale of tangible personal property (as opposed to solicitation of orders) or performance of services within Iowa.
e. Maintenance of a stock of inventory.
f. Existence of an office or other business location.
g. Managerial activities pertaining to nonsolicitation activities.
h. Collections on regular or delinquent accounts.
i. Technical assistance and training given after the sale to purchaser and user of corporate products.
j. The repair or replacement of faulty or damaged goods.
k. The pickup of damaged, obsolete, or returned merchandise from purchaser or user.
l. Rectification of or assistance in rectifying any product complaints, shipping complaints, etc., if more is involved than relaying complaints to a non-Iowa location.
m. Delivery of corporate merchandise inventory to corporation’s distributors or dealers on consignment.
n. Maintenance of personal property which is not related to solicitation of orders.
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
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

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, subsection 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 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.

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.
(9) A joint venture.

b. Criteria for deferment of taxable income. In order to qualify for the deferment of taxable income for a start-up business, each of the following criteria must be met:

(1) The taxpayer is a business that is a wholly new start-up business beginning operations during the first tax year for which the deferment of taxable income is claimed.
(2) The business has its commercial domicile, as defined by Iowa Code section 422.32, in Iowa.
(3) The operations of the business are funded by at least 25 percent venture capital moneys. “Venture capital moneys” means an equity investment from an individual or a private seed and venture
capital fund whose only business is investing in seed and venture capital opportunities. “Venture capital moneys” does not mean a loan or other nonequity financing from a person, financial institution or other entity.

(4) The taxpayer does not have any delinquent taxes or other debt outstanding and owing to the state of Iowa.

c. Request for deferment of income. A taxpayer must submit a request to the department for the deferment of taxable income. The request must provide evidence that all of the criteria to qualify as a start-up business have been met. The request should be made as soon as possible after the close of the first tax year of the business. The request is to be filed with the Iowa Department of Revenue, Policy Section, Compliance Division, P.O. Box 10457, Des Moines, Iowa 50306-0457. Upon determination that the criteria have been met, the department will notify the taxpayer that the deferment of taxable income is approved. If the request for deferment of taxable income is denied, the taxpayer may file a protest within 60 days of the date of the letter denying the request for deferment of taxable income. The department’s determination letter shall set forth the taxpayer’s rights to protest the department’s determination.

d. Filing of tax returns. If the request for deferment of taxable income is approved, taxable income for the first three years that the business is in operation is deferred. The taxpayer shall pay taxes on the deferred taxable income in five equal annual installments during the five tax years following the three years of deferment. Tax returns must be filed for each tax year in which the deferment is approved. If the taxpayer has a net loss during any tax year during the three-year deferment period, the loss may be applied to any deferred taxable income during that period. For purposes of assessing penalty and interest, the tax on any deferred income is not due and payable until the tax years in which the five equal annual installments are due and payable.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: A qualifying start-up business reports Iowa taxable income of $1,000 in year one, $5,000 in year two and $10,000 in year three. The total tax deferred is $60 in year 1, $300 in year two and $600 in year three, or $960. The taxpayer shall pay $192 ($960 divided by 5) in deferred tax for each of the next five tax returns. No penalty or interest is due on the deferred annual tax of $192 if the returns for years four through eight are filed by the due date and the tax is timely paid. After the return for year three is filed, the department will issue a schedule to the qualifying business indicating that $192 of additional tax is due annually for years four through eight, and when the additional payments of $192 are due.

EXAMPLE 2: A qualifying start-up business reports an Iowa taxable loss of $10,000 in year one, a loss of $2,000 in year two and taxable income of $22,000 in year three. The losses for year one and year two can be netted against the income in year three, resulting in deferred taxable income of $10,000. The tax of $600 computed on income of $10,000 will be paid in five equal installments of $120 for the next five tax returns. No penalty or interest is due on the deferred annual tax of $120 if the returns for years four through eight are filed by the due date and the tax is timely paid. After the return for year three is filed, the department will issue a schedule to the qualifying business indicating that $120 of additional tax is due annually for years four through eight and when the additional payments of $120 are due.

This rule is intended to implement Iowa Code sections 422.21, 422.32, 422.33, 422.34, 422.34A, and 422.36 and Iowa Code section 422.24A as amended by 2008 Iowa Acts, Senate File 2400, section 66.

[ARC 7761B, IAB 5/6/09, effective 6/10/09; ARC 1303C, IAB 2/5/14, effective 3/12/14; ARC 1665C, IAB 10/15/14, effective 11/19/14]

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 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 subsection 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 subsection 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 8337C, 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) Full estimated payment on original due date. Rescinded IAB 3/15/95, effective 4/19/95.

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) Rescinded IAB 11/24/04, effective 12/29/04.

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 subsection 422.33(1). The minimum tax rate is 60 percent of the maximum corporate tax rate rounded to the nearest one-tenth of 1 percent or 7.2 percent. Minimum taxable income is computed as follows:

State taxable income as adjusted by Iowa Code section 422.35

<table>
<thead>
<tr>
<th>Plus:</th>
<th>Tax preference items, adjustments and losses added back</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less:</td>
<td>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</td>
</tr>
<tr>
<td></td>
<td>Subtotal</td>
</tr>
<tr>
<td>Times:</td>
<td>Apportionment percentage</td>
</tr>
<tr>
<td></td>
<td>Result</td>
</tr>
<tr>
<td></td>
<td>Plus:</td>
</tr>
<tr>
<td></td>
<td>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</td>
</tr>
<tr>
<td></td>
<td>Less:</td>
</tr>
<tr>
<td></td>
<td>Iowa alternative tax net operating less deduction</td>
</tr>
<tr>
<td></td>
<td>$40,000 exemption amount</td>
</tr>
<tr>
<td></td>
<td>Equals:</td>
</tr>
<tr>
<td></td>
<td>Iowa alternative minimum taxable income</td>
</tr>
</tbody>
</table>

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:

Federal taxable income before NOL $182,000
Federal NOL carryforward <97,000>
Federal income tax 19,750
Tax preferences and adjustments 48,000
Iowa income tax expensed on federal 2,570
Iowa NOL carryforward 147,000

For tax year 1988, the following information is available:
Federal taxable income before NOL $<154,000>
Federal income tax refund 15,460
Tax preferences and adjustments 78,000
Iowa income tax refund reported on federal 2,570

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

Regular Iowa Tax
Federal taxable income $182,000
less 50% federal tax $<9,875>
add Iowa income tax expensed 2,570
Iowa taxable income before NOL carryforward $174,695
less NOL carryforward $<147,000>
Iowa taxable income $27,695
Iowa income tax $1,716

Alternative Minimum Tax
Iowa taxable income before NOL $174,695
add preferences and adjustments 48,000
Total $222,695
less NOL carryforward* $<147,000>

Iowa alternative taxable income $75,695
less exemption amount $<40,000>
Total $35,695
Times 7.2% 2,570
Less regular tax $<1,715>
Alternative minimum tax $855

*Net operating loss carryforwards from tax years beginning before January 1, 1987, are deductible at 100 percent without reduction for items of tax preference or adjustments arising in the tax year.

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

Regular Iowa Tax
Federal taxable income $182,000
less 50% federal tax $<9,875>
add Iowa income tax expensed 2,570
Iowa taxable income before NOL carryforward $174,695
less NOL carryforward $<147,000>

$27,695

less NOL carryback from 1988¹ $<148,840>
NOL carryforward $<121,145>
Alternative Minimum Tax
Iowa taxable income before NOL $174,695
add preferences and adjustments 48,000
Total $222,695
less NOL carryforward from pre-1987 tax year $<147,000>
Total $75,695
less alternative minimum tax NOL\(^2\) $<68,126>
Total $7,569
less exemption $<40,000>
Alternative minimum taxable income after NOL $-0-

\(^1\)Computation of 1988 Iowa NOL
Federal NOL $<154,000>
add 50% of federal refund 7,730
less Iowa refund in federal income $<2,570>
Iowa NOL $<148,840>

\(^2\)Computation of 1988 Alternative Minimum Tax NOL
Iowa NOL $<148,840>
add preferences and adjustments 78,000
Total $<70,840>
NOL carryback limited to 90% of alternative minimum income before NOL and exemption* $<68,126>
Alternative minimum tax NOL carryforward $2,705

*For purposes of the alternative minimum tax, net operating loss carryforward or carryback from tax years beginning after December 31, 1986, must be reduced by items of tax preference and adjustments, and are limited to 90 percent of alternative minimum taxable income before deduction of the post-1986 NOL and the $40,000 exemption amount ($75,695 \times 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 less credits 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 $2,000 minimum tax carryover credit to 2009.

**Example 2.** Taxpayer reported $2,500 of minimum tax for 2007. For 2008, taxpayer reported regular tax less credits 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 less credits 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 less credits 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 less nonrefundable credits exceeds the tentative minimum tax shall be computed as follows:

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

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 less credits 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.

---

**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. Effective for tax years beginning on or after January 1, 1985, taxpayers are allowed a tax credit equal to 6.5 percent of the state’s apportioned share of qualifying expenditures for increasing research activities. For purposes of this credit, “qualifying expenditures” means the qualifying expenditures for increasing research activities as defined for purposes of the federal credit for increasing research activities computed under Section 41 of the Internal Revenue Code. For tax years beginning on or after January 1, 1991, “qualifying expenditures” means the qualifying expenditures for increasing research activities as defined for purposes of the federal credit for increasing research activities computed under Section 41 of the Internal Revenue Code as in effect on January 1, 1998. The Iowa research activities credit is made permanent for tax years beginning on or after January 1, 1991, even though there may no longer be a research activities credit for federal income tax purposes. The “state’s apportioned share of qualifying expenditures for increasing research activities” must be the ratio of the qualified expenditures in Iowa to total qualified expenditures times total qualifying expenditures for increasing research activities.

52.7(1) Qualified expenditures in Iowa are:
   a. Wages for qualified research services performed in Iowa.
   b. Cost of supplies used in conducting qualified research in Iowa.
   c. Rental or lease cost of personal property used in Iowa in conducting qualified research. Where personal property is used both within and without Iowa in conducting qualified research, the rental or lease cost must be prorated between Iowa and non-Iowa use by the ratio of days used in Iowa to total days used both within and without Iowa.
   d. Sixty-five percent of contract expenses paid by a corporation to a qualified organization for basic research performed in Iowa.

52.7(2) Total qualified expenditures are:
   a. Wages paid for qualified research services performed everywhere.
   b. Cost of supplies used in conducting qualified research everywhere.
   c. Rental or lease cost of personal property used in conducting qualified research everywhere.
   d. Sixty-five percent of contract expenses paid by a corporation to a qualified organization for basic research performed everywhere.

Qualifying expenditures for increasing research activities is the smallest of the amount by which the qualified research expenses for the taxable year exceed the base period research expenses or 50 percent of the qualified research expenses for the taxable year.

A shareholder in an S corporation may claim the pro-rata share of the Iowa credit for increasing research expenditures on the shareholder’s individual income tax return. The S corporation must provide each shareholder with a schedule showing the computation of the corporation’s Iowa credit for increasing research expenditures and the shareholder’s pro-rata share. The shareholder’s pro-rata share of the Iowa credit for increasing research activities must be in the same ratio as the shareholder’s pro-rata share in the earnings of the S corporation.

Any research credit in excess of the corporation’s tax liability less the credits authorized in Iowa Code sections 422.33, 422.91 and 422.111 may be refunded to the taxpayer or credited to the estimated tax of the taxpayer for the following year.

52.7(3) Research activities credit for tax years beginning in 2000. Effective for tax years beginning on or after January 1, 2000, the taxes imposed for corporate income tax purposes will be reduced by a tax credit for increasing research activities.
a. The credit equals the sum of the following:

(1) Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities.

(2) Six and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities.

The state’s apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures.

b. In lieu of the credit computed under paragraph 52.7(3)“a,” a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code for tax years beginning on or after January 1, 2000, but beginning before January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer’s federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year.

For purposes of this alternative incremental research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 1.65 percent, 2.20 percent, and 2.75 percent, respectively.

c. In lieu of the credit computed under paragraph 52.7(3)“a,” a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative simplified credit described in Section 41(c)(5) of the Internal Revenue Code for tax years beginning on or after January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer’s federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year.

For purposes of this alternative simplified research credit computation, the credit percentages applicable to qualified research expenses described in Section 41(c)(5)(A) and clause (ii) of Section 41(c)(5)(B) of the Internal Revenue Code are 4.55 percent and 1.95 percent, respectively.

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3)“b” and the alternative simplified credit described in paragraph 52.7(3)“c,” such amounts are limited to research activities conducted within this state. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2014.

e. A shareholder in an S corporation may claim the pro-rata share of the Iowa credit for increasing research activities on the shareholder’s individual return. The S corporation must provide each shareholder with a schedule showing the computation of the corporation’s Iowa credit for increasing research activities and the shareholder’s pro-rata share. The shareholder’s pro-rata share of the Iowa credit for increasing research activities must be in the same ratio as the shareholder’s pro-rata share in the earnings of the S corporation.

Any research credit in excess of the corporation’s tax liability less the credits authorized in Iowa Code sections 422.33, 422.91 and 422.111 may be refunded to the taxpayer or credited to the estimated tax of the corporation for the following year.

52.7(4) Research activities credit for an eligible business. Effective for tax years beginning on or after January 1, 2000, an eligible business may claim a tax credit for increasing research activities in this state during the period the eligible business is participating in the new jobs and income program with the Iowa department of economic development. An eligible business must meet all the conditions listed under Iowa Code section 15.329, which include requirements to make an investment of $10 million as indexed for inflation and the creation of a minimum of 50 full-time positions. The research credit
authorized in this subrule is in addition to the research activities credit described in 701—subrule 42.11(3) or the research credit described in subrule 52.7(3).

a. The additional research activities credit for an eligible business is computed under the criteria for computing the research activities credit under 701—subrule 42.11(3) or under subrule 52.7(3), depending on which of those subrules the initial research credit was computed. The same qualified research expenses and basic research expenses apply in computation of the research credit for an eligible business as were applicable in computing the credit in 701—subrule 42.11(3) or 52.7(3). In addition, if the alternative incremental credit method was used to compute the initial research credit under 701—subrule 42.11(3) or 52.7(3), that method would be used to compute the research credit for an eligible business. Therefore, if a taxpayer that met the qualifications of an eligible business had a research activities credit of $200,000 as computed under subrule 52.7(3), the research activities credit for the eligible business would result in an additional credit for the taxpayer of $200,000.

b. If the eligible business is a partnership, S corporation, limited liability company, estate or trust where the income from the eligible business is taxed to the individual owners of the business, these individual owners may claim the additional research activities credit allowed to the eligible business. The research credit is allocated to each of the individual owners of the eligible business on the basis of the pro-rata share of that individual’s earnings from the eligible business.

52.7(5) Corporate tax research credit for increasing research activities within an enterprise zone. Effective for tax years beginning on or after January 1, 2000, for awards made by the Iowa department of economic development prior to July 1, 2010, the taxes imposed for corporate income tax purposes will be reduced by a tax credit for increasing research activities within an area designated as an enterprise zone. This credit for increasing research activities is in lieu of the research activities credit described in 701—subrule 42.11(3) or the research activities credit described in subrule 52.7(3). For the amount of the credit for increasing research activities within an enterprise zone for awards made by the economic development authority on or after July 1, 2010, see subrule 52.7(6).

a. The credit equals the sum of the following:

(1) Thirteen percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for research activities.

(2) Thirteen percent of the basic research payments determined under Section 41(c)(1)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities. The state’s apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in the enterprise zone to total qualified research expenditures.

b. In lieu of the credit computed under paragraph 52.7(5)“a,” a taxpayer may elect to compute the credit amount for qualified research expenses incurred in the enterprise zone in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code for tax years beginning prior to January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer’s federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 3.30 percent, 4.40 percent, and 5.50 percent, respectively.

c. In lieu of the credit computed under paragraph 52.7(5)“a,” a taxpayer may elect to compute the credit amount for qualified research expenses incurred in the enterprise zone in a manner consistent with the alternative simplified credit described in Section 41(c)(5) of the Internal Revenue Code for tax years beginning on or after January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer’s federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in Section 41(c)(5)(A) and clause (ii) of Section 41(c)(5)(B) are 9.10 percent and 3.90 percent, respectively.
d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3)“b” and the alternative simplified credit described in paragraph 52.7(3)“c” of this rule, such amounts are limited to research activities conducted within the enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2014.

e. 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.

52.7(6) Research activities credit for awards made by the Iowa department of economic development on or after July 1, 2010. For eligible businesses approved under the enterprise zone program by the Iowa department of economic development when an award is made on or after July 1, 2010, the taxes imposed for corporate income tax purposes will be reduced by a tax credit for increasing research activities within an area designated as an enterprise zone. This credit for increasing research activities is in lieu of the research activities credit described in 701—subrule 42.11(3) or the research activities credit described in subrule 52.7(3). The amount of the credit depends upon the gross revenues of the eligible business.

a. The credit equals the sum of the following for eligible businesses with gross revenues of less than $20 million.

(1) Sixteen and one-half percent of the excess of qualified research expenditures during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for research activities.

(2) Sixteen and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities. The state’s apportioned share of the qualifying expenditures for increasing research activities is a percentage equal to the ratio of qualified research expenditures in the enterprise zone to total qualified research expenditures.

b. The credit equals the sum of the following for eligible businesses with gross revenues of $20 million or more.

(1) Nine and one-half percent of the excess of qualified research expenditures during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for research activities.

(2) Nine and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities. The state’s apportioned share of the qualifying expenditures for increasing research activities is a percentage equal to the ratio of qualified research expenditures in the enterprise zone to total qualified research expenditures.

c. In lieu of the credit computed under paragraphs 52.7(6)“a” and “b,” a taxpayer may elect to compute the credit amount for qualified research expenses incurred in the enterprise zone in a manner consistent with the alternative simplified credit described in Section 41(c)(5) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer’s federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in Section 41(c)(5)(A) and clause (ii) of Section 41(c)(5)(B) of the Internal Revenue Code depend upon the gross revenues of the eligible business.

(1) The percentages are 7 percent and 3 percent, respectively, for eligible businesses with gross revenues of less than $20 million.

(2) The percentages are 2.1 percent and 0.9 percent, respectively, for eligible businesses with gross revenues of $20 million or more.

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative simplified
credit described in paragraph 52.7(3)”c” of this rule, such amounts are limited to research activities conducted within the enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2014.

e. 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.

52.7(7) Reporting of research activities credit claims. Beginning with research activities credit claims filed on or after July 1, 2009, the department shall issue an annual report to the general assembly of all research activities credit claims in excess of $500,000. The report, which is due by February 15 of each year, will contain the name of each claimant and the amount of the research activities credit for all claims filed during the previous calendar year in excess of $500,000.

This rule is intended to implement Iowa Code sections 15.335 and 422.33 as amended by 2014 Iowa Acts, House File 2435.

[ARC 8589B, IAB 3/10/10, effective 4/14/10; ARC 8702B, IAB 4/21/10, effective 5/26/10; ARC 9104B, IAB 9/22/10, effective 10/27/10; ARC 9820B, IAB 11/2/11, effective 12/7/11; ARC 0337C, IAB 9/19/12, effective 10/24/12; ARC 1101C, IAB 10/16/13, effective 11/20/13; ARC 1545C, IAB 7/23/14, effective 8/27/14]

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 subsection 96.19(37) 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(422) Seed capital income tax credit. Rescinded IAB 3/6/02, effective 4/10/02.

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 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.

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 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. If applications are received for more than $4 million, the applicants shall receive certificates for a prorated amount.

The Iowa department of economic development 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 attached to 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 Iowa department of economic development 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 Iowa department of economic development 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 Iowa department of economic development, so the tax credit certificate is attached to 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 attached to 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 attached to the tax return for the period ending December 31, 2003, since the certificate is not valid until the following year following the project’s completion. The tax return for the period ending December 31, 2002, reports a tax liability of $150,000. The investment credit is limited to $150,000 for the period ending December 31, 2002, and the remaining $50,000 can be carried forward for the following seven tax years.

EXAMPLE 4. Corporation D is a cooperative described in Section 521 of the Internal Revenue Code that completes a project involving ethanol in August 2002. Corporation D has an investment tax credit of $500,000. Corporation D is not required to file an Iowa income tax return because Corporation D is exempt from federal income tax. When filing for the tax credit certificate in May 2003 for the $500,000 unused credit, Corporation D must attach a list of its members and the share of each member’s interest in the cooperative. The Iowa department of economic development will issue tax credit certificates to each member on the list based on each member’s interest in the cooperative. The members can attach the tax credit certificate to their Iowa income tax returns for the year ending December 31, 2003, since the certificate is not valid until the year following project completion.

EXAMPLE 5. Corporation E is a cooperative described in Section 521 of the Internal Revenue Code that completes a project involving ethanol in August 2002. Corporation E has an investment tax credit of $500,000. Corporation E is required to file an Iowa income tax return because Corporation E is not exempt from federal income tax. Corporation E expects a tax liability of $100,000 on its Iowa income tax return for the year ending December 31, 2002. Corporation E applies for a tax credit certificate for the unused credit of $400,000 and elects to transfer the $400,000 unused credit to its members. When applying for the tax credit certificate in May 2003, Corporation E must provide a list of its members and the pro rata share of each member’s earnings in the cooperative. The Iowa department of economic development will issue tax credit certificates to each member of the cooperative. The members can attach the tax credit certificate to 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 Iowa department of economic development 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 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. 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 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 15.335.

[ARC 8605B, IAB 3/10/10, effective 4/14/10; ARC 9104B, IAB 9/22/10, effective 10/27/10]

701—52.11(422) Refunds and overpayments.

52.11(1) to 52.11(6) Reserved.

52.11(7) Computation of interest on refunds resulting from net operating losses or net capital losses for tax years or periods beginning on or after January 1, 1974. Rescinded IAB 11/24/04, effective 12/29/04.
52.11(8) Computation of interest on refunds resulting from net operating losses or net capital losses for tax years or periods beginning on or after January 1, 1974, and ending on or after July 1, 1980. Rescinded IAB 11/24/04, effective 12/29/04.

52.11(9) Computation of interest on refunds resulting from net operating losses or net capital losses for tax years ending on or after April 30, 1981. Rescinded IAB 11/24/04, effective 12/29/04.

52.11(10) For refund claims received by the department after June 1, 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(12) Interest commencing on or after January 1, 1982. See rule 701—10.2(421) regarding the rate of interest charged by the department on delinquent taxes and the rate paid by the department on refunds commencing on or after January 1, 1982.


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. The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be claimed in the following sequence.

1. Franchise tax credit.
2. Disaster recovery housing project tax credit.
3. School tuition organization tax credit.
4. Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit).
5. Endow Iowa tax credit.
6. Agricultural assets transfer tax credit.
7. Custom farming contract tax credit.
8. Film qualified expenditure tax credit.
9. Film investment tax credit.
10. Redevelopment tax credit.
11. From farm to food donation tax credit.
12. Investment tax credit.
13. Wind energy production tax credit.
14. Renewable energy tax credit.
15. Redeemed Iowa fund of funds tax credit.
16. New jobs tax credit.
17. Economic development region revolving fund tax credit.
18. Solar energy system tax credit.
19. Charitable conservation contribution tax credit.
20. Alternative minimum tax credit.
21. Historic preservation and cultural and entertainment district tax credit.
22. Corporate tax credit for certain sales tax paid by developer.
23. Ethanol promotion tax credit.
24. Research activities credit.
25. Assistive device tax credit.
26. Motor fuel tax credit.
27. Wage-benefits tax credit.
28. Refundable portion of investment tax credit, as provided in subrule 52.10(4).
29. E-85 gasoline promotion tax credit.
30. Biodiesel blended fuel tax credit.
31. E-15 plus gasoline promotion tax credit.
32. Estimated tax and payment with vouchers.

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, a business which qualifies under the enterprise zone program is eligible to receive tax credits. An eligible business under the enterprise zone program must be approved by the Iowa department of economic development and meet the requirements of Iowa Code section 15E.193. The administrative rules for the enterprise zone program for the Iowa department of economic development 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.

This rule is intended to implement Iowa Code section 15E.193 and Supplement section 15E.196.

[ARC 8589B, IAB 3/10/10, effective 4/14/10; ARC 9104B, IAB 9/22/10, effective 10/27/10]

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 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 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.
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 Iowa department of economic development 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 attached to 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 Iowa department of economic development 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.

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 Iowa department of economic development, 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 Iowa department of economic development 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 Iowa Code Supplement section 15E.193B as amended by 2006 Iowa Acts, chapter 1158.

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 attached to 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 attach a copy of the certificate of entitlement and the statement of allocation of the assistive device credit to 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 implanted or transplanted into or attached directly to an individual. “Assistive device” does not include any device
for which a certificate of title is issued by the state department of transportation, but does include any item, piece of equipment, or product system otherwise meeting the definition of “assistive device” that is incorporated, attached, or included as a modification in or to such a device issued a certificate of title.

“Business entity” means partnership, limited liability company, S corporation, estate or trust, where the income of the business is taxed to the individual owners of the business, whether the individual owner is a partner, member, shareholder, or beneficiary.

“Disability” means the same as defined in Iowa Code section 15.102. Therefore, “disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual. “Disability” does not include any of the following:

1. Homosexuality or bisexuality;
2. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders, or other sexual behavior disorders;
3. Compulsive gambling, kleptomania, or pyromania;
4. Psychoactive substance abuse disorders resulting from current illegal use of drugs;
5. Alcoholism.

“Employee” means an individual who is employed by the small business who meets the criteria in Treasury Regulation § 31.3401(c)-1(b), which is the definition of an employee for federal income tax withholding purposes. An individual who receives self-employment income from the small business is not to be considered 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.

701—52.18(404A,422) Historic preservation and cultural and entertainment district tax credit. 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 administrative rules for the historic preservation and cultural and entertainment district tax credit for the historical division of the department of cultural affairs may be found under 223—Chapter 48.

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. For fiscal years beginning on or after July 1, 2000, $2.4 million shall be appropriated for historic preservation and cultural and entertainment district tax credits for each year. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional $4 million of tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than $4 million of tax credits is appropriated during a fiscal year, the remaining amount shall be applied to reserved tax credits for projects not located in cultural and entertainment districts in the order of original reservation by the department of cultural affairs. For the fiscal year beginning July 1, 2007, $10 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2008, $15 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2009, through the fiscal year beginning July 1, 2011, $50 million in historic preservation and cultural and entertainment district tax credits is available. The allocation of the $50 million of credits for the fiscal year beginning July 1, 2009, through the fiscal year beginning July 1, 2011, is set forth in rule 223—48.7(303,404A). For fiscal years beginning on or after July 1, 2012, $45 million in historic preservation and cultural and entertainment district tax credits is available. Tax credits shall not be reserved by the department of cultural affairs for more than three years except for tax credits issued for contracts entered into prior to July 1, 2007.

b. For the state fiscal year beginning on July 1, 2009, $20 million of the credits may be claimed on tax returns beginning on or after January 1, 2009, and $30 million of the credits may be claimed on tax returns beginning on or after January 1, 2010. For the state fiscal year beginning July 1, 2010, $20 million of the credits may be claimed on tax returns beginning on or after January 1, 2010, and $30 million of the credits may be claimed on tax returns beginning on or after January 1, 2011. For the state fiscal year beginning July 1, 2011, $20 million of the credits may be claimed on tax returns beginning on or after January 1, 2011, and $30 million of the credits may be claimed on tax returns beginning on or after January 1, 2012.

c. 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.

d. The state historic preservation office (SHPO) is to establish selection criteria and standards for rehabilitation projects involving eligible property. The approval process is not to exceed 90 days from the date the application is received by SHPO. To the extent possible, the standards used by SHPO are to be consistent with the standards of the United States Secretary of the Interior for rehabilitation of eligible property.

e. Once SHPO approves a particular historic preservation and cultural and entertainment district tax credit project application, the office will encumber an estimated historic preservation and cultural and entertainment district tax credit under the name of the applicant(s) for the year the project is approved.

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 SHPO for a project for a particular taxpayer to the extent those rehabilitation costs are actually expended by that taxpayer.

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. 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.

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.

For 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. However, for tax years beginning only in the 2000 calendar year, the basis of the rehabilitated property would have been $600,000, since for those tax periods any qualified rehabilitation costs used to compute the historic preservation and cultural and entertainment district tax credit for the tax year could not be added to the basis of the property. 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. If the building in this example were eligible for the federal rehabilitation credit provided in Section 47 of the Internal Revenue Code, the basis of the building for Iowa tax purposes would be reduced accordingly by the same amount as the reduction required for federal tax purposes.

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 attached to 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 the 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, 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 attached to the income tax return for the period in which the project was completed. If the amount of the historic preservation and cultural and entertainment district tax credit exceeds the taxpayer’s income tax liability for the tax year for which the credit applies, the taxpayer is entitled to a refund of the excess portion of the credit at a discounted value for tax periods ending prior to July 1, 2007. However, the refund cannot exceed 75 percent of the allowable tax credit. The refund of the tax credit is to be computed on the basis of the following table:

<table>
<thead>
<tr>
<th>Annual Interest Rate</th>
<th>Five-Year Present Value/Dollar Compounded Annually</th>
</tr>
</thead>
<tbody>
<tr>
<td>5%</td>
<td>$.784</td>
</tr>
<tr>
<td>6%</td>
<td>$.747</td>
</tr>
<tr>
<td>7%</td>
<td>$.713</td>
</tr>
<tr>
<td>8%</td>
<td>$.681</td>
</tr>
<tr>
<td>9%</td>
<td>$.650</td>
</tr>
<tr>
<td>10%</td>
<td>$.621</td>
</tr>
<tr>
<td>11%</td>
<td>$.594</td>
</tr>
<tr>
<td>12%</td>
<td>$.567</td>
</tr>
<tr>
<td>13%</td>
<td>$.543</td>
</tr>
<tr>
<td>14%</td>
<td>$.519</td>
</tr>
<tr>
<td>15%</td>
<td>$.497</td>
</tr>
<tr>
<td>16%</td>
<td>$.476</td>
</tr>
<tr>
<td>17%</td>
<td>$.456</td>
</tr>
<tr>
<td>18%</td>
<td>$.437</td>
</tr>
</tbody>
</table>

**EXAMPLE:** The following is an example to show how the table can be used to compute a refund for a taxpayer. An individual has a historic preservation and cultural and entertainment district tax credit of $800,000 for a project completed in 2001. The individual had an income tax liability prior to the credit of $300,000 on the 2001 return, which leaves an excess credit of $500,000. We will assume that the annual interest rate for tax refunds issued by the department of revenue in the 2001 calendar year is 11 percent. Therefore, to compute the five-year present value of the $500,000 excess credit, $500,000 is multiplied by the compound factor for 2001 which is 11 percent or .594 which results in a refund of $297,000.

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.**

a. **Projects beginning prior to July 1, 2005.** When the business entity that has earned a historic preservation and cultural and entertainment district tax credit is an S corporation, partnership, limited liability company, estate or trust where the individual owners of the business entity are taxed on the income of the entity, the historic preservation and cultural and entertainment district tax credit is to be allocated to the individual owners. The business entity is to allocate the historic preservation and cultural and entertainment district tax credit to each individual owner in the same pro-rata basis that the earnings
or profits of the business entity are allocated to the owners for projects beginning prior to July 1, 2005. For example, if a shareholder of an S corporation received 25 percent of the earnings of the corporation and the corporation had earned a historic preservation and cultural and entertainment district tax credit, 25 percent of the credit would be allocated to the shareholder.

b. Projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012. For projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012, which used low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the rehabilitation project, 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 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.

c. 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.

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 state historic preservation office of the department of cultural affairs, 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 state historic preservation office shall 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 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.

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.

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 refund shall be discounted as described in subrule 52.18(4) for tax years ending prior to July 1, 2007, just as the refund would have been discounted on the Iowa income tax return of the taxpayer. For tax years ending on or after July 1, 2007, any historic preservation and cultural and entertainment district tax credit of the transferee in excess of the transferee’s tax liability is fully refundable.

This rule is intended to implement Iowa Code chapter 404A as amended by 2013 Iowa Acts, Senate File 436, and Iowa Code section 422.33.

[ARC 7761B, IAB 5/6/09, effective 6/10/09; ARC 8589B, IAB 3/10/10, effective 4/14/10; ARC 9104B, IAB 9/22/10, effective 10/27/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 0398C, IAB 10/17/12, effective 11/21/12; ARC 1138C, IAB 10/30/13, effective 12/4/13]
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 that retail motor fuel site during the tax year in excess of 60 percent of all gasoline sold and dispensed through motor fuel pumps at that retail motor fuel site during the tax year.

For fiscal years ending in 2002, the tax credit is available for each eligible retail motor fuel site based on the total number of gallons of ethanol blended gasoline sold and dispensed through all motor fuel pumps located at the taxpayer’s retail motor fuel site from January 1, 2002, until the end of the taxpayer’s fiscal year. Assuming a tax period that began on July 1, 2001, and ended on June 30, 2002, the taxpayer would be eligible for the tax credit based on the gallons of ethanol blended gasoline sold from January 1, 2002, through June 30, 2002. For taxpayers having a fiscal year ending in 2002, a claim for refund to claim the ethanol blended gasoline tax credit must be filed before October 1, 2003, even though the statute of limitations for refund set forth in 701—subrule 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 by dividing the square footage of building space occupied by the retail business by the square footage of the total building space.

An eligible business, which is not a development business, which operates in an enterprise zone cannot claim an investment tax credit if the property is owned, or was previously owned, by an approved development business that has already received an investment tax credit. An eligible business, which is not a development business, can claim an investment tax credit only on additional, new improvements
made to real property that was not included in the development business’s approved application for the investment tax credit.

This rule is intended to implement Iowa Code section 15E.193C.

**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.** 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. 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.

The department of revenue will be notified by the Iowa capital investment board or 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 a qualifying business or community-based seed capital 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. 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.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the $2 million cap has been reached, the tax credit may be claimed by the taxpayer for the third tax year following the tax year for which the credit is issued. For example, if a corporation taxpayer whose tax year ends on December 31, 2012, makes an equity investment in December 2012 and the $2 million cap for the fiscal year ending June 30, 2013, had already been reached, the tax credit will be issued for the tax year ending December 31, 2013, and cannot be redeemed until the tax year ending December 31, 2016.

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.

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.

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 2014 Iowa Acts, Senate File 2359.

[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]

### 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 Iowa department of economic development 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 attached to 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 Iowa department of economic development 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 is because it is a recovery of an incentive, rather than an adjustment to the taxpayer’s tax liability.
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]

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, 2010, the credit is equal to 20 percent of the 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 ¾ of a megawatt.

The maximum amount of nameplate generating capacity for all qualified wind energy production facilities cannot exceed 50 megawatts of nameplate generating capacity. An owner shall not own more than two qualified facilities. A facility that is not operational within 18 months after issuance of the approval from the Iowa utilities board will no longer be considered a qualified facility. However, a facility that is not operational within 18 months due to the unavailability of necessary equipment shall be granted an additional 12 months to become operational.

An owner of the qualified facility must apply to the Iowa utilities board for the wind energy production tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.20(1).

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 attach the tax credit certificate to 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]

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. 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).

52.27(1) Application and review process for the renewable energy tax credit. A producer or purchaser of a renewable energy facility must be approved by the Iowa utilities board in order to qualify for the renewable energy 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, 2017.

The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed 363 megawatts of nameplate generating capacity. 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. A facility that is not operational within 30 months after issuance of approval from the utilities board will no longer be considered a qualified facility. However, if the facility is a wind energy conversion property and is not operational within 18 months due to the unavailability of necessary equipment, the facility may apply for a 12-month extension of the 30-month limit. Extensions can be renewed for succeeding 12-month periods if the facility applies for the extension prior to expiration of the current extension period. A producer of renewable energy, which is the person who owns the renewable energy facility, cannot own more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than 51 percent in an eligible renewable energy facility cannot have an equity interest greater than 10 percent in any other renewable energy facility.

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).

52.27(2) Computation of the credit. The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or 44 cents 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.

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.

The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that are generated and purchased from an eligible facility or used for on-site consumption by the producer during the tax year. The department will calculate the credit and issue a tax credit certificate to the purchaser or producer. 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(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 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). In addition, the department will not issue a tax credit certificate to any person who received a wind energy production tax credit in accordance with Iowa Code chapter 476B.

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 renewable energy facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours, standard cubic feet or British thermal units generated and purchased or 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, 2024.

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) Transfer of the renewable energy tax credit certificate. 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.

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 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.

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.

52.27(4) 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).

This rule is intended to implement Iowa Code section 422.33 and chapter 476C as amended by 2014 Iowa Acts, Senate File 2343.

[ARC 8589B, IAB 3/10/10, effective 4/14/10; ARC 8605B, IAB 3/10/10, effective 4/14/10; ARC 9876B, IAB 11/30/11, effective 1/4/12; ARC 0251C, IAB 8/8/12, effective 9/12/12; ARC 665C, IAB 10/15/14, effective 11/19/14]

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 “e” and “j,” purchased for use in the operation of the eligible business. The purchase price shall be depreciated in accordance with generally accepted accounting principles.

2. The purchase price of real property and any buildings and structures located on the real property.

3. The cost of improvements made to real property which is used in the operation of the eligible business.

In addition, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer’s cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

The investment tax credit can be claimed in the tax year in which the qualifying assets are placed in service. The investment tax credit will be amortized over a five-year period. Any credit in excess of the tax liability for the tax period may be carried forward seven years or until used, whichever is the earlier.

EXAMPLE: An eligible business which files tax returns on a calendar-year basis earned $100,000 of investment tax credits for new investment made in 2006. The business can claim $20,000 of investment tax credits for each of the years from 2006 through 2010. The $20,000 of investment tax credit that can be claimed in 2006 can be carried forward to the 2007-2013 tax years if the entire credit cannot be claimed on the 2006 return. Similarly, the $20,000 investment tax credit that can be claimed in 2007 can be carried forward to the 2008-2014 tax years if the entire credit cannot be claimed on the 2007 return.

If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by an individual must be based on the individual’s pro-rata share of the individual’s earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual.

EXAMPLE: An eligible business which files tax returns on a calendar-year basis was awarded $500,000 in investment tax credits in December 2008. The credits were amortized over a five-year period, with $100,000 of investment tax credits being available for the fiscal years ending June 30, 2009, through June 30, 2013. This equates to the investment tax credit being available for the 2008-2012 calendar year returns since the due date of these returns range from April 30, 2009, through April 30, 2013, which falls within the fiscal years ending June 30, 2009, through June 30, 2013. The eligible business placed the qualifying assets in service during the 2010 calendar year. The eligible business can claim $300,000 of investment tax credit for 2010, $100,000 of investment tax credit for 2011 and $100,000 of investment tax credit for 2012. Of the $300,000 claimed for the 2010 tax year, $100,000 can be carried forward until the 2015 tax year, $100,000 can be carried forward to the 2016 tax year, and $100,000 can be carried forward to the 2017 tax year. The seven-year carryforward period is determined by the amortization schedule, not the initial year in which the investment tax credit can be claimed on an Iowa tax return.

b. Investment tax credit—value-added agricultural products or biotechnology-related processes. An eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund for all or a
portion of an unused investment tax credit. An eligible business includes a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol.

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than $4 million during a fiscal year to eligible businesses for this program and the enterprise zone program described in subrule 52.14(2). If applications are received for more than $4 million, the applicants shall receive certificates for a prorated amount.

The Iowa department of economic development 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 attached to 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 Iowa department of economic development 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.

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 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.

**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.
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—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]

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 IA 135. 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>Credit 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 2017</td>
<td>16 cents</td>
</tr>
</tbody>
</table>

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, for the same tax year for the same ethanol gallons.

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.

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(1) 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, 2018, a taxpayer whose tax year ends prior to December 31, 2017, can continue to claim the tax credit in the following tax year for any E-85 gallons sold through December 31, 2017. 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: 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: 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 times 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(2) Allocation of credit to owners of a business entity. 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 2011 Iowa Acts, Senate File 531.

[ARC 9821B, IAB 11/2/11, effective 12/7/11]

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 which meets the standards provided in Iowa Code section 214A.2. The biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel, if the formulation meets the standards provided by Iowa Code section 214A.2, to qualify for the tax credit for gallons sold on or after January 1, 2006, but before January 1, 2013. For gallons sold on or after January 1, 2013, but before January 1, 2018, the biodiesel blended fuel must be formulated with a minimum percentage of 5 percent by volume of biodiesel, if the formulation meets the standards provided by Iowa Code section 214A.2, to qualify for the tax credit. In addition, of the total gallons of diesel fuel sold by the retail dealer, 50 percent or more must be biodiesel blended fuel to be eligible for the tax credit for tax years beginning prior to January 1, 2009. For tax years beginning on or after January 1, 2009, but before 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. 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.

The tax credit equals three cents multiplied by the qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year for gallons sold through December 31, 2011. For gallons sold during the 2012 calendar year, the tax credit equals the sum of two cents multiplied by
the qualifying number of biodiesel blended fuel gallons that have a minimum percentage of 2 percent by volume of biodiesel but less than 5 percent by volume of biodiesel and 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. For gallons sold during the 2013 to 2017 calendar years, 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. 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 1A 8864.

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.

EXAMPLE: 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: 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, and the other site sold 10,000 gallons of biodiesel blended fuel. 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. If the facts in this example had occurred during the 2009 tax year, the taxpayer could 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.

52.31(1) 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, 2018, a taxpayer whose tax year ends prior to December 31, 2017, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, 2017.

EXAMPLE: 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 times 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: 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: A taxpayer who operates one retail motor fuel site has a fiscal year ending February 28, 2012. The taxpayer sold 100,000 gallons of diesel fuel for the period from March 1, 2011, through
February 28, 2012, of which 60,000 gallons was biodiesel blended fuel. For the period from March 1, 2011, through December 31, 2011, 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 $1,500 (50,000 gallons times 3 cents) on the taxpayer’s Iowa income tax return for the period ending February 12, 2012, since the credit is computed only on gallons sold through December 31, 2011.

52.31(2) Allocation of credit to owners of a business entity. 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 2011 Iowa Acts, Senate File 531.

[ARC 9821B, IAB 11/2/11, effective 12/7/11]

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 applied. To claim the tax credit, the owner must include the tax credit certificate with the tax return for the tax period set forth on the certificate. The tax credit certificates will be issued on a first-come, first-served basis. For fiscal years beginning on or after July 1, 2009, but before July 1, 2013, the amount of tax credit certificates issued by the Iowa agricultural development authority for the agricultural assets transfer tax credit program cannot exceed $6 million. For fiscal years beginning on or after July 1, 2013, the amount of tax credit certificates issued by the Iowa finance authority for the agricultural assets transfer tax credit program cannot exceed $8 million and the amount of the credit issued to an individual taxpayer cannot exceed $50,000. However, effective December 31, 2017, the amount of tax credits issued by the Iowa finance authority for the agricultural assets transfer tax credit shall revert back to $6 million.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. However, for any agricultural assets transfer credits originally issued for tax years beginning on or after January 1, 2008, any credit in excess of the
tax liability may be credited to the tax liability for the following ten years. The tax credit shall not be carried back to a tax year prior to the year in which the owner redeems the credit. The credit is not transferable to any other person other than the taxpayer’s estate or trust upon the death of the taxpayer.

If an owner of agricultural assets is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro-rata share of the individual’s earnings of the partnership, limited liability company, S corporation, or estate or trust.

The lease or rental agreement may be terminated by either the owner or the beginning farmer. If the Iowa finance authority determines that the owner is not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the Iowa finance authority determines that the owner is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be recaptured, and the owner will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

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 not at fault for the termination, the authority will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the Iowa finance authority determines that the taxpayer is at fault for the termination, any prior tax credit certificates will be disallowed. The amount of tax credits previously allowed will be
recaptured, and the taxpayer will be required to repay the entire amount of tax credits previously claimed on Iowa returns.

This rule is intended to implement Iowa Code section 422.33; 2014 Iowa Acts, Senate File 2328, sections 60 and 61, as amended by 2014 Iowa Acts, House File 2454; and 2014 Iowa Acts, Senate File 2328, sections 120 and 122.

[A RC 8589 B, IAB 3/10/10, effective 4/14/10; ARC 1138 C, IAB 10/30/13, effective 12/4/13; ARC 1665 C, 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 attach the tax credit certificate to 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. [ARC 8589B, IAB 3/10/10, effective 4/14/10; ARC 0398C, IAB 10/17/12, effective 11/21/12]

**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 attach the tax credit certificate to 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.

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 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.

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. or taxpayers whose tax year is not on a calendar year basis, the taxpayer may compute the ethanol promotion tax credit on the total ethanol gallonage sold during the year using the designated tax credit rates as shown in 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 noninclusive examples illustrate how this rule applies:

EXAMPLE 1. A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2009 equals 100,000 gallons. This consisted of 5,000 gallons of E-85 gasoline, 80,000 gallons of E-10 (10% ethanol blended gasoline) and 15,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold at this site during 2009 15,000 gallons of diesel fuel, of which 5,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 11,950 (5,000 E-85 gallons times 79% equals 3,950; 80,000 E-10 gallons times 10% equals 8,000; and thus 3,950 plus 8,000 equals 11,950). The biodiesel gallonage sold is 100, or 5,000 times 2%. The sum of 11,950 and 100, or 12,050, is divided by the total gasoline gallonage of 100,000 to arrive at a biofuel distribution percentage of 12.05%. Since this exceeds the biofuel threshold percentage of 6% for a retail dealer selling 200,000 gallons or less, the biofuel threshold disparity percentage is 0%. This results in an ethanol promotion tax credit of 6.5 cents times 11,950, or $776.75.
In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 5,000 gallons, or $1,000.

**EXAMPLE 2.** A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2010 equals 300,000 gallons. This consisted of 10,000 gallons of E-85 gasoline, 230,000 gallons of E-10 (10% ethanol blended gasoline) and 60,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold at this site during 2010 60,000 gallons of diesel fuel, of which 25,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 30,900 (10,000 E-85 gallons times 79% equals 7,900; 230,000 E-10 gallons times 10% equals 23,000; and thus 7,900 plus 23,000 equals 30,900). The biodiesel gallonage sold is 500, or 25,000 times 2%. The sum of 30,900 and 500, or 31,400, is divided by the total gasoline gallonage of 300,000 to arrive at a biofuel distribution percentage of 10.47%. Since this is less than the biofuel threshold percentage of 11% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity percentage is .53%. This results in an ethanol promotion tax credit of 4.5 cents times 30,900, or $1,390.50.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 10,000 gallons, or $2,000.

**EXAMPLE 3.** A taxpayer that is a retail dealer of gasoline operates three motor fuel sites in Iowa during 2009, and each site sold 80,000 gallons of gasoline. Sites A and B each sold 70,000 gallons of E-10 (10% ethanol blended gasoline) and 10,000 gallons not containing ethanol. Site C sold 60,000 gallons of E-10, 10,000 gallons of E-85, and 10,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The retail dealer did not sell any diesel fuel at any of the motor fuel sites. The ethanol gallonage is 27,900, as shown below:

<table>
<thead>
<tr>
<th>Site</th>
<th>Gallons Calculation</th>
<th>Ethanol Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site A</td>
<td>70,000 times 10% equals</td>
<td>7,000</td>
</tr>
<tr>
<td>Site B</td>
<td>70,000 times 10% equals</td>
<td>7,000</td>
</tr>
<tr>
<td>Site C</td>
<td>60,000 times 10% equals</td>
<td>6,000</td>
</tr>
<tr>
<td>Site C</td>
<td>10,000 times 79% equals</td>
<td>7,900</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>27,900</strong></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 Calculation</th>
<th>Ethanol Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site A</td>
<td>7,000 times 6.5 cents equal</td>
<td>$455.00</td>
</tr>
<tr>
<td>Site B</td>
<td>7,000 times 6.5 cents equal</td>
<td>$455.00</td>
</tr>
<tr>
<td>Site C</td>
<td>13,900 times 6.5 cents equal</td>
<td>$903.50</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$1,813.50</strong></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>Gallonage Multiplied by Rate</th>
<th>Credit</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><strong>Total</strong></td>
<td><strong>$2,310</strong></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>Gallonage Multiplied by Rate</th>
<th>Credit</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><strong>Total</strong></td>
<td><strong>$1,462</strong></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 9821B, 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 attach a copy of federal Form 8283, Noncash Charitable Contributions, which reflects the calculation of the fair market value of the real property interest, to 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 attached to federal Form 8283 for federal tax purposes, the appraisal and other relevant information must also be attached to 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.

701—52.38(422) School tuition organization tax credit. Effective for tax years beginning on or after July 1, 2009, 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, 2013, the credit is available for S corporations, partnerships, limited liability companies, estates and trusts where the income is taxed directly to the individual shareholders, partners, members or beneficiaries. The amount of credit claimed by an individual shall be based on the pro-rata share of the individual’s earnings of the 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.** 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. 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. Of the $12 million of school tuition organization tax credits authorized for 2014 and subsequent calendar years, no more than 25 percent, or $3 million, can be authorized for corporation income tax 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 will 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 attach the tax credit certificate to the tax return for which the credit is claimed. 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 may 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]

701—52.39(15,422) **Redevelopment tax credit.** Effective for tax years beginning on or after January 1, 2009, a taxpayer whose project has been approved by the Iowa brownfield redevelopment advisory council may claim a redevelopment tax credit. The credit is based on the taxpayer’s qualifying investment in a brownfield or grayfield site. The administrative rules for a redevelopment project for the brownfield redevelopment authority which qualifies for the tax credit, including definitions of brownfield and grayfield sites, may be found in rules 261—65.11(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 the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was $1 million, and the amount of credits authorized for any one redevelopment project could not exceed $100,000. For fiscal years 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, and subsequent fiscal years, 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.

52.39(2) **Computation and claiming of the credit.**

a. 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).

b. Upon completion of the project, the Iowa department of economic development 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(3).
c. 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.

d. 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).

e. To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the 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. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit.

52.39(3) Transfer of the credit. The redevelopment tax credit can be transferred 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 describing 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. 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.

This rule is intended to implement Iowa Code sections 15.293A and 422.33 and section 15.119 as amended by 2013 Iowa Acts, House File 620.

[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]

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 subrule and in subrule 52.7(5) for businesses in enterprise zones, and are not applicable to the research activities credit set forth in subrule 52.7(3).

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.

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]

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. 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. The administrative rules for the aggregate tax credit limit for the Iowa economic development authority may be found at 261—Chapter 76.

This rule is intended to implement Iowa Code section 15.119 as amended by 2013 Iowa Acts, House File 620. [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]

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 IAI138. 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 2014-2017 calendar years: 3 cents
- Gallons sold from June 1 through September 15 for the 2014-2017 calendar years: 10 cents

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 for the same tax year for the same ethanol gallons.

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.
52.43(1) 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, 2018, a taxpayer whose tax year ends prior to December 31, 2017, may continue to claim the tax credit in the following tax year for any E-15 plus gasoline sold through December 31, 2017. 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 gasoline 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 before December 31, 2011, the dealer must claim the credit for the current tax year for gasoline 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 times 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, 2018. The taxpayer sold 20,000 gallons of E-15 plus gasoline for the period from March 1, 2017, through February 28, 2018, of which 16,000 gallons were sold between March 1, 2017, and December 31, 2017. Six thousand of these 16,000 gallons were sold between June 1, 2017, and September 15, 2017. The taxpayer is entitled to claim an E-15 plus gasoline promotion tax credit of $900 (10,000 gallons times 3 cents plus 6,000 gallons times 10 cents) on the taxpayer’s Iowa income tax return for the period ending February 28, 2018.

52.43(2) Allocation of credit to owners of a business entity. 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 422.33 and 2014 Iowa Acts, Senate File 2344.

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 located in Iowa.

52.44(1) Property eligible for the tax credit. The following property located in Iowa is eligible for the tax credit:

a. Equipment which uses solar energy to generate electricity, to heat or cool (or to provide hot water for use in) a structure, or to provide solar process heat (excepting property used to generate energy for the purposes of heating a swimming pool) and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(i) of the Internal Revenue Code.

b. Equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight and which is eligible for the federal energy credit as described in Section 48(a)(3)(A)(ii) of the Internal Revenue Code.
52.44(2) Calculation of credit for systems installed during tax years beginning on or after January 1, 2012, but before January 1, 2014. The credit is equal to the sum of the following federal tax credits:

a. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

b. Fifty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 52.44(2) “a” and “b” cannot exceed $15,000 for a tax year.

The federal energy tax credits for solar energy systems are allowed for installations that are placed in service before January 1, 2014. The solar energy system must be placed in service on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a $9,000 energy credit on the 2011 federal return due to an installation of a solar energy system that was placed in service in 2011. The taxpayer applied $4,000 of the credit on the taxpayer’s 2011 federal return since the federal tax liability was $4,000. The remaining $5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was placed in service before January 1, 2012.

52.44(3) Calculation of credit for systems installed during tax years beginning on or after January 1, 2014, but before January 1, 2017. The credit is equal to the sum of the following federal tax credits:

a. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(II) of the Internal Revenue Code.

b. Sixty percent of the federal energy credit provided in Section 48(a)(2)(A)(i)(III) of the Internal Revenue Code.

The amount of tax credit claimed by a taxpayer related to paragraphs 52.44(3) “a” and “b” cannot exceed $20,000 for a tax year.

The federal energy tax credit for solar energy systems is allowed for installations that are placed in service on or before December 31, 2016. Therefore, the Iowa tax credit is available for installations placed in service before January 1, 2017. If the federal energy tax credit is extended to installations placed in service on or after January 1, 2017, the Iowa credit will also be extended.

52.44(4) Application for the tax credit. No more than $1.5 million of tax credits for solar energy systems are allowed for tax years 2012 and 2013. The $1.5 million cap also includes the solar energy system tax credits provided in rule 701—42.48(422) for individual income tax. No more than $4.5 million of tax credits for solar energy systems is allowed for each of the tax years 2014 to 2016. The $4.5 million cap does not include any dollars allocated to a previous tax year that roll over to the 2015 and 2016 tax years. The $4.5 million cap also includes the solar energy system tax credits provided in rule 701—42.48(422) for individual income tax and in rule 701—58.22(422) for franchise tax. Awards are made on a first-come, first-served basis. At least $1 million of the $4.5 million cap for the 2014 to 2016 tax years is reserved for residential installations. 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. If the $4.5 million cap for the 2014 and 2015 tax years is not reached, the remaining amount below $4.5 million will be allowed to be carried forward to the following tax year and shall not count toward the cap for that tax year.

a. A taxpayer may claim one tax credit for each separate and distinct solar installation. In order for an installation to be considered a separate and distinct solar installation, both of the following factors must be met:

(1) Each installation must be eligible for the federal energy credit as provided in subrule 52.44(3).

(2) Each installation must have separate metering.

b. In order to request the tax credit, a taxpayer must complete an application for the solar energy tax credit for each separate and distinct installation. 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. 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.
(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 for the solar energy system.
(6) Amount of Iowa tax credit requested.
(7) A completion sheet from a local utility company verifying that the system has been placed in service. If a completion sheet is not available from the local utility company, 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.

If the department receives applications for tax credits in excess of the $1.5 million available for 2012 and 2013 and the $4.5 million available for 2014 to 2016, the applications will be prioritized by the date the department received the applications. If the number of applications exceeds the $1.5 or $4.5 million of tax credits available, the department shall establish a wait list for the next year’s allocation of tax credits and the applications shall first be funded in the order listed on the wait list. However, if the $4.5 million cap of tax credit is reached for 2016, no applications in excess of the $4.5 million cap will be carried over to the next year, assuming there is no extension of the federal credit.

EXAMPLE: A taxpayer submitted an application for a $2,500 tax credit on December 1, 2012, for an installation that occurred in 2012. The application was denied on December 15, 2012, because the $1.5 million cap had already been reached for 2012. The taxpayer will be placed on a wait list and will receive priority for receiving the tax credit for the 2013 tax year. However, if the application was submitted on December 1, 2016, for an installation that occurred in 2016 and the $4.5 million cap had already been reached for 2016, no tax credit will be allowed for the 2017 tax year, assuming there is no extension of the federal credit.

d. A taxpayer who is eligible to receive a renewable energy tax credit provided in rule 701—52.27(422.476C) is not eligible for the solar energy system tax credit.

52.44(5) Allocation of tax credit to owners of a business entity. 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 2014 to 2016.

This rule is intended to implement Iowa Code section 422.33 as amended by 2014 Iowa Acts, House File 2473, section 76.

[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]

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(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 Web site. The department will maintain a list of recognized organizations on the department’s Web site.

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.

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 implemented to implement 2013 Iowa Acts, Senate File 452, division XVIII.

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

[Filed 12/12/74]
[Filed 12/10/76, Notice 9/22/76—published 12/29/76, effective 2/2/77]
[Filed 4/28/78, Notice 3/22/78—published 5/17/78, effective 6/22/78]
[Filed 12/7/79, Notice 10/31/79—published 12/26/79, effective 1/30/80]
[Filed emergency 6/6/80—published 6/25/80, effective 6/6/80]
[Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]
[Filed 12/5/80, Notice 10/29/80—published 12/24/80, effective 1/28/81]
[Filed 9/11/81, Notice 8/5/81—published 9/30/81, effective 11/4/81]
[Filed 11/20/81, Notice 10/14/81—published 12/9/81, effective 1/13/82]
[Filed 12/31/81, Notice 11/25/81—published 1/20/82, effective 2/24/82]
[Filed 9/23/82, Notice 8/18/82—published 10/13/82, effective 11/17/82]
[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/15/82]
[Filed 11/19/82, Notice 10/13/82—published 12/8/82, effective 1/12/83]
[Filed 2/10/84, Notice 1/4/84—published 2/29/84, effective 4/5/84]
[Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]
[Filed 10/19/84, Notice 9/12/84—published 11/7/84, effective 12/12/84]
[Filed 2/22/85, Notice 1/16/85—published 3/13/85, effective 4/17/85]
[Filed 3/8/85, Notice 1/30/85—published 3/27/85, effective 5/1/85]
[Filed 8/23/85, Notice 7/17/85—published 9/11/85, effective 10/16/85]
[Filed 9/6/85, Notice 7/31/85—published 9/25/85, effective 10/30/85]
[Filed 12/2/85, Notice 10/23/85—published 12/18/85, effective 1/22/86]
[Filed 6/27/86, Notice 5/7/86—published 7/16/86, effective 8/20/86]
[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]
[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]
[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]
[Filed 10/16/87, Notice 9/9/87—published 11/4/87, effective 12/9/87]
[Filed 2/5/88, Notice 12/30/87—published 2/24/88, effective 3/30/88]
[Filed 8/19/88, Notice 7/13/88—published 9/7/88, effective 10/12/88]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]
[Filed 10/27/89, Notice 9/20/89—published 11/15/89, effective 12/20/89]
[Filed 11/22/89, Notice 10/18/89—published 12/13/89, effective 1/17/90]
[Filed 1/19/90, Notice 12/13/89—published 2/7/90, effective 3/14/90]
[Filed 8/2/90, Notice 6/27/90—published 8/22/90, effective 9/26/90]
[Filed 9/13/90, Notice 8/8/90—published 10/3/90, effective 11/7/90]
[Filed 11/9/90, Notice 10/3/90—published 11/28/90, effective 1/2/91]
[Filed 1/17/91, Notice 12/12/90—published 2/6/91, effective 3/13/91]
[Filed 9/13/91, Notice 8/7/91—published 10/2/91, effective 11/6/91]
[Filed 11/7/91, Notice 10/2/91—published 11/27/91, effective 1/1/92]
[Filed 12/6/91, Notice 10/30/91—published 12/25/91, effective 1/29/92]
[Filed 10/23/92, Notice 9/16/92—published 11/11/92, effective 12/16/92]
[Filed 11/6/92, Notice 9/30/92—published 11/25/92, effective 12/30/92]
[Filed 11/19/93, Notice 10/13/93—published 12/8/93, effective 1/12/94]
[Filed 1/12/95, Notice 12/7/94—published 2/1/95, effective 3/8/95]
[Filed 2/24/95, Notice 1/4/95—published 3/15/95, effective 4/19/95]
[Filed 10/6/95, Notice 8/30/95—published 10/25/95, effective 11/29/95]
[Filed 1/12/96, Notice 12/6/95—published 1/31/96, effective 3/6/96]
[Filed 3/22/96, Notice 2/14/96—published 4/10/96, effective 5/15/96]
[Filed 9/20/96, Notice 8/14/96—published 10/9/96, effective 11/13/96]
[Filed 11/15/96, Notice 10/9/96—published 12/4/96, effective 1/8/97]
[Filed 10/17/97, Notice 9/10/97—published 11/5/97, effective 12/10/97]
[Filed 2/20/98, Notice 1/14/98—published 3/11/98, effective 4/15/98]
[Filed 8/5/98, Notice 7/1/98—published 8/26/98, effective 9/30/98]
[Filed 11/13/98, Notice 10/7/98—published 12/2/98, effective 1/6/99]
[Filed 2/3/00, Notice 12/29/99—published 2/23/00, effective 3/29/00]
[Filed 1/5/01, Notice 11/29/00—published 1/24/01, effective 2/28/01]
[Filed 3/2/01, Notice 1/24/01—published 3/21/01, effective 4/25/01]
[Filed 5/24/01, Notice 4/18/01—published 6/13/01, effective 7/18/01]
[Filed 8/30/01, Notice 7/25/01—published 9/19/01, effective 10/24/01]
[Filed 10/12/01, Notice 8/8/01—published 10/31/01, effective 12/5/01]
[Filed 12/7/01, Notice 10/3/01—published 12/26/01, effective 1/30/02]
[Filed 12/7/01, Notice 10/31/01—published 12/26/01, effective 1/30/02]
[Filed 2/14/02, Notice 1/9/02—published 3/6/02, effective 4/10/02]
[Filed 3/15/02, Notice 1/23/02—published 4/3/02, effective 5/8/02]
[Filed 3/15/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]
[Filed 9/13/02, Notice 8/7/02—published 10/2/02, effective 11/6/02]
[Filed 10/11/02, Notice 9/4/02—published 10/30/02, effective 12/4/02]
[Filed 11/8/02, Notice 10/2/02—published 11/27/02, effective 1/1/03]
[Filed 1/17/03, Notice 12/11/02—published 2/5/03, effective 3/12/03]
[Filed 9/26/02, Notice 8/20/03—published 10/15/03, effective 11/19/03]
[Filed 10/24/03, Notice 9/17/03—published 11/12/03, effective 12/17/03]
[Filed 11/6/03, Notice 10/1/03—published 11/26/03, effective 12/31/03]
[Filed 12/5/03, Notice 10/15/03—published 12/24/03, effective 1/28/04]
[Filed 12/31/03, Notice 11/26/03—published 1/21/04, effective 2/25/04]
[Filed 1/30/04, Notice 12/24/03—published 2/18/04, effective 3/24/04]
[Filed 8/12/04, Notice 7/7/04—published 9/1/04, effective 10/6/04]
[Filed 9/24/04, Notice 8/18/04—published 10/13/04, effective 11/17/04]
[Filed 10/22/04, Notice 9/15/04—published 11/10/04, effective 12/15/04]
[Filed 12/3/04, Notice 10/27/04—published 12/22/04, effective 1/26/05]
[Filed 1/14/05, Notice 12/8/04—published 2/2/05, effective 3/9/05]
[Filed 9/22/05, Notice 8/3/05—published 10/12/05, effective 11/16/05]
[Filed 10/20/05, Notice 9/14/05—published 11/9/05, effective 12/14/05]
[Filed 12/30/05, Notice 11/23/05—published 1/18/06, effective 2/22/06]
[Filed 1/27/06, Notice 12/21/05—published 2/15/06, effective 3/22/06]
[Filed 7/28/06, Notice 6/21/06—published 8/16/06, effective 9/20/06]
[Filed 10/5/06, Notice 8/30/06—published 10/25/06, effective 11/29/06]
[Filed 11/1/06, Notice 8/16/06—published 11/22/06, effective 12/27/06]
[Filed 12/13/06, Notice 11/8/06—published 1/3/07, effective 2/7/07]
[Filed 1/11/07, Notice 12/6/06—published 1/31/07, effective 3/7/07]
[Filed 10/5/07, Notice 8/15/07—published 10/24/07, effective 11/28/07]
[Filed 10/5/07, Notice 8/29/07—published 10/24/07, effective 11/28/07]
[Filed 10/19/07, Notice 9/12/07—published 11/7/07, effective 12/12/07]
[Filed 3/7/08, Notice 1/30/08—published 3/26/08, effective 4/30/08]
[Filed 5/2/08, Notice 3/26/08—published 5/21/08, effective 6/25/08]
[Filed 10/31/08, Notice 9/24/08—published 11/19/08, effective 12/24/08]
[Filed ARC 7761B (Notice ARC 7632B, IAB 3/11/09), IAB 5/6/09, effective 6/10/09]
[Filed ARC 8599B (Notice ARC 8430B, IAB 12/30/09), IAB 3/10/10, effective 4/14/10]
[Filed ARC 8605B (Notice ARC 8481B, IAB 1/13/10), IAB 3/10/10, effective 4/14/10]
[Filed ARC 8702B (Notice ARC 8512B, IAB 2/10/10), IAB 4/21/10, effective 5/26/10]
[Filed ARC 9104B (Notice ARC 8954B, IAB 7/28/10), IAB 9/22/10, effective 10/27/10]
[Filed ARC 9821B (Notice ARC 9741B, IAB 9/7/11), IAB 11/2/11, effective 12/7/11]
[Filed ARC 9820B (Notice ARC 9740B, IAB 9/7/11), IAB 11/2/11, effective 12/7/11]
[Filed ARC 9876B (Notice ARC 9796B, IAB 10/5/11), IAB 11/30/11, effective 1/4/12]
[Filed ARC 9966B (Notice ARC 9856B, IAB 11/16/11), IAB 11/16/11, effective 2/15/12]
[Filed ARC 0251C (Notice ARC 0145C, IAB 5/30/12), IAB 8/8/12, effective 9/12/12]
[Filed ARC 0337C (Notice ARC 0232C, IAB 7/25/12), IAB 9/19/12, effective 10/24/12]
[Filed ARC 0361C (Notice ARC 0253C, IAB 8/8/12), IAB 10/3/12, effective 11/7/12]
[Filed ARC 0398C (Notice ARC 0292C, IAB 8/22/12), IAB 10/17/12, effective 11/21/12]
[Filed ARC 1101C (Notice ARC 0976C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]
[Filed ARC 1102C (Notice ARC 0975C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]
[Filed ARC 1138C (Notice ARC 0998C, IAB 9/4/13), IAB 10/30/13, effective 12/4/13]
[Filed ARC 1303C (Notice ARC 1231C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 1545C (Notice ARC 1469C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]
[Filed ARC 1665C (Notice ARC 1590C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]
Two or more ARCs

[Filed ARC 1666C (Notice ARC 1589C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]
CHAPTER 58
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST,
AND TAX CREDITS
[Prior to 12/17/86, Revenue Department[730]]

701—58.1(422) Who must file. Every financial institution as defined in 701—subrule 57.1(2),
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 financial institution
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.

58.1(1) Income tax of financial institutions in liquidation. When a financial institution is in the
process of liquidation, or in the hands of a receiver, the franchise tax returns must be made under oath
or affirmation of the persons responsible for the conduct of the affairs of such financial institutions, and
must be filed at the same time and in the same manner as required of other financial institutions.

58.1(2) Franchise tax returns for financial institutions dissolved. Financial institutions which have
been dissolved during the income year must file franchise 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 financial institution dissolves and disposes of its assets without making provision for the
payment of its accrued Iowa franchise 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.

This rule is intended to implement Iowa Code sections 422.60 and 422.61.

701—58.2(422) Time and place for filing return.

58.2(1) Returns of financial institutions. A return of income for all financial institutions must be
filed on or before the delinquency date. The delinquency date for all financial institutions is the day
following the last day of the fourth month following the close of the taxpayer’s taxable year, whether
the return is made on the basis of the calendar year or the fiscal year; or the day following the last day
of the period covered by an extension of time granted by the director. When the last day prior to the
delinquency date falls on a Saturday, Sunday or a legal holiday, the return will be timely if it is filed on
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 delinquency
date for filing, no penalty will attach should the return not be received until after that date. Mailed returns
should be addressed to Franchise Tax Processing, P.O. Box 10413, Des Moines, Iowa 50306.

58.2(2) Short period returns. Where under a provision of the Internal Revenue Code, a financial
institution is required to file a tax return for a period of less than 12 months, a short period Iowa franchise
tax return must be filed for the same period. The delinquency date for the short period return is 45 days
after the federal due date not considering any federal extension of time to file.

58.2(3) Extension of time for filing returns for tax years beginning on or after January 1, 1991. See
701—subrule 39.2(4).

58.2(4) Extension of time for filing returns for tax years beginning on or after January 1, 1986. Rescinded IAB 3/15/95, effective 4/19/95.

This rule is intended to implement Iowa Code sections 422.24, 422.62, and 422.66.

701—58.3(422) Form for filing.

58.3(1) Use and completeness of prescribed forms. Returns shall be made by financial institutions 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
delinquency date. Taxpayers shall carefully prepare their returns 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.

58.3(2) Form for filing—financial institutions. Financial institutions as defined by Iowa Code section 422.61(1) shall 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, capital gains, tax computation and tax deposits, work opportunity credit computation, foreign tax credit computation, alternative minimum tax computation, and statements detailing other income and other deductions.

When a financial institution 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. Work opportunity credit computation.
d. Foreign tax credit computation.
e. Holding company tax computation.
f. Alternative minimum tax computation.
g. Schedules detailing other income and other deductions.

58.3(3) Amended returns. If it becomes known to the taxpayer that the amount of income reported to be federal net income or Iowa taxable income subject to franchise tax 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 57.2(1) and rule 701—60.3(422).

This rule is intended to implement Iowa Code sections 422.62, 422.66 and 422.73.

701—58.4(422) Payment of tax.

58.4(1) Quarterly estimated payments. Effective for taxable years beginning on or after July 1, 1977, financial institutions are required to make quarterly payments of estimated franchise tax. Rules pertaining to the estimated tax are contained in 701—Chapter 61.

58.4(2) Full estimated payment prior to original delinquency date. Rescinded IAB 3/15/95, effective 4/19/95.

58.4(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, with each
fraction of a month considered to be 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.

**58.4(4) Payment of tax by uncertified checks.** The department will accept uncertified checks in payment of franchise taxes, provided such checks are collectible for their full amount without any deduction for exchange or other charges. 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 financial institutions’ 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 financial institution whose tax is to be paid by the remittance; and
- e. The amount of payment on account of each financial institution.

**58.4(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 uncertollected 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 the taxpayer’s obligation until the check has been paid.

This rule is intended to implement Iowa Code chapter 422.

### 701—58.5(422) Minimum tax.

**58.5(1)** Rescinded IAB 11/24/04, effective 12/29/04.

**58.5(2)** For tax years beginning after 1997, a small business corporation or a new corporation, that is a financial institution, for its first year of existence, that 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 that is a financial institution may apply any alternative minimum tax credit carryforward to the extent of its regular Iowa franchise 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 422.63. The minimum tax rate is 60 percent of the maximum franchise tax rate rounded to the nearest one-tenth of 1 percent or 3 percent. Minimum taxable income is computed as follows:

\[
\text{State taxable income as adjusted by Iowa Code sections 422.35 and 422.61(4)}
\]

\[
\begin{align*}
\text{Plus:} & \quad \text{Tax preference items, adjustments and losses added back} \\
\text{Less:} & \quad \text{Allocable income including allocable preference items} \\
\text{Subtotal} & \\
\text{Times:} & \quad \text{Apportionment percentage} \\
\text{Result} & \\
\text{Plus:} & \quad \text{Income allocable to Iowa including allocable preference items} \\
\text{Less:} & \quad \text{Iowa alternative tax net operating loss deduction} \\
& \quad \text{\$40,000 exemption amount} \\
\text{Equals:} & \quad \text{Iowa alternative minimum taxable income}
\end{align*}
\]

For taxable 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), (c)(1), (d), and (g) of the Internal Revenue Code used to compute federal alternative minimum taxable income computed without adjustments and the $40,000 exemption. The state alternative tax net operating loss deduction shall be
substituted for the amounts in Section 56(g)(1)(B) of the Internal Revenue Code. 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. 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—59.2(422) carried forward from tax years beginning before January 1, 1987, are deductible without adjustment.

Net operating losses from tax years beginning 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 allocation and apportionment. 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>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal taxable income before NOL</td>
<td>$35,000</td>
</tr>
<tr>
<td>Interest exempt from federal tax</td>
<td>5,000</td>
</tr>
<tr>
<td>Tax preferences and adjustments</td>
<td>53,400</td>
</tr>
<tr>
<td>Iowa income tax expensed on federal</td>
<td>878</td>
</tr>
<tr>
<td>Iowa NOL carryforward</td>
<td>&lt;25,000</td>
</tr>
</tbody>
</table>

For tax year 1988, the following information is available:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal taxable income before NOL</td>
<td>$&lt;90,000&gt;</td>
</tr>
<tr>
<td>Interest exempt from federal tax</td>
<td>4,000</td>
</tr>
<tr>
<td>Tax preferences and adjustments</td>
<td>20,000</td>
</tr>
<tr>
<td>Iowa franchise tax refund reported on federal</td>
<td>878</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><strong>Regular Iowa Tax</strong></td>
<td></td>
</tr>
<tr>
<td>Federal taxable income</td>
<td>$35,000</td>
</tr>
<tr>
<td>Add interest exempt from federal tax</td>
<td>5,000</td>
</tr>
<tr>
<td>Add Iowa franchise tax expensed</td>
<td>878</td>
</tr>
<tr>
<td>Iowa taxable income before NOL carryforward</td>
<td>$40,878</td>
</tr>
<tr>
<td>Less NOL carryforward</td>
<td>&lt;25,000&gt;</td>
</tr>
<tr>
<td>Iowa taxable income</td>
<td></td>
</tr>
<tr>
<td>Iowa income tax</td>
<td>$794</td>
</tr>
<tr>
<td><strong>Alternative Minimum Tax</strong></td>
<td></td>
</tr>
<tr>
<td>Iowa taxable income before NOL</td>
<td>$40,878</td>
</tr>
<tr>
<td>Add preferences and adjustments</td>
<td>53,400</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$94,278</td>
</tr>
<tr>
<td>Less NOL carryforward*</td>
<td>&lt;25,000&gt;</td>
</tr>
<tr>
<td>Iowa alternative taxable income</td>
<td>$69,278</td>
</tr>
<tr>
<td>Less exemption amount</td>
<td>&lt;40,000&gt;</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$29,278</td>
</tr>
<tr>
<td>Times 3%</td>
<td>878</td>
</tr>
<tr>
<td>Less regular tax</td>
<td>794</td>
</tr>
<tr>
<td><strong>Alternative minimum tax</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$84</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><strong>Regular Iowa Tax</strong></td>
<td></td>
</tr>
<tr>
<td>Federal taxable income</td>
<td>$35,000</td>
</tr>
<tr>
<td>Add interest exempt from federal tax</td>
<td>5,000</td>
</tr>
<tr>
<td>Add Iowa franchise tax expensed</td>
<td>878</td>
</tr>
<tr>
<td>Iowa taxable income before NOL carryforward</td>
<td>$40,878</td>
</tr>
<tr>
<td>Less NOL carryforward</td>
<td>&lt;25,000&gt;</td>
</tr>
<tr>
<td>Less NOL carryback from 1988¹</td>
<td>&lt;86,878&gt;</td>
</tr>
<tr>
<td>NOL carryforward</td>
<td>&lt;71,000&gt;</td>
</tr>
<tr>
<td><strong>Alternative Minimum Tax</strong></td>
<td></td>
</tr>
<tr>
<td>Iowa taxable income before NOL</td>
<td>$40,878</td>
</tr>
<tr>
<td>Add preferences and adjustments</td>
<td>53,400</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$94,278</td>
</tr>
<tr>
<td>Less NOL carryforward from pre-1987 tax year</td>
<td>&lt;25,000&gt;</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$69,278</td>
</tr>
<tr>
<td>Less alternative minimum tax NOL²</td>
<td>&lt;62,350&gt;</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$6,928</td>
</tr>
<tr>
<td>Less exemption</td>
<td>&lt;40,000&gt;</td>
</tr>
<tr>
<td><strong>Alternative minimum taxable income after NOL</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$0</td>
</tr>
</tbody>
</table>
Computation of 1988 Iowa NOL

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal NOL</td>
<td>$&lt;90,000&gt;</td>
</tr>
<tr>
<td>Add interest exempt from federal tax</td>
<td>4,000</td>
</tr>
<tr>
<td>Less Iowa refund in federal income</td>
<td>&lt;878&gt;</td>
</tr>
<tr>
<td>Iowa NOL</td>
<td>$&lt;86,878&gt;</td>
</tr>
</tbody>
</table>

Computation of 1988 Alternative Minimum Tax NOL

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Iowa NOL</td>
<td>$&lt;86,878&gt;</td>
</tr>
<tr>
<td>Add preferences and adjustments</td>
<td>20,000</td>
</tr>
<tr>
<td>Total</td>
<td>$&lt;66,878&gt;</td>
</tr>
<tr>
<td>NOL carryback limited to 90% of alternative minimum income before NOL and exemption*</td>
<td>$&lt;62,350&gt;</td>
</tr>
<tr>
<td>Alternative minimum tax NOL carryforward</td>
<td>$4,528</td>
</tr>
</tbody>
</table>

*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 ($69,278 × 90% = $62,350).

58.5(3) Effective for tax years beginning on or after January 1, 1986, estimated payments are required for minimum tax.

58.5(4) 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 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 tentative 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 8827F. The minimum tax credit is computed on Schedule IA 8827F from information on Schedule IA 4626F for prior tax years, Form IA 1120F and Schedule IA 4626F for the current year and from Schedule IA 8827F 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 2011. For 2012, taxpayer reported regular tax less credits of $8,000, and the minimum tax liability is $6,000. The minimum tax credit is $2,000 for 2012 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 2011 was used, there is a $2,000 minimum tax carryover credit to 2013.

Example 2. Taxpayer reported $2,500 of minimum tax for 2011. For 2012, taxpayer reported regular tax less credits of $8,000, and the minimum tax liability is $5,000. The minimum tax credit is $2,500 for 2012 because, although the regular tax less credits 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 2013.

c. Minimum tax credit after merger. When two or more financial institutions merge or consolidate into one financial organization, the minimum tax credit of the merged or consolidated operation is available for use by the survivor of the merger or consolidation.

This rule is intended to implement Iowa Code section 422.60.

[ARC 1303C, IAB 2/5/14, effective 3/12/14]

701—58.6(422) Refunds and overpayments.

58.6(1) to 58.6(6) Reserved.
58.6(7) Computation of interest on refunds resulting from net operating losses or net capital losses for tax years or periods beginning on or after January 1, 1974, and ending after July 1, 1980. Rescinded IAB 11/24/04, effective 12/29/04.

58.6(8) Computation of interest on refunds resulting from net operating losses for tax years ending on or after April 30, 1981. Rescinded IAB 11/24/04, effective 12/29/04.

58.6(9) 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.

58.6(10) Overpayment—interest accruing before July 1, 1980. Rescinded IAB 11/24/04, effective 12/29/04.

58.6(11) Interest commencing on or after January 1, 1982. See rule 701—10.2(421) regarding the rate of interest charged by the department on delinquent taxes and the rate paid by the department on refunds commencing on or after January 1, 1982.

58.6(12) Overpayment—interest accruing on or after July 1, 1980, and before April 30, 1981. Rescinded IAB 11/24/04, effective 12/29/04.

58.6(13) 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.

701—58.7(422) Allocation of franchise tax revenues. For fiscal years prior to July 1, 2004, each quarterly distribution shall be made up of the tax shown due on the franchise tax returns received during that quarter, net of all refunds of franchise tax established during that quarter. In determining the portion of franchise tax revenues to be distributed to cities and counties for fiscal years prior to July 1, 2004, each financial institution, as defined by Iowa Code section 422.61, is required to submit the appropriate allocation data with the filing of its Iowa franchise tax return. Each financial institution shall accumulate or maintain data to properly determine the business activity ratios as prescribed in subrules 58.7(1) and 58.7(2). The allocation shall be made on the basis of business activity for each office location. The word “office” shall mean a branch office, a drive-in bank depository or any other establishment whereby the business pertaining to the financial institution is carried on.

58.7(1) Business activity determination for a production credit association. A production credit association shall measure its business activity on the basis of loan volume. “Loan volume” shall mean total loans originated during the taxable period. The business activity for each office location shall be that percentage of loans originated by each office to total loans originated for all office locations during the taxable period.

58.7(2) Business activity determination for a financial institution other than a production credit association. A financial institution, other than a production credit association, shall measure its business activity on a basis of net deposits. The business activity of each office shall be that percentage of average “savings and demand deposits net of withdrawals” for each office location to the total average “savings and demand deposits net of withdrawals” for all office locations.

This rule is intended to implement Iowa Code section 422.61.

701—58.8(15E) Eligible housing business tax credit. For tax years beginning on or after January 1, 2000, a financial institution may claim on the franchise tax return the pro-rata share of the Iowa eligible housing business tax credit from a partnership, limited liability company, estate or trust which has been approved as an eligible housing business by the Iowa department of economic development.

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 tax credit may be taken on the tax return for the tax year in which the home is ready for occupancy. 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, 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. Any eligible housing business tax credit in excess of the franchise tax liability must be carried forward for seven years or until it is used, whichever is the earlier.

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.

58.8(1) Computation of credit. New investment which is directly related to the building or rehabilitatting 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.

If the eligible housing business fails to maintain the requirements of Iowa Code section 15E.193B, as amended by 2003 Iowa Acts, Senate File 441, 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 as amended by 2003 Iowa Acts, Senate File 441. This is because it is a recovery of an incentive, rather than an adjustment to the taxpayer’s tax liability.

Effective for tax periods beginning on or after January 1, 2003, the taxpayer must receive a tax credit certificate from the Iowa department of economic development 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 58.8(2). The tax credit certificate must be attached to 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 Iowa department of economic development may be found under 261—Chapter 59.

58.8(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.

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 Iowa department of economic development, 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 Iowa department of economic development 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 Iowa Code Supplement section 15E.193B as amended by 2006 Iowa Acts, chapter 1158.

701—58.9(15E) Eligible development business investment tax credit. Effective for tax years beginning on or after January 1, 2001, a business which qualifies as an eligible development business may receive a tax credit of up to 10 percent of the new investment which is directly related to the construction, expansion or rehabilitation of building space to be used for manufacturing, processing, cold storage, distribution, or office facilities.

An eligible development business must be approved by the Iowa department of economic development prior to March 17, 2004, and meet the qualifications of Iowa Code section 15E.193C. Effective March 17, 2004, the eligible development business program is repealed.

New investment includes the purchase price of land and the cost of improvements made to real property. The tax credit may be claimed by an eligible development business in the tax year in which the construction, expansion or rehabilitation is completed.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro-rata share of the individual’s earnings of the partnership, S corporation, limited liability company, or estate or trust.

If the eligible development business fails to meet and maintain any one of the requirements to be an eligible business, the business shall be subject to repayment of all or a portion of the amount of tax incentives received. For example, if within five years of project completion the development business sells or leases any space to any retail business, the development business shall proportionally repay the value of the investment credit. The proportion of the investment credit that would be due for repayment by an eligible development business for selling or leasing space to a retail business would be determined by dividing the square footage of building space occupied by the retail business by the square footage of the total building space.

An eligible business, which is not a development business, which operates in an enterprise zone cannot claim an investment tax credit if the property is owned, or was previously owned, by an approved development business that has already received an investment tax credit. An eligible business, which is not a development business, can claim an investment tax credit only on additional, new improvements made to real property that was not included in the development business’s approved application for the investment tax credit.

This rule is intended to implement Iowa Code section 15E.193C.

701—58.10(422) Historic preservation and cultural and entertainment district tax credit. For tax years beginning on or after January 1, 2001, 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 franchise tax liability for 25 percent of the qualified rehabilitation costs to the extent the costs were incurred for the rehabilitation of eligible property in Iowa. For information on those types of property
that are eligible for the historic preservation and cultural and entertainment district tax credit, how to file applications for the credit, how the historic preservation and cultural and entertainment district tax credit is computed, how the historic preservation and cultural and entertainment district tax credit can be transferred for tax periods beginning on or after January 1, 2003, and other details about the credit, see rule 701—52.18(422). See also the administrative rules for the historic preservation and cultural and entertainment district tax credit for the historical division of the department of cultural affairs under 223—Chapter 48.

This rule is intended to implement Iowa Code chapter 404A as amended by 2005 Iowa Acts, House File 868, sections 20 through 26, and Iowa Code section 422.60.

701—58.11(15E,422) Venture capital credits.

58.11(1) Investment tax credit for an equity investment in a community-based seed capital fund or qualifying business. 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. 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.

The department of revenue will be notified by the Iowa capital investment board or 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 a qualifying business or community-based seed capital 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. 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 franchise taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012 calendar year, the franchise 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.

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 franchise taxpayer whose tax year ends on December 31, 2012, makes an equity investment in December 2012 and the $2 million cap for the fiscal year ending June 30, 2013, had already been reached, the tax credit will be issued for the tax year ending December 31, 2013, and cannot be redeemed until the tax year ending December 31, 2016.

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.

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.
58.11(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.

58.11(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.

58.11(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 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 not claim the tax credit prior to the third tax year following the tax year in which the investment is made. For example, if a franchise taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012 calendar year, the franchise 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 $8 million. 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.

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 third tax year following the tax year for which the credit is issued. For example, if a franchise taxpayer whose tax year ends on December 31, 2012, makes an equity investment in December 2012 and the $8 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.

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 tax credit is not transferable to any other taxpayer.

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.66 and 422.60 and section 15E.43 as amended by 2014 Iowa Acts, Senate File 2359.

\[ARC \, 9104B, \, IAB \, 9/22/10, \, effective \, 10/27/10; \, ARC \, 9966B, \, IAB \, 1/11/12, \, effective \, 2/15/12; \, ARC \, 1665C, \, IAB \, 10/15/14, \, effective \, 11/19/14\]

701—58.12(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 rules 701—52.28(15) and 701—58.17(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.

This rule is intended to implement 2003 Iowa Acts, House File 677, sections 1 to 7, and Iowa Code section 15.333 as amended by 2003 Iowa Acts, House File 677, section 8.

701—58.13(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 section 422.60.

701—58.14(151,422) Wage-benefits tax credit. Effective for tax years ending on or after June 9, 2006, a wage-benefits tax credit is available for the amount of any wages and benefits paid for a qualified new job created by the location or expansion of the business in Iowa. The credit is subject to the availability of the 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. For information on the eligibility for the wage-benefits tax credit, how to apply for the wage-benefits tax credit, how the wage-benefits tax credit is computed, and how the tax benefits tax credit is transferred and other details about the credit, see rule 701—52.25(151,422).

This rule is intended to implement Iowa Code chapter 151 as amended by 2008 Iowa Acts, House File 2700, section 167, and Iowa Code Supplement section 422.60(10) as amended by 2008 Iowa Acts, House File 2700, section 164.

701—58.15(422,476B) Wind energy production tax credit. Effective for tax years beginning on or after July 1, 2006, owners of qualified wind energy production facilities approved by the Iowa utilities board may claim a wind energy production tax credit for qualified electricity sold by the owner against a taxpayer’s Iowa franchise tax liability. For information on the application and review process for the wind energy production tax credit, how the wind energy production tax credit is computed, and how the tax benefits tax credit can be transferred and other details about the credit, see rule 701—52.26(422,476B). See also the administrative rules for the wind energy production tax credit for the Iowa utilities board in rules 199—15.18(476B) and 199—15.20(476B).

This rule is intended to implement Iowa Code section 422.60 and chapter 476B.

701—58.16(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 franchise tax liability. For information on the application and review process for the renewable energy tax credit, how the renewable energy tax credit is computed, and how the tax benefits tax credit can be transferred and other details about the credit, see rule 701—52.27(422,476C). See also the administrative rules for the renewable energy tax credit for the Iowa utilities board in rules 199—15.19(476C) and 199—15.21(476C).

This rule is intended to implement Iowa Code section 422.60 and chapter 476C.

701—58.17(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 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 under the high quality jobs program. Any investment tax 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. The administrative rules for the high quality jobs program for the Iowa department of economic development may be found at 261—Chapter 68.

For information on what credits can be taken under this program, how the investment tax credit is computed and other details about this program, see rule 701—52.28(15). However, the research credit described in subrule 52.28(1) is not available for franchise tax filers.

This rule is intended to implement Iowa Code Supplement chapter 15.

[ARC 8589B, IAB 3/10/10, effective 4/14/10]

701—58.18(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.

This rule is intended to implement Iowa Code sections 15E.232 and 422.60 as amended by 2010 Iowa Acts, Senate File 2380.

[ARC 9104B, IAB 9/22/10, effective 10/27/10]

701—58.19(15,422) Film qualified expenditure tax credit. Effective for tax years beginning on or after January 1, 2007, but beginning before January 1, 2012, a film qualified expenditure tax credit is available for franchise tax. The tax credit is equal to 25 percent of the taxpayer’s qualified expenditures in a film, television, or video project registered with the film office of the Iowa economic development authority (the authority). For information on the qualified expenditures eligible for the credit, how the film qualified expenditure tax credit is claimed, how the film qualified expenditure tax credit can be transferred and other details about the credit, see rule 701—52.34(15,422). See also the authority’s administrative rules for the film qualified expenditure tax credit at 261—Chapter 36.

This rule is intended to implement Iowa Code section 422.60 as amended by 2012 Iowa Acts, House File 2337, section 36.

[ARC 0398C, IAB 10/17/12, effective 11/21/12]

701—58.20(15,422) Film investment tax credit. Effective for tax years beginning on or after January 1, 2007, but beginning before January 1, 2012, a film investment tax credit is available for franchise tax. The tax credit is equal to 25 percent of the taxpayer’s qualified expenditures in a film, television, or video project registered with the film office of the Iowa economic development authority (the authority). For information on how the film investment tax credit is claimed, how the film investment tax credit can be transferred and other details about the credit, see rule 701—52.35(15,422). See also the authority’s administrative rules for the film investment tax credit at 261—Chapter 36.

This rule is intended to implement Iowa Code section 422.60 as amended by 2012 Iowa Acts, House File 2337, section 36.

[ARC 0398C, IAB 10/17/12, effective 11/21/12]

701—58.21(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.

For information on the credits that may be taken under this program, how the investment tax credit is computed and other details about the program, see rule 701—52.40(15). NOTE: The research credit described in 701—subrule 52.40(1) is not available for franchise tax filers.

This rule is intended to implement Iowa Code chapter 15.

[ARC 8589B, IAB 3/10/10, effective 4/14/10]

701—58.22(422) Solar energy system tax credit. Effective for installations placed in service during tax years beginning on or after January 1, 2014, a solar energy system tax credit for financial institutions is available for business property located in Iowa. For information on property eligible for the credit, the calculation of the credit and applying for the credit, see rule 701—52.44(422).

This rule is intended to implement Iowa Code section 422.60 as amended by 2014 Iowa Acts, House File 2438, section 27, and 2014 Iowa Acts, House File 2473, section 78.

[ARC 1666C, IAB 10/15/14, effective 11/19/14]
[Filed 11/8/02, Notice 10/2/02—published 11/27/02, effective 1/1/03]
[Filed 1/17/03, Notice 12/11/02—published 2/5/03, effective 3/12/03]
[Filed 10/24/03, Notice 9/17/03—published 11/12/03, effective 12/17/03]
[Filed 11/6/03, Notice 10/1/03—published 11/26/03, effective 12/31/03]
[Filed 12/5/03, Notice 10/15/03—published 12/24/03, effective 1/28/04] *
[Filed 9/24/04, Notice 8/18/04—published 10/13/04, effective 11/17/04]
[Filed 10/22/04, Notice 9/15/04—published 11/10/04, effective 12/15/04]
[Filed 1/14/05, Notice 12/8/04—published 1/12/05, effective 12/31/05]
[Filed 10/20/05, Notice 9/14/05—published 11/9/05, effective 12/14/05]
[Filed 12/30/05, Notice 11/23/05—published 1/18/06, effective 2/22/06] *
[Filed 1/27/06, Notice 12/21/05—published 2/15/06, effective 3/22/06]
[Filed 7/28/06, Notice 6/21/06—published 8/16/06, effective 9/20/06]
[Filed 12/13/06, Notice 11/8/06—published 1/3/07, effective 2/7/07]
[Filed 1/11/07, Notice 12/6/06—published 1/31/07, effective 3/7/07]
[Filed 10/5/07, Notice 8/15/07—published 10/24/07, effective 11/28/07]
[Filed 3/7/08, Notice 1/30/08—published 3/26/08, effective 4/30/08]
[Filed 10/31/08, Notice 9/24/08—published 11/19/08, effective 12/24/08]
[Filed ARC 8589B (Notice ARC 8430B, IAB 12/30/09), IAB 3/10/10, effective 4/14/10]
[Filed ARC 8702B (Notice ARC 8512B, IAB 2/10/10), IAB 4/21/10, effective 5/26/10]
[Filed ARC 9104B (Notice ARC 8954B, IAB 7/28/10), IAB 9/22/10, effective 10/27/10]
[Filed ARC 9876B (Notice ARC 9796B, IAB 10/5/11), IAB 11/30/11, effective 1/4/12]
[Filed ARC 9966B (Notice ARC 9856B, IAB 11/16/11), IAB 1/11/12, effective 2/15/12]
[Filed ARC 0398C (Notice ARC 0292C, IAB 8/22/12), IAB 10/17/12, effective 11/21/12]
[Filed ARC 1138C (Notice ARC 0998C, IAB 9/4/13), IAB 10/30/13, effective 12/4/13]
[Filed ARC 1303C (Notice ARC 1231C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 1665C (Notice ARC 1590C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]
[Filed ARC 1666C (Notice ARC 1589C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]

* Two or more ARCs
TITLE IX
PROPERTY
CHAPTER 70
REPLACEMENT TAX AND STATEWIDE PROPERTY TAX

DIVISION I
REPLACEMENT TAX

701—70.1(437A) Who must file return. Each taxpayer, as defined in Iowa Code Supplement section 437A.3(30), shall file a true and accurate return with the director. The return shall include all of the information prescribed in Iowa Code sections 437A.8(1)“a” through “f” and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity subject to the replacement tax during the tax year, the return must contain a statement to that effect.

701—70.2(437A) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

A taxpayer whose replacement tax liability before credits is $300 or less is not required to file a return. A taxpayer should not file a replacement tax return under such circumstances.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—70.3(437A) Form for filing. Returns must be made by taxpayers 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. All information shall be supplied and each direction complied with in the same manner as if the forms were embodied in these rules.

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making the replacement tax return.

Returns received which are not completed, but merely state “see schedule attached,” “no tax due,” or some other conclusionary statement 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’s being filed after the due date.

701—70.4(437A) Payment of tax. Payment of tax shall not accompany the filing of the replacement tax return with the director. Payment of tax shall never be made to the director or the state of Iowa. Payment of the proper amount of tax due shall be made to the appropriate county treasurer upon notification by the county treasurer to the taxpayer of the taxpayer’s replacement tax obligation.

701—70.5(437A) Statute of limitations.

70.5(1) The director has three years after a return is filed to determine the tax due if the return is found to be incorrect and to give notice to the taxpayer of the determination. This three-year statute of limitations does not apply in the instances specified in 70.5(2).
70.5(2) If a taxpayer files a false or fraudulent return with the intent to evade any tax, the correct amount of tax due may be determined by the director at any time after the return has been filed.

70.5(3) If a taxpayer fails to file a return, the three-year period of limitations does not begin to run until the return is filed with the director.

70.5(4) Waiver of statute of limitations. The department and the taxpayer may extend the three-year period of limitations provided in 70.5(1) above by signing a waiver agreement form provided by the department. The agreement shall designate the period of extension and the tax year for which the extension applies. The agreement shall provide that the taxpayer may file a claim for refund of replacement tax at any time prior to the expiration of the agreement.

701—70.6(437A) Billings.

70.6(1) Notice of adjustments.

a. An agent, auditor, clerk, or employee of the department, designated by the director to examine returns and make audits, who discovers discrepancies in returns or learns that items subject to tax may not have been listed or included as taxable, in whole or in part, or that no return was filed when one was due, is authorized to notify the person of this discovery by ordinary mail. This notice is not an assessment. It informs the person what amount would be due if the information discovered is correct. A copy of such notice shall also be sent to the appropriate county treasurer.

b. Right of person upon receipt of notice of adjustment. A person who has received notice of an adjustment in connection with a return may pay the additional amount stated to be due to the appropriate county treasurer. If payment is made, and the person wishes to contest the matter, the person should file a timely claim for refund. However, payment will not be required until an assessment has been made (although interest will continue to accrue if timely payment is not made). If no payment has been made, the person may discuss with the agent, auditor, clerk, or employee who notified the person of the discrepancy, either in person or through correspondence, all matters of fact and law which may be relevant to the situation. This person may also ask for a conference with the Department of Revenue, Property Tax Division, Hoover State Office Building, Des Moines, Iowa. Documents and records supporting the person’s position may be required.

c. Power of agent, auditor, or employee to compromise tax claim. No employee of the department has the power to compromise any tax claims. The power of the agent, auditor, clerk, or employee who notified the person of the discrepancy is limited to the determination of the correct amount of tax.

70.6(2) Notice of assessment. If, after following the procedure outlined in 70.6(1) “b,” no agreement is reached and the person does not pay the amount determined to be correct to the appropriate county treasurer, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer with a copy sent to the appropriate county treasurer.

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

70.6(3) Supplemental assessments and refund adjustments. The director may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—7.8(17A)) and is resolved whether by informal proceedings or by adjudication, the director shall notify the appropriate county treasurer. Such resolution shall preclude the director and the taxpayer from making a supplemental assessment or refund adjustment concerning the same issue involved in the appeal for the same tax year unless there is a showing of mathematical or clerical error or showing of fraud or misrepresentation.

[ARC 0251C, IAB 8/8/12, effective 9/12/12]
701—70.7(437A) Refunds.

70.7(1) A claim for refund of replacement tax may be made on a form obtainable from the department. All claims for refund should be filed with the director, and not with the county treasurer. In the case of a refund claim filed by an agent or representative of the taxpayer, a power of attorney must accompany the claim. All claims for refund must be in writing.

70.7(2) A taxpayer shall not offset a refund or overpayment of tax for one tax year as a prior payment of tax of a subsequent tax year on the tax return of a subsequent year unless the provisions of Iowa Code section 437A.8(7) are applicable.

70.7(3) Refunds—statute of limitations. The statute of limitations with respect to which refunds or credits may be claimed are:

a. The later of three years after the due date of the tax payment upon which the refund or credit is claimed; or one year after which such payment was actually made.
b. Ninety days after the due date of the tax payment upon which refund or credit is claimed if the tax is alleged to be unconstitutional.

70.7(4) No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid to the appropriate county treasurer under written protest which specifies the particulars of the alleged unconstitutionality.

70.7(5) The taxpayer responsible for paying the tax, or the taxpayer’s successors, are the only persons eligible to file claims for refund or credit of the tax with the director and are the only persons eligible to receive such refunds or credits.

70.7(6) The director will promptly notify the appropriate county treasurer of the acceptance or denial of any refund claim or credit. The county treasurer shall pay the refund claim or portion thereof accepted by the director.

70.7(7) A taxpayer has 60 days from the date of the notice of denial of a refund or credit, in whole or in part, to file a protest according to the provisions of rule 701—7.8(17A).

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

701—70.8(437A) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to replacement tax. In the event that the taxpayer files a request for abatement with the director, the appropriate county treasurer shall be notified. The director’s decision on the abatement request shall be sent to the taxpayer and the appropriate county treasurer.

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

701—70.9(437A) Taxpayers required to keep records.

70.9(1) Records required. The records required in this rule must be made available for examination upon request by the director or the director’s authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. Records associated with the number of taxable kilowatt-hours of electricity delivered to consumers by the taxpayer within each electric competitive service area during the tax year. Such records shall also include those for calendar year 1998.
b. Records associated with the number of taxable kilowatt-hours of electricity consumed within each electric competitive service area during the tax year where the delivery of such electricity is not subject to the replacement delivery tax.
c. Records associated with the average centrally assessed property tax liability allocated to electric service of each taxpayer, other than a municipal utility, principally serving an electric competitive service area and of each generation and transmission electric cooperative for the assessment years 1993 through 1997. For municipal utilities, such records shall be for the 1997 assessment year and shall also include records associated with items in 1999 Iowa Acts, Senate File 473, section 30.
d. Records associated with the number of taxable kilowatt-hours of electricity generated within the state of Iowa during the tax year. Such records shall also include those for calendar year 1998.
e. Records associated with taxable pole miles of transmission lines owned or leased by the taxpayer for each of the line voltage tiers subject to tax imposed in Iowa Code section 437A.7. Such records shall also include those for calendar year 1998.

f. Records associated with the excess property tax liability of each generation and transmission electric cooperative assigned to the electric competitive service areas principally served on January 1, 1999, by its distribution electric cooperative members and by those municipal utilities which were purchasing members of a municipal electric cooperative association that is a member of the generation and transmission electric cooperative. Such records shall include those for calendar year 1998. “Excess property tax liability” means the amount by which the average centrally assessed property tax liability for the assessment years 1993 through 1997 of a generation and transmission electric cooperative exceeds the tentative generation and transmission taxes which would have been imposed on such generation and transmission electric cooperative under Iowa Code sections 437A.6 and 437A.7 for calendar year 1998.

g. Records associated with the number of taxable therms of natural gas delivered to consumers by the taxpayer within each natural gas competitive service area during the tax year. Such records shall also include those for calendar year 1998.

h. Records associated with the number of taxable therms of natural gas consumed within each natural gas competitive service area during the tax year where the delivery of such natural gas is not subject to the replacement delivery tax.

i. Records associated with the average centrally assessed property tax liability allocated to natural gas service of each taxpayer, other than a municipal utility, principally serving a natural gas competitive service area for the assessment years 1993 through 1997. For municipal utilities, such records shall be for the 1997 assessment year and shall also include records associated with items in 1999 Iowa Acts, Senate File 473, section 30.

j. Records associated with the taxpayer’s calculation of the tentative replacement taxes due for the tax year and required to be shown on the tax return.

k. Records associated with increases or decreases in the tentative replacement tax required to be shown to be due where the electric and natural gas delivery tax rates are subject to recalculation under the provisions of Iowa Code section 437A.8(7).

l. Records associated with the kilowatt-hours of electricity and the therms of natural gas entitled to be exempted from the taxes imposed by Iowa Code sections 437A.4 to 437A.7 by the enumerated exemptions therein.

m. Records associated with kilowatt-hours of electricity and therms of natural gas delivered in a manner set forth in Iowa Code sections 437A.4(7) and 437A.5(6).

n. All work papers associated with any of the records described in this rule.

o. Records pertaining to any additions or deletions of property described as exempt from local property tax in Iowa Code section 437A.16.

p. Records associated with allocation of property described in paragraph “o” above among local taxing districts.

70.9(2) The records required to be maintained by these rules shall be maintained by taxpayers for a period of ten years following the later of the original due date for the filing of a tax return in which the replacement taxes are reported, or the date on which such return is filed. Upon application to the director and for good cause shown, the director may shorten the period for which any records should be maintained by a taxpayer.

701—70.10(437A) Credentials. 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 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.

701—70.11(437A) Audit of records. The director or the director’s authorized representative shall have the right to examine or cause to be examined the books, papers, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a tax return filed, of information presented,
or for estimating the tax liability of a taxpayer. When a taxpayer fails or refuses to produce the records for examination upon request, the director shall have authority to require, by a subpoena, the attendance of the taxpayer and any other witness(es) whom the director deems necessary or expedient to examine and compel the taxpayer and witness(es) to produce books, papers, records, memoranda or documents relating in any manner to the replacement tax.

701—70.12(437A) Collections/reimbursements. Neither the director nor the department is empowered to receive any payment of replacement tax. Therefore, taxpayers should never pay any replacement tax to the director or the state of Iowa. All payments of replacement tax are to be made to the appropriate county treasurer.

70.12(1) A person in possession of a renewable energy tax credit certificate issued pursuant to Iowa Code chapter 476C or a wind energy tax credit issued pursuant to Iowa Code chapter 476B may apply to the director for a reimbursement of the amount of taxes imposed and paid by the person pursuant to Iowa Code chapter 437A in an amount not more than the person received in renewable energy tax credit certificates or wind energy tax credit certificates. To obtain the reimbursement, the person shall include with the return required under Iowa Code section 437A.8 the renewable energy tax credit certificates or the wind energy tax credit certificates and provide any other information the director may require. The director shall direct that a warrant be issued to the person for an amount equal to the tax imposed and paid by the person. Any credit in excess of the person’s tax liability may be claimed as a refund for the following seven years. Pursuant to Iowa Code section 437A.14, a taxpayer may file a claim for refund with the director within three years after the replacement tax became due. If the renewable energy or wind energy tax credit claim exceeds the replacement tax due in a year, the taxpayer has seven years to carry over the excess credit. Pursuant to Iowa Code section 476C.4(6), a person may not receive both a renewable energy tax credit and a wind energy tax credit. For the wind energy tax credit, the reimbursement applies to a qualified facility placed in service on or after July 1, 2005, but before July 1, 2012. For the renewable energy tax credit, the reimbursement applies to a qualified facility placed in service on or after July 1, 2005, but before January 1, 2017. The utilities board shall notify the department of revenue of the amount of kilowatt hours of electricity purchased from a renewable energy facility or the amount of kilowatt hours generated and purchased from a qualified wind energy facility or generated and used on site by the qualified wind energy facility. The department of revenue shall calculate the amount of the tax credit and issue the tax credit certificate. Wind energy and renewable energy tax credit certificates may be transferred, and a replacement tax credit certificate may reflect a different type of tax than the type of tax noted on the original tax credit certificate.

70.12(2) A person in possession of a soy-based transformer fluid tax credit certificate issued pursuant to Iowa Code chapter 476D may apply to the director for a reimbursement of the amount of taxes imposed and paid by the person pursuant to Iowa Code chapter 437A in an amount not more than the person received in soy-based transformer fluid tax credit certificates. To obtain the reimbursement, the person shall attach to the return required under section 437A.8 the soy-based transformer fluid tax credit certificates issued to the person and provide any other information the director may require. The director shall direct a warrant to be issued to the person for an amount equal to the tax imposed and paid by the person pursuant to Iowa Code chapter 437A but for not more than the amount of the soy-based transformer fluid tax credit certificates attached to the return. This subrule is rescinded December 31, 2009.

This rule is intended to implement Iowa Code sections 437A.17B and 437A.17C and chapters 476B and 476D and chapter 476C as amended by 2014 Iowa Acts, Senate File 2343.

[ARC 1665C, IAB 10/15/14, effective 11/19/14]

701—70.13(437A) Information confidential. Iowa Code subsections 437A.14(2) and (3) apply generally to the director, deputies, auditors, and present or former officers and employees of the department. Disclosure of the kilowatt-hours of electricity or therms of natural gas delivered by a taxpayer in a competitive service area disclosed on a tax return, return information, or investigatory or audit information is prohibited. Other persons having acquired this confidential information will be
bound by the same rules of secrecy under these Iowa Code provisions as any member of the department and will be subject to the same penalties for violations as provided by law.

DIVISION II
STATEWIDE PROPERTY TAX

701—70.14(437A) Who must file return. Each taxpayer shall file a true and accurate return with the director. The return shall include all of the information prescribed in Iowa Code section 437A.21 and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity for which the taxpayer’s property was subject to the statewide property tax during the tax year, the return must contain a statement to that effect.

701—70.15(437A) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—70.16(437A) Form for filing. Replacement tax rule 70.3(437A) is incorporated herein by reference.

701—70.17(437A) Payment of tax. Payment of the tax required to be shown due on the statewide property tax return shall accompany the filing of the return. All checks shall be made payable to Treasurer, State of Iowa. Failure to pay the tax required to be shown due on the tax return by the due date shall render the tax delinquent.

701—70.18(437A) Statute of limitations. Replacement tax rule 70.5(437A) is incorporated herein by reference.

701—70.19(437A) Billings.

70.19(1) Notice of adjustments. Replacement tax rule 70.6(1) is incorporated herein by reference.

70.19(2) Notice of assessment. If, after following the procedure outlined in 70.6(1)“b,” no agreement is reached and the person does not pay the amount determined to be correct to the director, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer.

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

70.19(3) Supplemental assessments. Replacement tax rule 70.6(3) is incorporated by reference.

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

701—70.20(437A) Refunds. Replacement tax subrules 70.7(1) to 70.7(3), 70.7(5) and 70.7(7) are incorporated herein by reference.

No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid under written protest which specifies the particulars of the alleged unconstitutionality.
701—70.21(437A) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to the statewide property tax.

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

701—70.22(437A) Taxpayers required to keep records.

70.22(1) Records required. The records required in this rule must be made available for examination upon request by the director or the director’s authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. Records associated with the assessed value and base year assessed value of property subject to the statewide property tax.

b. Records associated with the computation of the statewide property tax required to be shown due on the tax return.

c. Records associated with the book value of the local amount of any major addition by local taxing district.

d. Records associated with the book value of the statewide amount of any major addition.

e. Records associated with the transfer or disposal of all operating property in the preceding calendar year, by local taxing district.

f. Records associated with the book value of all other taxpayer property subject to the statewide property tax.

g. Records associated with the book value of any major addition, by situs, eligible for the urban revitalization exemption provided for in Iowa Code chapter 404.

h. All work papers associated with any of the records described in this rule.

i. Records associated with allocation of property subject to statewide property tax among local taxing districts.

70.22(2) The records required to be maintained by these rules shall be maintained by taxpayers for a period of ten years following the later of the original due date for the filing of a tax return in which the statewide property tax is reported, or the date on which such return is filed. Upon application to the director and for good cause shown, the director may shorten the period for which any records should be maintained by a taxpayer.

701—70.23(437A) Credentials. Replacement tax rule 70.10(437A) is incorporated herein by reference.

701—70.24(437A) Audit of records. Replacement tax rule 70.11(437A) is incorporated herein by reference.

These rules are intended to implement Iowa Code chapter 437A as amended by 2007 Iowa Acts, Senate File 278.


[Filed 12/30/05, Notice 11/9/05—published 1/18/06, effective 2/22/06]

[Filed 10/5/06, Notice 8/30/06—published 10/25/06, effective 11/29/06]

[Filed 10/19/07, Notice 9/12/07—published 11/7/07, effective 12/12/07]

[Filed 11/12/08, Notice 10/8/08—published 12/3/08, effective 1/7/09]

[Filed ARC 0251C (Notice ARC 0145C, IAB 5/30/12), IAB 8/8/12, effective 9/12/12]

[Filed ARC 1665C (Notice ARC 1590C, IAB 8/20/14), IAB 10/15/14, effective 11/19/14]
CHAPTER 231
EXEMPTIONS PRIMARILY OF BENEFIT TO CONSUMERS

Rules in this chapter include cross references to provisions in 701—Chapters 15 to 20, 21, 26, 30, 32 and 33 that were applicable prior to July 1, 2004.

701—231.1(423) Newspapers, free newspapers and shoppers’ guides.

231.1(1) In general. The sales price from the sales of newspapers, free newspapers, and shoppers’ guides is exempt from tax. The sales price from the sales of magazines, newsletters, and other periodicals which are not newspapers is taxable. Cases decided by the United States Supreme Court and the Supreme Court of Iowa prohibit exempting from taxation the sale of any periodical if that exemption from taxation is based solely upon the contents of that periodical. See Arkansas Writers’ Project, Inc. v. Ragland, 481 U.S. 221, 107 S.Ct. 1722, 95 L.Ed.2d 209 (1987) and Hearst v. Iowa Department of Revenue & Finance, 461 N.W.2d 295 (Iowa 1990).

231.1(2) General characteristics of a newspaper. “Newspaper” is a term with a common definition. A “newspaper” is a periodical, published at short, stated, and regular intervals, usually daily or weekly. It is printed on newsprint with news ink. The format of a newspaper is that of sheets folded loosely together without stapling. A newspaper is admitted to the U.S. mails as second-class material. Other frequent characteristics of newspapers are the following:

a. Newspapers usually contain photographs.

b. Information printed on newspapers is usually contained in columns on the newspaper pages.

c. The larger the cross section of the population which reads a periodical in the area where the periodical circulates, the more likely it is that the department will consider that periodical to be a “newspaper.”

231.1(3) Characteristics of newspaper publishing companies. Often, companies publishing larger newspapers will subscribe to various syndicates or wire services. A larger newspaper will employ a general editor and a number of subordinate editors as well, for example, sports and lifestyle editors; business, local, agricultural, national, and world news editors; and editorial page editors. A larger newspaper will also employ a variety of reporters and staff writers. Smaller newspapers may or may not have these characteristics or may consolidate these functions.

231.1(4) Characteristics which distinguish a newsletter from a newspaper. A “newsletter” is generally distributed to members or employees of a single organization and not usually to a large cross section of the general public. It is often published at irregular intervals by a volunteer, rather than by a paid individual who usually publishes a newspaper. A newsletter is often printed on sheets which are held together at one point only by a staple, rather than folded together.

This rule is intended to implement 2005 Iowa Code subsection 423.3(54).

701—231.2(423) Motor fuel, special fuel, aviation fuels and gasoline.

231.2(1) In general. The sales price from the sale of motor fuel, including ethanol, and special fuel is exempt from sales tax under 2005 Iowa Code section 423.3(55) if (a) the fuel is consumed for highway use, in watercraft, or in aircraft, (b) the Iowa fuel tax has been imposed and paid, and (c) no refund or credit of fuel tax has been made or will be allowed. The sales price from the sale of special fuel for diesel engines used in commercial watercraft on rivers bordering Iowa is exempt from sales tax, even though no fuel tax has been imposed and paid, providing the seller delivers the fuel to the owner’s watercraft while it is afloat.

231.2(2) Refunds or credits of motor fuel and special fuel. Claims for refund or credit of fuel taxes under the provisions of Iowa Code chapter 452A must be reduced by any sales or use tax owing the state unless a sales tax exemption is applicable. Generally, refund claims or credits are allowed where fuel is purchased tax-paid and used for purposes other than to propel a motor vehicle or used in watercraft.

231.2(3) Refunds of tax on fuel purchased in Iowa and consumed outside of Iowa. Even though fuel is purchased in Iowa, fuel tax is paid in Iowa, and the fuel tax is subject to refund under the provisions of division III of Iowa Code chapter 452A relating to interstate motor vehicle operations, the refund of
the fuel tax does not subject the purchase of the fuel to sales tax. Subjecting the purchase of the fuel to sales tax has the effect of imposing sales tax when fuel is consumed in interstate commerce while fuel consumed on Iowa highways in intrastate commerce is exempt from sales tax pursuant to 2005 Iowa Code subsection 423.3(55). The effect for sales tax purposes is to impose a greater tax burden on non-Iowa highway fuel consumption than Iowa highway fuel consumption, thereby discriminating against interstate commerce. In addition, the effect of imposing sales tax on interstate excess purchases where intrastate highway use is not subject to the tax constitutes an export duty for purchasing fuel in Iowa and exporting it for use in another state. Such effects are in violation of the commerce clause of the United States Constitution. *Boston Stock Exchange v. State Tax Commission*, 1977, 429 U.S. 319, 97 S.Ct. 599, 50 L.Ed.2d 514 and *Coe v. Errol*, 1886, 116 U.S. 517, 6 S.Ct. 475, 29 L.Ed. 715.

**231.2(4)** Tax base. The basis for computing the Iowa sales tax will be the retail sales price of the fuel less any Iowa fuel tax included in such price. Federal excise tax should not be removed from the sales price in determining the proper sales tax due. W. M. Gurley v. Arny Rhoden supra. Also reference rule 701 — 15.12(422,423).

This rule is intended to implement Iowa Code subsection 423.3(55).

**701—231.3(423) Sales of food and food ingredients.** On and after July 1, 2004, the sales price from all sales of food and food ingredients is exempt from tax. For the purposes of this rule, “food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

**231.3(1)** Most substances can easily be classified either as food, food ingredients, or nonfood items. There are, however, certain substances that are not readily distinguishable as food or nonfood and may present problems in judgment. The following guidelines apply to some of the more unique categories of eligible foods and food ingredients and ineligible nonfood items about which questions may arise. The guidelines and their lists are not to be considered all-inclusive:

a. Foods eligible for purchase with food coupons. Sales of almost all substances which may be purchased with food coupons issued by the United States Department of Agriculture under the regulations in effect on July 1, 1974, remain exempt from tax on and after July 1, 2004. However, since the exemption no longer depends on ability to be purchased with food stamps (reference 701 — subrule 20.1(1)), sales of certain substances which can be purchased with food stamps but are neither food nor food ingredients are taxable on and after July 1, 2004.

These taxable sales include garden seeds and plants sold for use in gardens to produce food for human consumption. Seeds and plants eligible for purchase with food coupons include vegetable seeds and food-producing plants such as tomato and green pepper plants and fruit trees, food-producing roots, bushes, and bulbs (e.g., asparagus roots and onion sets) and seeds and plants used to produce spices for use in cooking foods. Sales of all these substances are taxable. Sales of chewing gum are taxable as sales of “candy” on and after July 1, 2004.

b. Distilled water and ice. These substances, although having some nonfood uses, are largely used as food or as ingredients in food for human consumption. Unless these substances are specifically labeled for nonfood use or the recipient indicates that they will be used for some purpose other than as food for human consumption or as ingredients in food for human consumption, their sales are exempt from tax.

c. Specialty foods. This category of eligible foods includes special dietary foods (e.g., diabetic and dietetic), enriched or fortified foods, infant formulas, and certain foods commonly referred to as health food items. These substances are food products which are substituted for more commonly used food items in the diet, and thus they are purchased for ingestion by humans and are consumed for their taste or nutritional value. Examples of items in this category of eligible foods are Metrecal, Enfamil, Sustegen, wheat germ, brewer’s yeast, sunflower seeds which are packaged for human consumption, and rose hips powder which is used for preparing tea. It is not possible to formulate a comprehensive list of eligible specialty foods. The guideline to be used to determine the eligibility of a specific product is the ordinary use of the product.
NOTE: If the product is primarily used as a food or as an ingredient in food, then it is an eligible item; if it is primarily used for medicinal purposes as either a therapeutic agent or a deficiency corrector and only occasionally used as a food, the product is not an eligible item.

d. Snack foods. These substances are food items and, therefore, are usually eligible for the exemption. Typical examples of snack foods are cheese puffs; corn chips; popcorn; peanuts; potato chips and sticks; packaged cookies, cupcakes, and donuts; and pretzels. Alcoholic beverages, candy, and soft drinks are examples of snack foods the sales of which are not exempt from tax; see subrule 231.3(2).

e. Others. There are certain eligible food substances which are normally consumed only after being incorporated into foods sold for ingestion or chewing by humans. Sales of substances which are ingredients of items identical to those which are eligible for exemption when sold as finished products are sales eligible for exemption. Since these substances are food ingredients, their sales are exempt. An example is pectin. Pectin is the generic term for products marketed under various brand names and commonly used as a base in making jams and jellies. When pectin is incorporated into jams or jellies, it becomes part of a food for human consumption and, therefore, is an eligible food item. Other examples are lard and vegetable oils.

f. The following general classifications of food products are also exempt from tax unless taxable as prepared food; see rule 701—231.5(423):

   Bread and flour products
   Bottled water, unless it is a sweetened bottled water and thus taxable as a soft drink (a change from previous law; reference 701—subparagraph 20.1(3)“b ”(1))
   Cereal and cereal products
   Cocoa and cocoa products, unless taxable in the form of candy as in rule 701—231.4(423)
   Coffee and coffee substitutes, unless taxable as soft drinks; see paragraph 231.3(2)“f”
   Dietary substitutes, other than dietary supplements; see paragraphs 231.3(1)“c” and 231.3(2)“a”
   Eggs and egg products
   Fish and fish products
   Frozen foods
   Fruits and fruit products including fruit juices, unless taxable as soft drinks; see paragraph 231.3(2)“f”
   Margarine, butter, and shortening
   Meat and meat products
   Milk and milk products, including packaged ice cream products
   Milk substitutes, such as soy and rice milk substitutes (a change from previous law; reference 701—subparagraph 20.1(3)“b ”(2))
   Spices, condiments, extracts, and artificial food coloring
   Sugar and sugar products and substitutes, unless taxable in the form of candy as in rule 701—231.4(423)
   Tea, unless taxable as a soft drink; see paragraph 231.3(2)“f”

Vegetables and vegetable products

231.3(2) Substances excluded from the term “food and food ingredients.” Sales of alcoholic beverages, candy, dietary supplements, food sold through vending machines, prepared food, soft drinks, and tobacco are not sales of “food” and are not exempt from tax by this rule.

   a. “Alcoholic beverages” means beverages that are suitable for human consumption and contain one-half of 1 percent or more of alcohol by volume.
   b. “Candy.” See rule 701—231.4(423).
   c. “Dietary supplement” means any product, other than tobacco, intended to supplement the diet that contains one or more of the following dietary ingredients:

      (1) A vitamin.
      (2) A mineral.
      (3) An herb or other botanical.
      (4) An amino acid.
(5) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake.

(6) A concentrate, metabolite, constituent, extract, or combination of any of the ingredients in subparagraphs (1) through (5) that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and is required to be labeled as a dietary supplement, identifiable by the “supplement facts” box found on the label and as required pursuant to 21 Code of Federal Regulations 101.36.

Dietary supplements, as their name indicates, serve as supplements to food or food products rather than as “food,” and, therefore, are not included within the definition of that word. Since these substances serve as deficiency correctors or therapeutic agents to supplement diets deficient in essential nutrition rather than as foods, they are not eligible for the food and food ingredients exemption. In addition to vitamin and mineral tablets or capsules, this category includes substances such as cod liver oil, which is used primarily as a source of vitamins A and D. It is not possible to provide a comprehensive list of other such items which are primarily used for medicinal purposes or as health aids and which may be stocked by authorized firms.

d. “Food sold through vending machines” means food dispensed from a machine or other mechanical device that accepts payment, other than food which would be qualified for exemption if purchased with coupons (commonly known as “food stamps”) issued under the federal Food Stamp Act of 1977, 7 United States Code 2011 et seq. Alcoholic beverages, candy, dietary supplements, prepared food, soft drinks, and tobacco sold through vending machines are sold subject to tax in all instances because they are specifically excluded from this rule’s definition of “foods”; see subrule 231.3(2) generally. This paragraph “d” should be interpreted in such a fashion that if the sale of a substance is exempt from tax because it is a sale of “food” when the substance is sold by means other than a vending machine, then the sale of that same substance through a vending machine will also be exempt from tax. Conversely, if the sale of a substance by any means other than through a vending machine is taxable, then the sale of that same substance through a vending machine will also be taxable.

e. “Prepared food.” See rule 701—231.5(423).

f. “Soft drinks” means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks may be noncarbonated. “Soft drinks” does not include beverages that contain milk or milk products; soy, rice, or similar milk substitutes; coffee and tea which are not sweetened; effervescent, noneffervescent, and mineral water sold in containers; beverages that contain greater than 50 percent of vegetable or fruit juice by volume. This latter is a change from the law as it existed prior to July 1, 2004, which required a volume of only 15 percent for exemption.

Taxable soft drinks are noncarbonated water and soda water if naturally or artificially sweetened; soft drinks carbonated and noncarbonated including but not limited to colas, ginger ale, near beer, and root beer; bottled and sweetened tea and coffee; lemonade, orangeade, and all other drinks or punches with natural fruit or vegetable juice less than 50 percent by volume.

Beverage mixes and ingredients intended to be made into soft drinks are taxable. Beverage mixes or ingredients may be liquid or frozen, concentrated or nonconcentrated, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned or unseasoned. Sales of beverage mixes to which a sweetener is to be added before drinking are taxable. Concentrates intended to be made into beverages which contain natural fruit or vegetable juice of less than 50 percent by volume are taxable.

Beverages, the sales of which are otherwise exempt, are taxable if sold as prepared food under rule 701—231.5(423).

Nondairy coffee “creamers” in liquid, frozen or powdered form are not beverages. Sugar or other artificial or natural sweeteners sold separately are not taxable as beverage ingredients. Specialty foods that are liquids or that are to be added to a liquid and that are intended to be a substitute in the diet for more commonly used food items are not beverages and are not taxable as beverages. These foods include infant formula.

g. “Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.
231.3(3) Other substances which are not food or food ingredients. Various products are not purchased for ingestion or chewing by humans or, if they are, are not consumed for their taste or nutritional value. Therefore, they are not purchased exempt from tax under this rule. They include, but are not limited to, the following:
   a. Health aids. Over-the-counter medicines and other products used primarily as health aids or therapeutic agents are not foods since they are consumed for their medicinal value as opposed to their nutritional value or taste. Such products include aspirin, cough drops or syrups and other cold remedies, antacids, and all over-the-counter medicines or other products used as health aids. In addition to these commonly used health aids, any product used primarily for medicinal purposes is ineligible. An example of such products is slippery elm powder, a demulcent which is used to soothe sore throats.
   b. Items not exempt. The following general classifications of products are subject to tax:
      Cosmetics
      Household supplies
      Paper products
      Pet foods and supplies
      Soaps and detergents
      Tobacco products
      Toiletary articles
      Tonics
      Lunch counter foods or foods prepared for consumption on the premises of the retailer
   This rule is intended to implement Iowa Code subsection 423.3(56).

701—231.4(423) Sales of candy.

231.4(1) Definitions. Sales of candy were excluded from exemption prior to July 1, 2004; however, the definition of “candy” applicable to the exclusion was slightly different from the definition set out in this rule. Reference rule 701—20.1(422,423). This rule and the following definitions apply to sales of candy on or after July 1, 2004.
   a. Candy. For the purposes of this rule, “candy” is a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. “Candy” shall not include any preparation containing flour and shall require no refrigeration. Any preparation to which flour has been added only for the purpose of excluding the candy’s sales from tax and not for any legitimate purpose, culinary or otherwise, shall not be sold exempt from tax under this rule. This definition is intended to be used when a person is trying to determine if a product that is commonly thought of as “candy” is in fact “candy.” For example, the definition would be applied in a situation where a person is trying to determine if a product is “candy” as opposed to a cookie. The definition is not intended to be applied to every type of food product sold. Many products, such as meat products, breakfast cereals, potato chips, and canned fruits and vegetables are not commonly thought of as “candy.” The definition of “candy” is not applicable to products such as these since they are not commonly thought of as candy.
   b. Preparation. Candy must be a “preparation” that contains certain ingredients, other than flour. A “preparation” is a product that is made by means of heating, coloring, molding, or otherwise processing any of the ingredients listed in the definition of “candy.” For example, reducing maple syrup into pieces and adding coloring to make maple candy is a form of preparation.
   c. Bars, drops or pieces. Candy must be sold in the form of bars, drops, or pieces.
      (1) A “bar” is a product that is sold in the form of a square, oblong, or similar form. For example, if Company A sells one-pound square blocks of chocolate, the blocks of chocolate are “bars.”
      (2) A “drop” is a product that is sold in a round, oval, pear-shaped, or similar form. For example, if Company B sells chocolate chips in a bag, each individual chocolate chip contains all of the ingredients indicated on the label and the chocolate chips are “drops.”
      (3) A “piece” is a portion that has the same makeup as the product as a whole. Individual ingredients and loose mixtures of items that make up the product as a whole are not pieces. EXCEPTION: If a loose
mixture of different items that make up the product as a whole are all individually considered candy and are sold as one product, that product is also candy.

EXAMPLE 1: Company C sells jellybeans in a bag. Each jellybean is made up of the ingredients indicated on the label. Each jellybean is a “piece” or “drop.”

EXAMPLE 2: Company D sells trail mix in a bag. The product being sold (trail mix) is made up of a mixture of carob chips, peanuts, raisins, and sunflower seeds. The individual items that make up the trail mix are not “pieces,” but instead are the ingredients, which, when combined, make up the trail mix. Therefore, the trail mix is not sold in the form of bars, drops, or pieces.

EXAMPLE 3: Company E sells a product called “candy lovers mix.” Candy lovers mix is a product that is made up of a loose mixture of jellybeans, toffee, and caramels. Individually, the jellybeans, toffee, and caramels are all candy. The sale of the mixture is the sale of candy since all of the individual items that make up the product are individually considered to be candy.

EXAMPLE 4: Company F sells cotton candy which is packaged and sold in grocery stores. Cotton candy contains sugar, corn syrup, water, coloring, and flavoring; it does not contain flour. Cotton candy is not “candy” because it is not sold in the form of a bar, drop, or piece. Cotton candy is, however, “prepared food” under Iowa Code section 423.3(57) “f.”

d. Flour: In order for a product to be treated as containing “flour,” the product label must specifically list the word “flour” as one of the ingredients. There is no requirement that the “flour” be grain-based, and it does not matter what the flour is made from. Many products that are commonly thought of as “candy” contain flour, as indicated on the ingredient label and therefore are specifically excluded from the definition of “candy.” Ingredient labels must be examined to determine which products contain flour and which products do not contain flour. Any preparation to which flour has been added only for the purpose of excluding its sales from tax and not for any legitimate purpose, culinary or otherwise, shall not be sold exempt from tax under this rule. For example, a candy bar that contains flour, for a legitimate purpose, is excluded from the definition of “candy.”

EXAMPLE 1: The ingredient list for a breakfast bar lists “flour” as one of the ingredients. This breakfast bar is not “candy” since it contains flour.

EXAMPLE 2: The ingredient list for a breakfast bar lists “peanut flour” as one of the ingredients. This breakfast bar is not “candy” because it contains flour.

EXAMPLE 3: The ingredient list for a breakfast bar that otherwise meets the definition of “candy” lists “whole grain” as one of the ingredients, but does not specifically list “flour” as one of the ingredients. This breakfast bar is “candy” because the word “flour” is not included in the ingredient list.

EXAMPLE 4: Company E sells a box of chocolates that are not individually wrapped. The ingredient list on the label for the box of chocolates identifies flour as one of the ingredients. The box of chocolates is not “candy” since flour is identified as one of the ingredients on the label.

EXAMPLE 5: Company F sells a box of chocolates that are not individually wrapped. The ingredient list on the label for the box of chocolates, which otherwise meets the definition of “candy,” does not identify flour as one of the ingredients. The box of chocolates is “candy.”

EXAMPLE 6: Company G sells high-end licorice—licorice A and licorice B. Licorice A would otherwise be “candy,” but its wrapper lists “flour” as an ingredient. Licorice A is not “candy.” Licorice B is the same as licorice A, except it does not contain “flour.” Licorice B is “candy.”

e. Other ingredients or flavorings. “Other ingredients or flavorings” as used in this rule means other ingredients or flavorings that are similar to chocolate, fruits or nuts. This phrase includes candy coatings such as carob, vanilla and yogurt; flavorings or extracts such as vanilla, maple, mint, and almond; and seeds and other items similar to the classes of ingredients or flavorings. This phrase does not include meats, spices, seasonings such as barbeque or cheddar flavor, or herbs which are not similar to the classes of ingredients or flavorings associated with chocolate, fruits, or nuts, unless the product otherwise meets the definition of “candy.”

EXAMPLE 1: Retailer A sells barbeque-flavored peanuts. The ingredient label for the barbeque-flavored peanuts indicates that the product contains peanuts, sugar and various other ingredients, including barbeque flavoring. Since the barbeque-flavored peanuts contain a combination of sweeteners
and nuts, and flour is not listed on the label and the nuts do not require refrigeration, barbeque-flavored peanuts are “candy.”

EXAMPLE 2: Retailer B sells barbeque potato chips. Potato chips are potatoes, a vegetable, and are not commonly thought of as candy. The barbeque potato chips are “food and food ingredients” and not “candy.” The fact that the ingredient label for the barbeque potato chips indicates that the product contains barbeque seasoning which contains a sweetener does not change the fact that the barbeque potato chips are not commonly thought of as candy.

f. Sweeteners. The term “natural or artificial sweeteners” as used in this rule means an ingredient of a food product that adds a sugary sweetness to the taste of the food product and includes, but is not limited to, corn syrup, dextrose, invert sugar, sucrose, fructose, saccharose, saccharin, aspartame, stevia, fruit juice concentrates, molasses, evaporated cane juice, rice syrup, barley malt, honey, maltitol, agave, and artificial sweeteners.

g. Refrigeration. A product that otherwise meets the definition of “candy” is not “candy” if it requires refrigeration. A product “requires refrigeration” if it must be refrigerated at the time of sale or after being opened. In order for a product to be treated as requiring refrigeration, the product label must indicate that refrigeration is required. If the label on a product that contains multiple servings indicates that it “requires refrigeration,” smaller size packages of the same product are also considered to “require refrigeration.” A product that otherwise meets the definition of “candy” is “candy” if the product is not required to be refrigerated, but is sold refrigerated for the convenience or preference of the customer, retailer, or manufacturer.

EXAMPLE 1: Company A sells sweetened fruit snacks in a bag that contains multiple servings. The label on the bag indicates that after opening, the sweetened fruit snacks must be refrigerated. The sweetened fruit snacks “require refrigeration.”

EXAMPLE 2: Company A sells sweetened fruit snacks in single-serving containers. Other than for packaging, the sweetened fruit snacks are identical to the sweetened fruit snacks in Example 1 above. However, since this container of sweetened fruit snacks only contains one serving, it is presumed that it will be used immediately, and the label does not indicate that after opening, the product must be refrigerated. Even though the label does not contain the statement that after opening the sweetened fruit snacks must be refrigerated, these sweetened fruit snacks are considered to “require refrigeration.”

EXAMPLE 3: Company A sells chocolate truffles. The label on the truffles indicates to keep the product cool and dry, but does not indicate that the product must be refrigerated. Since the chocolate truffles are not required to be refrigerated, even though the label indicates to keep them cool, the chocolate truffles do not “require refrigeration.”

231.4(2) Nonexclusive examples.

a. Taxable candy. Examples of items taxable as candy include, but are not limited to: preparations of fruits, nuts, or other ingredients in combination with sugar, honey, or other natural or artificial sweeteners in the form of bars, drops, or pieces; caramel-coated or other candy-coated apples or other fruit; candy-coated popcorn; hard or soft candies including jellybeans, taffy, licorice not containing flour, marshmallows, and mints; dried fruit leathers or other similar products prepared with natural or artificial sweeteners; candy breath mints; chewing gum; and mixes of candy pieces.

Sales of items which are normally sold for use as ingredients in recipes but which can be eaten as candy are taxable on and after July 1, 2004. Examples of these items include, but are not limited to: sweetened baking chocolate in bars or pieces; white and dark chocolate almond bark; toffee bits; M&M’s, including those sold for baking; candy primarily intended for decorating baked goods; and sweetened baking chips, including mint chips, peanut butter chips, butterscotch chips, and chocolate chips.

b. Nontaxable items. Sales of the following are generally not taxable as candy: jams, jellies, preserves, or syrups; frostings; dried fruits without added sweetener; breakfast cereals; prepared fruit in a sugar or similar base; ice cream or other frozen desserts covered with chocolate or similar coverings; cotton candy; cakes, cookies, and similar products covered with chocolate or other similar coating; and granola bars. However, these and similar items are taxable if sold as prepared food under rule 701—231.5(423).
231.4(3) Bundled transaction including candy. “Bundled transaction” is defined as the retail sale of two or more products, except real property and services to real property, where (1) the products are otherwise distinct and identifiable and (2) the products are sold for one non-itemized price.

a. Candy and food. Products that are a combination of items that are defined as “candy” under this rule and items that are defined as “food and food ingredients” under rule 701—231.3(423) are “bundled transactions” when the items are distinct and identifiable and are sold for one non-itemized price. For example, a bag of multiple types of individually wrapped bars that is sold for one price is two or more distinct and identifiable products sold for one non-itemized price. For purposes of determining whether such a bag of individually wrapped bars is a “bundled transaction,” the following criteria apply:

1. Ingredients listed separately. If a package contains individually wrapped bars, drops, or pieces and the product label on the package separately lists the ingredients for each type of bar, drop, or piece included in the package, those bars, drops, or pieces that have “flour” listed as an ingredient are “food and food ingredients” and those bars, drops, or pieces which do not have “flour” listed as an ingredient are “candy.” The determination of whether the package as a whole meets the definition of “bundled transaction” is based on the percentage of bars, drops, or pieces that meet the definition of “food and food ingredient” as compared to the percentage of bars, drops, or pieces that meet the definition of “candy.”

2. Determining the percentage. For purposes of determining the percentage of the sales price or purchase price of the bars, drops, or pieces that meet the definition of “candy” as compared to all of the bars, drops, or pieces contained in the package, the retailer may presume that each bar, drop, or piece contained in the package has the same value.

3. Presumption of product amount. A retailer may presume that there is an equal number of each type of product contained in the package, unless the package clearly indicates otherwise.

Example 1: Retailer A sells a package that contains 100 total pieces of food and food ingredients. There are ten different types of foods and food ingredients in the package. Eight of the types of food and food ingredients included in the package meet the definition of “candy,” while two of the types included do not meet the definition of “candy.” It is a reasonable presumption that 20 (2/10 times 100) of the pieces are not “candy” and 80 (8/10 times 100) of the pieces are “candy.” Therefore, since 80 percent of the product is “candy,” the retailer shall treat the entire package as a bundled transaction containing primarily “candy.” Sales tax is due on the sales price of the entire package. See Iowa Code section 423.2(8).

Example 2: Retailer B sells bulk food and food ingredients by the pound. Each food and food ingredient is in a separate bin or container. Some of the food and food ingredients are “candy” and some of them are not because they contain flour. However, regardless of the items chosen, the retailer charges the customer $3.49/lb. Customer C selects some items that are “candy” and some that are not and puts them in a bag. Since some of the items in the bag are “candy,” the retailer shall treat the entire package as a bundled transaction containing primarily “candy,” unless the retailer ascertains that 50 percent or less of the items in the bag are “candy.” Even if the retailer ascertains that 50 percent or less of the items in the bag are “candy,” sales tax is due on the sales price of the entire package. See Iowa Code section 423.2(8).

b. Combination of ingredients. Products whose ingredients are a combination of various unwrapped food ingredients that alone are not “candy,” along with unwrapped food ingredients that alone are “candy,” such as breakfast cereal and trail mix with candy pieces, are considered “food and
food ingredients,” but not “candy.” Sales of these products are not “bundled transactions” because there are not two or more distinct and identifiable products being sold. The combination of the ingredients results in a single product.

This rule is intended to implement 2011 Iowa Code subsection 423.3(57).

[ARC 0281C, IAB 8/22/12, effective 9/26/12; ARC 1664C, IAB 10/15/14, effective 11/19/14]

701—231.5(423) Sales of prepared food. On and after July 1, 2004, sales of “prepared food” are subject to tax as such sales were taxable prior to that date. However, before and after that date, the definitions of “prepared food” differ slightly. Reference rule 701—20.5(423) for a description of the taxation of “prepared food” prior to July 1, 2004.

231.5(1) Prepared food.

a. On and after July 1, 2004, “prepared food” means any of the following:

(1) Food sold in a heated state or heated by the seller, including food sold by a caterer.

(2) Two or more food ingredients mixed or combined by the seller for sale as a single item.

(3) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport food.

The types of retailers who are generally considered to be offering prepared food for sale include restaurants, coffee shops, cafeterias, convenience stores, snack shops, and concession stands including those at recreation and entertainment facilities. Other retailers that often offer prepared food include vending machine retailers, mobile vendors, and concessionaires operating facilities for such activities as education, office work, or manufacturing.

If food is sold for consumption on the premises of a retailer, the food is rebuttably presumed to be prepared food. “Premises of a retailer” means the total space and facilities under control of the retailer or available to the retailer, including buildings, grounds, and parking lots that are made available or that are available for use by the retailer, for the purpose of sale of prepared food and drink or for the purpose of consumption of prepared food and drink sold by the retailer. Availability of self-service heating or other preparation facilities or eating facilities such as tables and chairs, knives, forks, and spoons, indicates that food, food products, and drinks are sold for consumption on the premises of the retailer and are subject to tax as sales of prepared food.

The following examples are intended to show some of the situations in which sales are taxable as sales of prepared food and drink.

EXAMPLE A. A movie theater owner operates a movie theater and a concession stand in the lobby of the theater. There is not a separate area set aside for eating facilities. Sales of prepared food and drink through the concession stand are taxable.

EXAMPLE B. As a convenience to employees, a manufacturer owns and operates several food and drink vending machines located on the premises of the plant. No separate seating or other facilities for eating are provided. Sales of prepared food and drink through the vending machines are taxable.

EXAMPLE C. Mobile vendor units located throughout an office are operated by the owner of the business and are stocked with snack food priced to cover the cost of the items to the employer. No separate eating facilities are provided. Sales of prepared food through the mobile vendors are taxable.

EXAMPLE D. An insurance company hires a caterer to run a cafeteria which provides food, at a low cost, to its employees. The insurance company also pays the caterer an amount, per month, which varies with the number of meals the caterer serves to provide this food service. The caterer does not lease the cafeteria premises; thus the premises remains under the control of the insurance company. In this case, the caterer sells the food in a space made “available to the retailer [caterer],” and the amount which the insurance company pays, on a monthly basis, to the caterer is presumed to be the taxable sales price from the sale of prepared food, as well as the amount paid by the employees to the caterer.

b. “Prepared food,” for the purposes of this rule, does not include food that is any of the following:

(1) Only cut, repackaged, or pasteurized by the seller.
(2) Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the United States Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code, so as to prevent food-borne illnesses.

(3) Bakery items sold by the seller that baked them. The term “bakery items” includes but is not limited to breads, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. On and after July 1, 2004, baked goods sold for consumption on the premises by the seller that baked them are sold exempt from tax. This is a change from previous law; reference 701—subrule 20.5(2), Example D.

(4) Food sold in an unheated state as a single item without eating utensils provided by the seller which is priced by weight or volume.

231.5(2) Examples. The following are additional examples of foods that either are or are not “prepared foods,” the sales price of which is taxable.

Example A: A supermarket retailer cuts Bibb and romaine lettuce, mixes them together, and places them in a bag for sale. This is food which is only cut and repackaged. Its sale is not taxable.

Example B: The same factual situation as Example A above applies, except that the lettuce is mixed with a salad dressing, placed in a container, and sold as a salad which is ready to eat. Sale of the salad is a taxable sale of “prepared food.”

Example C: A supermarket retailer slices a roll of cotto salami and a roll of regular salami. The retailer places ten slices of each in the same container and sells the combination as an Italian luncheon meat variety pack. This is, again, the sale of food which is only cut and repackaged. The sale of the salami is exempt from tax.

Example D: The same factual circumstances as in Example C apply, except that the retailer takes the sliced salami, places it between two slices of bread, adds some condiments, surrounds the meat, bread, and condiments with plastic, and sells the result as a ready-to-eat sandwich. This is prepared food, “two or more food ingredients . . . combined by the seller for sale as a single item,” and more is done to the ingredients than cutting and repackaging. Sales of the sandwiches are taxable.

This rule is intended to implement 2005 Iowa Code subsection 423.3(56).

701—231.6(423) Prescription drugs, medical devices, oxygen, and insulin. Sales of prescription drugs and medical devices as defined in subrule 231.6(1) and dispensed for human use or consumption in accordance with subrules 231.6(3) and 231.6(4) shall be exempt from sales tax. Rentals of medical devices as defined in subrule 231.6(1) are also exempt from tax. The sales price from the sales of any oxygen or insulin purchased for human use or consumption (whether or not the oxygen or insulin is prescribed) is exempt from tax.

231.6(1) Definitions.

“Medical device” means durable medical equipment or mobility enhancing equipment intended to be prescribed by a practitioner for human use. See rule 701—231.8(423) for definitions of those terms.

“Prescription drug” means a drug intended to be dispensed to an ultimate user pursuant to a prescription drug order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner, or oxygen or insulin dispensed for human consumption with or without a prescription drug order or medication order.

“Ultimate user” means any individual who has lawfully obtained and possesses a prescription drug or medical device for the individual’s own use or for the use of a member of the individual’s household, or an individual to whom a prescription drug or medical device has been lawfully supplied, administered, dispensed or prescribed. The phrase does not include any entity created by law, such as a corporation or partnership.

231.6(2) Tax exemption. The sale of a prescription drug is exempt from tax only if the drug is intended to be prescribed or dispensed to an ultimate user. A drug is intended to be prescribed or dispensed to an ultimate user only if the drug is obtained by or supplied or administered to an ultimate user for placement on or in the ultimate user’s body.
EXAMPLE A: A physician prescribes a tranquilizer for a patient who is chronically nervous. The patient uses the prescription to purchase the tranquilizer at a pharmacy. The purchase is exempt from tax.

For purposes of this subrule, any drug prescribed in writing by a licensed physician, surgeon, osteopath, osteopathic physician or surgeon, or other person authorized by law to an ultimate user for human use or consumption shall be deemed a drug exempt from tax if a prescription is required or permitted under Iowa state or federal law.

EXAMPLE B: A common painkiller is sold over the counter in doses of 200 milligrams per tablet. In doses of 600 milligrams per tablet, federal law requires a prescription before the drug can be dispensed. Sales of 600 milligram tablets by prescription are exempt from tax.

EXAMPLE C: A federal law permits but does not require the painkiller mentioned in Example B to be prescribed by a practitioner in dosages of 200 milligrams per tablet. A practitioner might prescribe the painkiller in the over-the-counter dosage, for example, to impress upon a patient the importance of taking the drug. Sales of 200 milligram tablets by prescription are exempt from tax.

See rules 701—231.7(423) and 701—231.8(423) for examples of medical devices sold without a prescription but exempt from tax.

231.6(3) Persons authorized to dispense prescription drugs or prescription devices. In order for a prescription drug or device to qualify for an exemption, it must be dispensed by one of the following persons:

a. Any store or other place of business where prescription drugs are compounded, dispensed or sold by a person holding a license to practice pharmacy in Iowa, and where prescription orders for prescription drugs or devices are received or processed in accordance with pharmacy laws.

b. Persons licensed by the state board of medical examiners to practice medicine or surgery in Iowa.

c. Persons licensed by the state board of medical examiners to practice osteopathic medicine or surgery in Iowa.

d. Persons licensed by the state board of podiatry examiners to engage in the practice of podiatry in Iowa.

e. Persons licensed by the state board of dental examiners to practice dentistry in Iowa.

f. Persons licensed by the state board of optometry examiners as therapeutically certified optometrists.

g. Persons licensed by the state board of chiropractic examiners to practice chiropractic in Iowa, when dispensing in accordance with Iowa Code chapter 151.

h. Persons licensed as advanced registered nurse practitioners by the board of nursing when prescribing and dispensing in accordance with Iowa Code subsection 147.107(8).

i. Any other person authorized under Iowa law to dispense prescription drugs or devices in this state.

j. Any person licensed in another state in a health field in which, under Iowa law, licensees in this state may legally prescribe drugs or devices.

231.6(4) Disposition of prescription drugs and devices. Prescription drugs or devices may be dispensed either directly from one of the persons licensed in 231.6(3) who may also prescribe drugs or devices or by a pharmacist upon receipt of a prescription from one of the persons licensed to prescribe. A prescription received by a licensed pharmacist from one of the persons licensed in 231.6(3) who may also prescribe drugs or devices shall be sufficient evidence that a drug or device is exempt from sales tax. When a person who prescribes a drug or device is also the dispenser, the drug or device will not require a prescription by such person, but the drug or device must be recorded as if a prescription would have been issued or required. If this condition is met, the sales price from the sale of the drug or device shall be exempt from sales tax.

231.6(5) Others required to collect sales tax. Any person other than those who are allowed to dispense drugs or devices under 231.6(3) shall be required to collect sales tax on any prescription drugs or devices.
231.6(6) Prescription drugs and devices purchased by hospitals for resale. This subrule applies to for-profit hospitals only. Hospitals have purchased prescription drugs or devices for resale to patients and not for use or consumption in providing hospital services only if the following circumstances exist: (a) the drug or device is actually transferred to the patient; (b) the drug or device is transferred in a form or quantity capable of a fixed or definite price value; (c) the hospital and the patient intend the transfer to be a sale; and (d) the sale is evidenced in the patient’s bill by a separate charge for the identifiable drug or device. Reference rule 701—18.31(422,423) for a discussion generally of sales for resale by persons performing a service. Also reference rule 701—18.59(422,423) for the exemption applicable to all purchases of goods and services by a nonprofit hospital licensed under Iowa Code chapter 135B.

EXAMPLE A: A hospital purchases a bone saw blade and uses the blade to cut the bone of patient X during hip replacement surgery. This dulls the blade to the point that the blade cannot be used again and is discarded. The hospital bills patient X for “one bone saw blade—$30.” In spite of the separate charge for an identifiable piece of property, the hospital did not purchase the bone saw blade for resale. The blade was used up by the hospital, not transferred to the ownership of X. Since there was no transfer, there was no sale, thus no purchase for resale.

EXAMPLE B: A hospital buys lotion for use in massages given to patients by a nurse’s aide. In spite of the fact that one can argue that a transfer of ownership of the lotion from hospital to patient occurred, the lotion was not purchased for resale. No real intent to sell the lotion to patients ever existed; the lotion was not transferred to patients in a quantity capable of a definite price value; and there is no separate charge for the lotion.

A hospital’s purchase of a prescription drug for purposes other than resale will still be exempt from tax if a drug is intended to be prescribed to an ultimate user and the hospital’s use of the drug is otherwise exempt under 231.6(1).

This rule is intended to implement 2005 Iowa Code Supplement subsection 423.3(60).

701—231.7(423) Exempt sales of other medical devices which are not prosthetic devices. A prescription is not required for sales of the medical devices listed in subrule 231.7(1) to be exempt from tax if those devices are purchased for human use or consumption.

231.7(1) Definitions.

“Anesthesia trays” includes, without limit, paracervical anesthesia trays, saddle block anesthesia trays, spinal anesthesia trays, and continuous epidural anesthesia trays.

“Biopsy” means the removal and examination of tissue from a living body, performed to establish a precise diagnosis.

“Biopsy needles” includes, without limit, needles used to perform liver, kidney, other soft tissue, bone, and bone marrow biopsies. Menghini technique aspirating needles, Rosenthal-type needles, and “J” Jamshidi needles are all examples of biopsy needles.

“Cannula” means a tube inserted into a body duct or cavity to drain fluid, insert medication including oxygen, or to open an air passage. Examples are lariat nasal cannulas and ableson cricothyrotomy cannulas.

“Catheter” means a tubular, flexible, surgical instrument used to withdraw fluids from or introduce fluids into a body cavity, or for making examinations. Examples are: Robinson/relation catheters, all types of Foley catheters (e.g., pediatric and irrigating), three-way catheters, suction catheters, IV catheters, angiocath catheters and male and female catheters.

“Catheter trays.” Universal Foley catheter trays, economy Foley trays, urethral catherization trays and catheter trays with domed covers are nonexclusive examples of these trays.

“Diabetic testing materials” means all materials used in testing for sugar or acetone in the urine, including, but not limited to, Clinitest, Tes-tape, and Clinitest; also, all materials used in monitoring the glucose level in the blood, including, but not limited to, bloodletting supplies and test strips.

“Drug infusion device” means a device designed for the slow introduction of a drug solution into the human body. The term includes devices which infuse by means of pumps or gravity flow (drip infusion).

“Fistula” means an abnormal passage usually between the internal organs or between an internal organ and the surface of the body.
“Hypodermic syringe” means an instrument for applying or administering liquid into any vessel or cavity beneath the skin. This includes the needle portion of the syringe if it accompanies the syringe at the time of purchase, and it also includes replacement needles.

“Insulin” means a preparation of the active principle of the pancreas, used therapeutically in diabetes and sometimes in other conditions.

“Kit” means a combination of medical equipment and supplies used to perform one particular medical procedure which is packaged and sold as a single item.

“Myelogram” means a radiographic picture of the spinal cord. A “radiographic picture” is one taken using radiation other than visible light.

“Nebulizer” means a mechanical device which converts a liquid to a spray or fog.

“Other medical device,” for the purposes of this rule, means medical equipment or supplies intended to be dispensed for human use with or without a prescription to an ultimate user.

“Oxygen equipment” means all equipment used to deliver medicinal oxygen including, but not limited to, face masks, humidifiers, cannulas, tubing, mouthpieces, tracheotomy masks or collars, regulators, oxygen concentrators and oxygen accessory racks or stands.

“Set.” See “kit” above.

“Tray.” See “kit” above.

231.7(2) Sales of the following other medical devices are exempt from tax:
   a. Sales of insulin, hypodermic syringes, and diabetic testing materials.
   b. Sales and rentals of oxygen equipment.
   c. Sales of hypodermic needles, anesthesia trays, biopsy trays and needles, cannula systems, catheter trays, invasive catheters, dialyzers, drug infusion devices, fistula sets, hemodialysis devices, insulin infusion devices, irrigation solutions, intravenous administering sets, solutions and stopcocks, myelogram trays, nebulizers, small vein infusion kits, spinal puncture trays, transfusion sets and venous blood sets, all of which are taxable.

231.7(3) Component parts. Sales of any component parts of the trays, systems, devices, sets, or kits listed above are taxable unless the sale of a component part, standing alone, is otherwise exempt under these rules. For instance, the sale of a biopsy needle or an invasive catheter will be exempt from tax whether or not it was purchased for use as a component part in a biopsy tray or catheter tray, so long as the needle or catheter will be dispensed for human use to an ultimate user. Conversely, sales of catheter introducers, disposable latex gloves, rayon balls, forceps, and specimen bottles are exempt when those items are sold as part of a catheter tray, but are not exempt when those items are sold individually.

This rule is intended to implement 2005 Iowa Code Supplement subsection 423.3(60).

701—231.8(423) Prosthetic devices, durable medical equipment, and mobility enhancing equipment.

231.8(1) Prosthetic devices. Sales or rental of prosthetic devices shall be exempt from sales tax.

231.8(2) Durable medical equipment and mobility enhancing equipment. Sales or rental of durable medical equipment and mobility enhancing equipment prescribed for human use which meet the provisions of subrules 231.8(3) and 231.8(4) shall be exempt from sales tax. “Prescribed” refers to a prescription issued in any form of oral, written, electronic, or other means of transmission by any of the persons described in paragraphs “a” through “j” of subrule 231.6(3).

231.8(3) Definitions.
   a. “Durable medical equipment” means equipment, including repair and replacement parts, but does not include mobility enhancing equipment, to which all of the following apply:
      1. Can withstand repeated use.
      2. Is primarily and customarily used to serve a medical purpose.
      3. Generally is not useful to a person in the absence of illness or injury.
      4. Is not worn in or on the body.
      5. Is for home use only.
      6. Is prescribed by a practitioner.
b. “Mobility enhancing equipment” means equipment, including repair and replacement parts, but does not include durable medical equipment, to which all of the following apply:
1. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle.
2. Is not generally used by persons with normal mobility.
3. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.
4. Is prescribed by a practitioner.

c. “Prosthetic device” means a replacement, corrective, or supportive device including repair and replacement parts for the same worn on or in the body to do any of the following:
1. Artificially replace a missing portion of the body.
2. Prevent or correct physical deformity or malfunction.
3. Support a weak or deformed portion of the body.

The term “prosthetic device” includes, but is not limited to, orthopedic or orthotic devices, ostomy equipment, urological equipment, tracheostomy equipment, and intraocular lenses.

The following is a nonexclusive list of prosthetic devices:

<table>
<thead>
<tr>
<th>Artificial arteries</th>
<th>Drainage bags</th>
<th>Prescription eyeglasses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Artificial breasts</td>
<td>Hearing aids</td>
<td>Stoma bags</td>
</tr>
<tr>
<td>Artificial ears</td>
<td>Ileostomy devices</td>
<td>Tracheal suction catheters</td>
</tr>
<tr>
<td>Artificial eyes</td>
<td>Intraocular lenses</td>
<td>Tracheostomy care and</td>
</tr>
<tr>
<td>Artificial heart valves</td>
<td>Karaya paste</td>
<td>cleaning starter kits</td>
</tr>
<tr>
<td>Artificial implants</td>
<td>Karaya seals</td>
<td>Tracheostomy cleaning</td>
</tr>
<tr>
<td>Artificial larynx</td>
<td>Organ implants</td>
<td>brushes</td>
</tr>
<tr>
<td>Artificial limbs</td>
<td>Ostomy belts</td>
<td>Tracheostomy tubes</td>
</tr>
<tr>
<td>Artificial noses</td>
<td>Ostomy clamps</td>
<td>Urinary catheters</td>
</tr>
<tr>
<td>Artificial teeth</td>
<td>Ostomy cleaners</td>
<td>Urinary drainage bags</td>
</tr>
<tr>
<td>Cardiac pacemakers</td>
<td>and deodorizers</td>
<td>Urinary irrigation tubing</td>
</tr>
<tr>
<td>Contact lenses</td>
<td>Ostomy pouches</td>
<td>Urinary pouches</td>
</tr>
<tr>
<td>Cosmetic gloves</td>
<td>Ostomy stoma caps and paste</td>
<td></td>
</tr>
<tr>
<td>Dental bridges and implants</td>
<td></td>
<td>Penile implants</td>
</tr>
</tbody>
</table>

d. “Orthotic device” means a piece of special equipment designed to straighten a deformed or distorted part of the human body, such as corrective shoes or braces. An orthotic device is an orthopedic device.

e. “Orthopedic device” means a piece of special equipment designed to correct deformities or to preserve and restore the function of the human skeletal system, its articulations and associated structures. A hot tub or spa is not an orthopedic device.

The following is a nonexclusive list of orthopedic devices:

<table>
<thead>
<tr>
<th>Abdominal belts</th>
<th>Clavicle splints</th>
<th>Nerve stimulators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternating pressure mattresses</td>
<td>Corrective braces</td>
<td>Orthopedic implants</td>
</tr>
<tr>
<td>Alternating pressure pads</td>
<td>Corrective shoes</td>
<td>Orthopedic shoes</td>
</tr>
<tr>
<td>Anti-embolism stockings</td>
<td>Crutch cushions</td>
<td>Patient lifts</td>
</tr>
<tr>
<td>Arch supports</td>
<td>Crutch handgrips</td>
<td>Plaster (surgical)</td>
</tr>
<tr>
<td>Arm slings</td>
<td>Crutch tips</td>
<td>Rib belts</td>
</tr>
<tr>
<td>Artificial sheepskin</td>
<td>Crutches</td>
<td>Rupture belts</td>
</tr>
<tr>
<td>Bone cement</td>
<td>Decubitus prevention devices</td>
<td>Sacroiliac supports</td>
</tr>
<tr>
<td>Bone nails</td>
<td>Dorsolumbar belts</td>
<td>Sacroiliac belts</td>
</tr>
</tbody>
</table>
Bone pins | Dorsolumbar supports | Sacrolumbar supports
Bone plates | Elastic bandages | Shoulder immobilizers
Bone screws | Elastic supports | Space shoes
Bone wax | Exercise devices | Splints
Braces | Head halters | Traction equipment
Canes | Hernia belts | Transcutaneous electrical nerve stimulators (tens units)
Casts | Iliac belts | Trapezes
Cast heels | Invalid rings | Trusses
Cervical braces | Knee immobilizers | Walkers
Cervical collars | Lumbosacral supports | Wheelchairs
Cervical pillows | Muscle stimulators | 

f. "Related devices." Sales or rental of devices which are used exclusively in conjunction with prosthetic, orthotic, or orthopedic devices shall be exempt from tax. Daw Industries, Inc. v. United States, 714 F.2d 1140 (Fed. Cir. 1983).

g. "Medical equipment and supplies." The scope of the term “medical equipment and supplies” is broader than the terms “prescription drugs” or “medical devices.” While all exempt prescription drugs are medical supplies and all exempt medical devices are medical equipment, not all medical equipment and supplies are exempt medical devices or prescription drugs. The following is a nonexclusive list of items which are medical equipment or supplies, but are not prescription drugs or medical devices exempt from tax under subrules 231.6(1), 231.8(1), and 231.8(2) and rule 701—231.7(423). Sales of the following items are generally taxable.

| Adhesive bandages | Contact lens solution | Hot water bottles
| Aneurysm clips | Convoluted pads | Ice bags
| Arterial bloodsets | Corrective pessaries | Ident-a-bands
| Aspirators | Cotton balls | Incontinent garments
| Athletic supporters | Diagnostic kits | Incubators
| Atomizers | Dialysis chairs | Infrared lamps
| Autolit | Dialysis supplies | Inhalators
| Back cushions | Dietetic scales | Iron lungs
| Bathing aids | Disposable diapers | Irrigation apparatus
| Bathing caps | Disposable gloves | IV connectors
| Bedpans | Disposable underpads | Laminar flow equipment
| Bedside rails | Donor chairs | Latex gloves
| Bedside tables | Dressings | Leukopheresis pumps
| Bedside trays | Dry aid kits for ears | Lymphedema pumps
| Bedwetting prevention devices | EKG paper | Manometer trays
| Belt vibrators | Ear molds | Massagers
| Blood cell washing equipment | Electrodes (other than tens units) | Maternity belts
| Blood pack holders | Emesis basins | Medgrade tubing
| Blood pack trays | Enema units | Modulating oxygenators
| Blood pack units | First-aid kits | Moist heat pads
| Blood pressure meters | Foam slant pillows | Myringotomy tubes
| Blood processing supplies | Gauze bandages | Nebulizers (hypodermic)
| Blood tubing | Gauze packings | Overbed tables
| Blood warmers | Gavage containers | Page turning devices
Breast pumps
Breathing machines
Cardiac electrodes
Cardiopulmonary equipment
Chair lifts
Clamps
Clip-on ashtrays
Commode chairs
Connectors
Contact lens cases
Sauna baths
Security pouches
Servipak dialysis supplies
Shelf trays
Shower chairs
Side rails
Sitz bath kit
Specimen containers
Sponges (surgical)
Stairway elevators
Staples

Geriatric chairs
Grooming aids
Hand sealers
Hearing aid carriers
Hearing aid repair kits
Heart stimulators
Heat lamps
Heat pads
Hemolators
Hospital beds
Steri-peel
Stools
Suction equipment
Sunlamps
Surgical bandages
Surgical equipment
Suspensories
Sutures
Thermometers
Toilet aids
Tourniquets

Pap smear kits
Paraffin baths
Physicians’ instruments
Pigskin
Plasma extractors
Plasma pheresis units
Plastic heat sealers
Respirators
Resuscitators
Transfer boards
Tube sealers
Underpads
Urinals
Vacutainers
Vacuum units
Vaporizers
Vibrators
Whirlpools
X-ray film

231.8(4) Power devices. Sales or rental of power devices especially designed to operate prosthetic, orthotic or orthopedic devices shall be exempt from tax. This exemption does not include batteries which can be used to operate a number of devices, but batteries designed solely for use in hearing aids are exempt.

This rule is intended to implement 2005 Iowa Code Supplement subsection 423.3(60).

701—231.9(423) Raffles. The sales price from the sale of tickets for a raffle conducted at a fair pursuant to Iowa Code section 99B.5 is not subject to tax.

This rule is intended to implement 2005 Iowa Code subsection 423.3(61).

701—231.10(423) Exempt sales of prizes. The sales price from sales of tangible personal property which will be given as prizes to players in games of skill, games of chance, raffles, and bingo games as defined in and lawful under Iowa Code chapter 99B is exempt from tax. See department of inspections and appeals’ 481—Chapters 100 through 106, Iowa Administrative Code, for a description of the games of skill, games of chance, raffles, and bingo games which are lawful. See rule 481—100.6(99B) for a description of the prizes which may be lawfully awarded. A gift certificate is not tangible personal property. If a person wins a gift certificate as a prize and then redeems the gift certificate for merchandise, tax is payable at the time the gift certificate is redeemed. Reference 701—15.16(422,423).

This rule is intended to implement 2005 Iowa Code subsection 423.3(62).

701—231.11(423) Modular homes. Forty percent of the sales price from the sale of a modular home is exempt from tax. A “modular home” is any structure built in a factory, made to be used as a place for human habitation, which cannot be attached or towed behind a motor vehicle and which does not have permanently attached to its body or frame any wheels or axles.

This rule is intended to implement 2005 Iowa Code subsection 423.3(63).
701—231.12(423) Access to on-line computer service. The sales price from charges paid to a provider for access to an on-line computer service is exempt from tax. An “on-line computer service” is one which provides for or enables multiple users to have computer access to the Internet. Also, the furnishing of any contracted on-line service is exempt from Iowa tax if the information is made available through a computer server. The exemption applies to all contracted on-line services, as long as they provide access to information through a computer server.

This rule is intended to implement 2005 Iowa Code subsection 423.3(64).

701—231.13(423) Sale or rental of information services. The sales price from the service of the sale or rental of information services is exempt from tax. This exemption does not repeal by implication the tax on the performance of the services of investment counseling, service charges of all financial institutions, private employment agencies, test laboratories, detective services, or any other services enumerated by statute. Those services remain taxable; reference 701—Chapter 26 generally.

“Information services” means every business activity, process, or function by which a seller or its agent accumulates, prepares, organizes, or conveys data, facts, knowledge, procedures, and like services to a particular buyer (or its agent) of the information through any tangible or intangible medium. Information accumulated, prepared, or organized for a particular buyer, its agent, a group of buyers, or their agent is an information service even though it may incorporate preexisting components of data or other information.

Information services include, but are not limited to, database files, mailing lists, subscription files, market research, credit reports, surveys, real estate listings, bond rating reports, abstracts of title, bad check lists, broadcasting rating services, wire services, scouting reports, white and yellow page listings, and other similar items of compiled information prepared for a particular customer. The furnishing of artwork (including musical compositions and films), drawings, illustrations, or other graphic material is not the performance of an “information service”; nor does the term include information prepared for general dissemination to the public in the form of books, magazines, newsletters, videotapes or audiotapes, compact discs, or any other medium commonly used to communicate with large numbers of customers. The sale of a book, magazine, or similar item is not the sale of an information service, even if the item contains material of practical use (e.g., in conducting a private, for-profit business) to its purchaser.

The following specific examples illustrate the general principles set out above.

EXAMPLE A. John Doe buys a packaged set of preprinted documents and instructions which anyone may purchase and which is entitled “Legal Eagle.” Mr. Doe prepares his own will by reading the instructions, making choices and filling in the blanks on the preprinted documents. Mr. Doe has purchased tangible personal property and not an information service. His purchase is taxable.

EXAMPLE B. A taxpayer buys a book entitled “Doing Your Own Iowa Individual Income Tax,” which is written by an accountant and is available to any buyer. The taxpayer uses the book to prepare her own IA 1040. Since her purchase contains information prepared for general dissemination to the public in the form of a book, that purchase is a taxable sale of tangible personal property and not an exempt sale of an information service.

EXAMPLE C. The seller provides, for a fee, a weekly bulletin listing information on real estate of use to brokers selling homes in a certain Iowa county. The seller secures the information from a multiple listing service without applying any independent thought during the compiling of that information. The bulletin is useful only to those brokers and not to the general public. Since the bulletin is a “real estate listing” and has been prepared for a particular group of customers and not for the general public, its sale is the sale of an information service rather than the sale of tangible personal property and is thus exempt from tax.

EXAMPLE D. A-1 Corporation sells gourmet meats through the mail. A-1 rents its list of customers to whom it mails its catalog to other retailers that specialize in sales of goods or services to the wealthy. Since the list is a “mailing list” and made available only to a particular group of buyers, its rental is the performance of an exempt information service and not the taxable rental of tangible personal property.
EXAMPLE E. Company E is a tariff bureau which specializes in compiling and preparing tariff schedules. E acquires these schedules from various companies throughout the country. E then provides these schedules to common carriers that subscribe to its service. Its printed tariff schedules are published in bound and loose-leaf form; they may be updated daily. E’s providing the schedules is the performance of an exempt information service because the schedules are compiled for a particular group of customers and they are items of compiled information similar to the files, lists, reports, and other information services named above. E’s services are not subject to tax.

EXAMPLE F. Company F compiles and prints telephone directories. F purchases white and yellow page listings from various telephone companies and uses those listings to make up its directories. F’s purchases of the white and yellow page listings are purchases of an exempt information service. Any sales on F’s part of the directories to the general public would be sales of tangible personal property subject to tax.

EXAMPLE G. Company G purchases the assets of four businesses. The primary asset of each of the businesses is a database containing names, addresses, and other customer information of use to G but not to anyone other than a company similar to G. G transfers the lists to its own computers by way of paper or magnetic tape. G has purchased an exempt information service with its purchases of the four databases.

This rule is intended to implement 2005 Iowa Code subsection 423.3(65).

701—231.14(423) Exclusion from tax for property delivered by certain media. A taxable “sale” of tangible personal property does not occur if the substance of the transaction is delivered to the purchaser digitally, electronically, or by utilizing cable, radio waves, microwaves, satellites, or fiber optics. This exclusion from tax is also applicable to the leasing of tangible personal property, since a lease is classified as a “sale” of tangible personal property for the purposes of Iowa sales and use tax law. The exclusion is not applicable to property delivered by any medium other than those listed above. Sales of items such as artwork, drawings, photographs, music, electronic greeting cards, “canned” software (reference 701—subrule 18.34(1)), entertainment properties (e.g., films, concerts, books, and television and radio programs), and all other digitized products delivered as described above are not taxable, except the exclusion does not repeal by implication the tax on the service of providing pay television. Reference rule 701—26.56(422.423). If an order for a product is placed by way of any of the media described above but the product ordered is delivered by conventional, physical means, e.g., the U.S. Postal Service or common carrier, sale of the product is not excluded from tax under this rule.

The department considers delivery of tangible personal property to a purchaser by way of a “load and leave” transaction to be delivery by the use of conventional physical means. The sales price from the purchase of property delivered through a load and leave transaction is not exempt from tax under this rule. “Load and leave” means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

This rule is intended to implement 2005 Iowa Code subsection 423.3(66) and Iowa Code chapter 423, subchapter IV.

701—231.15(423) Exempt sales of clothing and footwear during two-day period in August. Tax is not due on the sale or use of a qualifying article of clothing or footwear if the sales price of the article is less than $100 and the sale takes place during a period beginning at 12:01 a.m. on the first Friday in August and ending at 12 midnight of the following Saturday. For example, in the year 2004, this period began at 12:01 a.m. on Friday, August 6, and ended at 12 midnight on Saturday, August 7. Eligible purchases of clothing and footwear are exempt from local option sales taxes as well as Iowa state sales tax.

231.15(1) Definitions. The following words and terms, when used in this rule, shall have the following meanings, unless the context clearly indicates otherwise.

“Accessories” includes, but is not limited to, jewelry, handbags, purses, briefcases, luggage, wallets, watches, cufflinks, tie tacks and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing.
“Clothing or footwear” means an article of wearing apparel designed to be worn on or about the human body. For the purposes of this rule, the term does not include accessories or special clothing or footwear or articles of wearing apparel designed to be worn by animals.

“Eligible property” means an item of a type, such as clothing, that qualifies for Iowa’s sales tax holiday.

“Special clothing or footwear” is clothing or footwear primarily designed for athletic activity or protective use and which is not normally worn except when used for the athletic activity or protective use for which it is designed.

231.15(2) Exempt sales.
   a. Required price. The exemption applies to each article of clothing or footwear selling for less than $100, regardless of how many items are sold on the same invoice to a customer. For example, if a customer purchases two shirts for $80 each, both items qualify for the exemption even though the customer’s total purchase price ($160) exceeds $99.99. The exemption does not apply to the first $99.99 of an article of clothing or footwear selling for more than $99.99. For example, if a customer purchases a pair of pants costing $110, sales tax is due on the entire $110.
   b. Order date and back orders. For the purpose of the sales tax holiday, eligible property qualifies for exemption if: the item is both delivered to and paid for by the customer during the exemption period; or the customer orders and pays for the item and the seller accepts the order during the exemption period for immediate shipment, even if delivery is made after the exemption period. The seller accepts an order when the seller has taken action to fill the order for immediate shipment. Actions to fill an order include placement of an “in date” stamp on a mail order or assignment of an “order number” to a telephone order. An order is for immediate shipment when the customer does not request delayed shipment. An order is for immediate shipment notwithstanding that the shipment may be delayed because of a backlog of orders or because stock is currently unavailable to, or on back order by, the seller.

231.15(3) Taxable sales. This exemption does not apply to sales of the following goods or services:
   a. Any special clothing or footwear that is primarily designed for athletic activity or protective use and that is not normally worn except when used for the athletic activity or protective use for which it is designed. For example, golf cleats and football pads are primarily designed for athletic activity or protective use and are not normally worn except when used for those purposes; therefore, they do not qualify for the exemption. However, tennis shoes, jogging suits, and swimsuits are commonly worn for purposes other than athletic activity and qualify for the exemption.
   b. Accessories, including jewelry, handbags, purses, briefcases, luggage, umbrellas, wallets, watches, and similar items carried on or about the human body, without regard to whether they are worn on the body in a manner characteristic of clothing.
   c. The rental of any clothing or footwear. For example, this exemption does not apply to rentals of formal wear, costumes, diapers, and bridal gowns, but would apply to sales of the above items.
   d. Taxable services performed on clothing or footwear, such as garment and shoe repair, dry cleaning or laundering, and alteration services. Sales tax is due on alterations to clothing, even though the alteration service may be performed, invoiced and paid for at the same time as the clothing is being purchased. If a customer purchases a pair of pants for $90 and pays $15 to have the pants cuffed, the $90 charge for the pants is exempt, but tax is due on the $15 alteration charge.
   e. Purchases of items used to make, alter, or repair clothing or footwear, including fabric, thread, yarn, buttons, snaps, hooks, belt buckles, and zippers.

231.15(4) Special situations.
   a. Articles normally sold as a unit. Articles that are normally sold as a unit must continue to be sold in that manner if the exemption is to apply; they cannot be priced separately and sold as individual items in order to obtain the exemption. For example, if a pair of shoes sells for $150, the pair cannot be split in order to sell each shoe for $75 to qualify for the exemption. If a suit is normally priced at $225 and sold as a unit on a single price tag, the suit cannot be split into separate articles so that any of the components may be sold for less than $100 in order to qualify for the exemption. However, components that are normally priced as separate articles (e.g., slacks and sport coats, and suit coats and suit pants
sold separately prior to the two-day period) may continue to be sold as separate articles and qualify for the exemption if the price of an article is less than $100.

b. **Sales of exempt clothing combined with gifts of taxable merchandise.** When exempt clothing is sold in a set that also contains taxable merchandise as a free gift and no additional charge is made for the gift, the exempt clothing may qualify for this exemption. For example, a boxed set may contain a tie and a free tie tack. If the price of the set is the same as the price of the tie sold separately, the item being sold is the tie, which is exempt from tax if sold for less than $100 during the exemption period.

c. **Layaway sales.** A layaway sale is a transaction in which merchandise is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time and, at the end of the payment period, receives the merchandise. Reference rule 701—16.22(422,423) for general information on layaway sales. A sale of eligible property under a layaway sale qualifies for exemption if: final payment on a layaway order is made by, and the property is given to, the purchaser during the exemption period; or the purchaser selects the property and the retailer accepts the order for the item during the exemption period, for immediate delivery upon full payment, even if delivery is made after the exemption period.

d. **Returns.** For a 60-day period immediately after the sales tax holiday exemption period, when a customer returns an item that would qualify for the exemption, no credit for or refund of sales tax shall be given unless the customer provides a receipt or invoice that shows tax was paid, or the seller has sufficient documentation to show that tax was paid on the specific item. This 60-day period is set solely for the purpose of designating a time period during which the customer must provide documentation that shows that sales tax was paid on returned merchandise. The 60-day period is not intended to change a seller’s policy on the time period during which the seller will accept returns.

e. **Different time zones.** The time zone of the seller’s location determines the authorized time period for a sales tax holiday when the purchaser is located in one time zone and the seller is located in another.

**231.15(5) Calculating taxable and exempt sales price—discounts, coupons, buying at a reduced price, and rebates.**

a. **Discounts.** A discount allowed by a retailer and taken on a taxable sale can be used to reduce the sales price of an item. If the discount reduces the sales price of an item to $99.99 or less, the item may qualify for the exemption. For example, a customer buys a $150 dress and a $100 blouse from a retailer offering a 10 percent discount. After applying the 10 percent discount, the final sales price of the dress is $135, and the blouse is $90. The dress is taxable (it is over $99.99), and the blouse is exempt (it is less than $99.99). Reference rule 701—15.6(422,423) for a definition of the word “discount” and a description of which retailers’ reductions in price are discounts which reduce the taxable sales price of items and which are not.

b. **Coupons.** When a coupon is issued by a retailer and is actually used to reduce the sales price of any taxable item, the value of the coupon is excludable from the tax as a discount if the retailer is not reimbursed for the coupon amount by a third party. Therefore, a retailer’s coupon can be used to reduce the sales price of an item to $99.99 or less in order to qualify for the exemption. For example, if a customer purchases a pair of shoes priced at $110 with a coupon worth $20 off, the final sales price of the shoes is $90, and the shoes qualify for the exemption. A manufacturer’s coupon cannot be used to reduce the sales price of an item. Reference 701—subrule 15.6(3).

c. **Buy one, get one free or for a reduced price or “two for the price of one” sales.** The total price of items advertised as “buy one, get one free,” or “buy one, get one for a reduced price,” or “two for the price of one” cannot be averaged in order for both items to qualify for the exemption. The following examples illustrate how such sales should be handled.

**EXAMPLE 1.** A retailer advertises pants as “buy one, get one free.” The first pair of pants is priced at $120; the second pair of pants is free. Tax is due on $120. Having advertised that the second pair is free, the store cannot ring up each pair of pants for $60 in order for the items to qualify for the exemption. However, if the retailer advertises and sells the pants for 50 percent off, selling each pair of $120 pants for $60, each pair of pants qualifies for the exemption.
EXAMPLE 2. A retailer advertises shoes as “buy one pair at the regular price, get a second pair for half price.” The first pair of shoes is sold for $100; the second pair is sold for $50 (half price). Tax is due on the $100 shoes, but not on the $50 shoes. Having advertised that the second pair is half price, the store cannot ring up each pair of shoes for $75 in order for the items to qualify for the exemption. However, if the retailer advertises the shoes for 25 percent off, thereby selling each pair of $100 shoes for $75, each pair of shoes qualifies for the exemption.

EXAMPLE 3. A retailer advertises shirts as “buy two for the price of one” for $140. Tax is due on $140. Each shirt cannot be rung up as costing $70. However, as described in Examples 1 and 2 above, the $140 cost of each shirt can be discounted to bring the price of each shirt within the exemption’s limitation.

d. Rebates. Rebates occur after the sale and do not affect the sales price of an item purchased. For example, a customer purchases a sweater for $110 and receives a $12 rebate from the manufacturer. The retailer must collect tax on the $110 sales price of the sweater. Reference 701—subrule 15.6(2) for additional information regarding rebates.

e. Shipping and handling charges. Shipping charges separately stated and separately contracted for (reference rule 701—15.13(422,423) for explanation) are not part of the amount used to determine whether the sales price of an item qualifies it for exemption. Handling charges, however, are part of the amount used to make this determination if it is necessary to pay those charges in order to purchase an item.

231.15(6) Treatment of various transactions associated with sales.

a. Rain checks. A rain check allows a customer to purchase an item at a certain price at a later time because the particular item was out of stock. Eligible items purchased during the exemption period using a rain check will qualify for the exemption regardless of when the rain check was issued. However, issuance of a rain check during the exemption period will not qualify an eligible item for the exemption if the item is actually purchased after the exemption period.

b. Exchanges.

(1) If a customer purchases an item of eligible clothing or footwear during the exemption period and later exchanges the item for a similar eligible item (different size, different color, etc.), no additional tax will be due even if the exchange is made after the exemption period.

EXAMPLE. A customer purchases a $35 shirt during the exemption period. After the exemption period ends, the customer exchanges the shirt for the same shirt in a different size. Tax is not due on the $35 price of the shirt.

(2) If a customer purchases an item of eligible clothing or footwear during the exemption period and after the exemption period has ended returns the item and receives credit on the purchase of a different item, the appropriate sales tax will apply to the sale of the newly purchased item.

EXAMPLE. A customer purchases a $35 shirt during the exemption period. After the exemption period ends, the customer exchanges the shirt for a $35 jacket. Because the jacket was not purchased during the exemption period, tax is due on the $35 price of the jacket.

(3) If a customer purchases an item of eligible clothing or footwear during the exemption period and later during the exemption period returns the item and purchases a similar but nonexempt item, the purchase of the second item is not exempt from tax.

EXAMPLE. During the exemption period, a customer purchases a $90 dress that qualifies for the exemption. Later, during the exemption period, the customer exchanges the $90 dress for a $150 dress. Tax is due on the $150 dress. The $90 credit from the returned item cannot be used to reduce the sales price of the $150 item to $60 for exemption purposes.

(4) If a customer purchases an item of eligible clothing or footwear before the exemption period and during the exemption period returns the item and receives credit on the purchase of a different item of eligible clothing or footwear, no sales tax is due on the sale of the new item if it is purchased during the exemption period and otherwise meets the qualifications for exemption.

EXAMPLE. Before the exemption period, a customer purchases a $60 dress. Later, during the exemption period, the customer exchanges the $60 dress for a $95 dress. Tax is not due on the $95
dress because it was purchased during the exemption period and otherwise meets the qualifications for the exemption.

### 231.15(7) Nonexclusive list of exempt items

The following is a nonexclusive list of clothing or footwear, sales of which are exempt from tax during the two-day period in August:

<table>
<thead>
<tr>
<th>Item</th>
<th>Item</th>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult diapers</td>
<td>Formal clothing—sold not rented</td>
<td>Raincoats and hats</td>
</tr>
<tr>
<td>Aerobic clothing</td>
<td>Fur coats and stoles</td>
<td>Religious clothing</td>
</tr>
<tr>
<td>Antique clothing</td>
<td>Galoshes</td>
<td>Riding pants</td>
</tr>
<tr>
<td>Aprons—household</td>
<td>Garters and garter belts</td>
<td>Robes</td>
</tr>
<tr>
<td>Athletic socks</td>
<td>Girdles</td>
<td>Rubber thongs—“flip-flops”</td>
</tr>
<tr>
<td>Baby bibs</td>
<td>Gloves—cloth, dress and leather</td>
<td>Running shoes without cleats</td>
</tr>
<tr>
<td>Baby clothes—generally</td>
<td>Golf clothing—caps, dresses, shirts and skirts</td>
<td>Safety shoes (adaptable for street wear)</td>
</tr>
<tr>
<td>Baby diapers</td>
<td>Graduation caps and gowns—sold not rented</td>
<td>Sandals</td>
</tr>
<tr>
<td>Baseball caps</td>
<td>Gym suits and uniforms</td>
<td>Shawls</td>
</tr>
<tr>
<td>Bathing suits</td>
<td>Hats</td>
<td>Shirts</td>
</tr>
<tr>
<td>Belts with buckles attached</td>
<td>Hiking boots</td>
<td>Shoe inserts and laces</td>
</tr>
<tr>
<td>Blouses</td>
<td>Bow ties</td>
<td>Stockings</td>
</tr>
<tr>
<td>Boots—general purpose</td>
<td>Hooded (sweat) shirts</td>
<td>Suits</td>
</tr>
<tr>
<td>Bow ties</td>
<td>Hosiery, including support hosiery</td>
<td>Support hose</td>
</tr>
<tr>
<td>Bowling shirts</td>
<td>Jackets</td>
<td>Suspenders</td>
</tr>
<tr>
<td>Bras</td>
<td>Jerneys for other than athletic wear</td>
<td>Sweatshirts</td>
</tr>
<tr>
<td>Bridal apparel—sold not rented</td>
<td>Jogging apparel</td>
<td>Swimsuits</td>
</tr>
<tr>
<td>Camp clothing</td>
<td>Knitted caps or hats</td>
<td>Tennis dresses</td>
</tr>
<tr>
<td>Caps—sports and others</td>
<td>Lab coats</td>
<td>Tennis skirts</td>
</tr>
<tr>
<td>Chefs’ uniforms</td>
<td>Leather clothing</td>
<td>Ties</td>
</tr>
<tr>
<td>Children’s novelty costumes</td>
<td>Leg warmers</td>
<td>Trousers</td>
</tr>
<tr>
<td>Choir robes</td>
<td>Leotards and tights</td>
<td>Tuxedos (except cufflinks)—sold not rented</td>
</tr>
<tr>
<td>Clerical garments</td>
<td>Nightgowns and nightshirts</td>
<td>Underclothes</td>
</tr>
<tr>
<td>Coats</td>
<td>Overshoes</td>
<td>Underpants</td>
</tr>
<tr>
<td>Corsets</td>
<td>Neckwear, e.g., scarves</td>
<td>Undershirts</td>
</tr>
<tr>
<td>Costumes—Halloween, Santa Claus, etc., sold not rented</td>
<td>Men’s formal wear—sold not rented</td>
<td>Uniforms—generally</td>
</tr>
<tr>
<td>Coveralls</td>
<td>Nightgowns and nightshirts</td>
<td>Veils</td>
</tr>
<tr>
<td>Cowboy boots</td>
<td>Overshoes</td>
<td>Vests—general, for wear with suits</td>
</tr>
<tr>
<td>Diapers—cloth and disposable</td>
<td>Pajamas</td>
<td>Walking shoes</td>
</tr>
<tr>
<td>Dresses</td>
<td>Pants</td>
<td>Windbreakers</td>
</tr>
<tr>
<td>Dress shoes</td>
<td>Pantyhose</td>
<td></td>
</tr>
<tr>
<td>Ear muffs</td>
<td>Prom dresses</td>
<td></td>
</tr>
<tr>
<td>Employee uniforms other than those primarily designed for</td>
<td>Ponchos</td>
<td></td>
</tr>
<tr>
<td>athletic activity or protective use</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 231.15(8) Nonexclusive list of taxable items

The following is a nonexclusive list of items, sales of which are taxable during the two-day period in August:

<table>
<thead>
<tr>
<th>Item</th>
<th>Item</th>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessories—generally</td>
<td>Fabric sales</td>
<td>Safety clothing</td>
</tr>
<tr>
<td>Alterations of clothing</td>
<td>Fishing boots (waders)</td>
<td>Safety glasses</td>
</tr>
<tr>
<td>Athletic supporters</td>
<td>Football pads</td>
<td>Safety shoes—not adaptable for street wear</td>
</tr>
<tr>
<td>Backpacks</td>
<td>Football pants</td>
<td>Shoes with cleats or spikes</td>
</tr>
<tr>
<td>Ballet shoes</td>
<td>Football shoes</td>
<td>Shoulder pads for dresses and jackets</td>
</tr>
<tr>
<td>Barrettes</td>
<td>Goggles</td>
<td>Shower caps</td>
</tr>
<tr>
<td>Baseball cleats</td>
<td>Golf gloves</td>
<td>Skis—ice and roller</td>
</tr>
<tr>
<td>Baseball gloves</td>
<td>Ice skates</td>
<td>Ski boots, masks, suits and vests</td>
</tr>
<tr>
<td>Belt buckles sold without belts</td>
<td>In-line skates</td>
<td>Special protective clothing or footwear not adaptable for streetwear</td>
</tr>
<tr>
<td>Belts for weight lifting</td>
<td>Insoles</td>
<td></td>
</tr>
<tr>
<td>Belts needing buckles but sold without them</td>
<td>Jewelry</td>
<td></td>
</tr>
<tr>
<td>Bicycle shoes with cleats</td>
<td>Key cases and chains</td>
<td></td>
</tr>
<tr>
<td>Billfolds</td>
<td>Knee pads</td>
<td></td>
</tr>
<tr>
<td>Blankets</td>
<td>Laundry services</td>
<td></td>
</tr>
<tr>
<td>Boutonnières</td>
<td>Life jackets and vests</td>
<td></td>
</tr>
<tr>
<td>Bowling shoes—rented and sold</td>
<td>Luggage</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Monogramming services</td>
<td></td>
</tr>
</tbody>
</table>

Ch 231, p.22  Revenue[701]  IAC 10/15/14
Bracelets
Buttons
Chest protectors
Clothing repair
Coin purses
Corsages
Dry cleaning services
Elbow pads
Employee uniforms primarily designed for athletic activities or protective use
Pads—elbow, knee and shoulder, football and hockey
Patterns
Protective gloves and masks
Purses
Rental of clothing
Rental of shoes or skates
Repairs of clothing
Roller blades
Tap dance shoes
Thread
Vests—bulletproof
Weight lifting belts
Wrist bands
Yard goods
Yarn
Zippers

This rule is intended to implement 2005 Iowa Code subsection 423.3(67).

701—231.16(423) State sales tax phase-out on energies. Beginning January 1, 2002, the state sales tax is phased out at the rate of 1 percent per year on the sales price from the sale, furnishing, or service of metered natural gas, electricity and fuels, including propane and heating oils, to residential customers for use as energy for residential dwellings, apartment units, and condominiums for human occupancy.

Local option taxes are not included in the phase-out of the state sales tax.

This phase-out of tax does not impact franchise fees. Franchise fees will continue to be imposed where applicable.

231.16(1) Definitions. The following definitions are applicable to this rule:

“Energy” means a substance that generates power to operate fixtures or appliances within a residential dwelling or that creates heat or cooling within a residential dwelling.

“Fuel” means a liquid source of energy for a residential dwelling, individual apartment unit, or condominium. “Fuel” includes propane, heating fuel, and kerosene. However, “fuel” does not include blended kerosene used as motor fuel or special fuel.

“Metered gas” means natural gas that is billed based on metered usage to provide energy to a residential dwelling, individual apartment unit, or individual condominium.

“Residential dwelling” means a structure used exclusively for human occupancy. This does not include commercial or agricultural structures, nor does it include nonresidential buildings attached to or detached from a residential dwelling, such as an outbuilding. However, a garage attached to or detached from a dwelling that is used strictly for residential purposes will fall within the phase-out provisions. A building containing apartment units is not considered to be qualifying property for purposes of this rule. However, if each apartment has a separate meter, it may qualify for the phase-out if classified as qualifying property by the utility. Also excluded from the phase-out provisions are certain nonqualifying properties that include, but are not limited to, nursing homes, adult living facilities, assisted living facilities, halfway houses, charitable residential facilities, YMCA residential facilities, YWCA residential facilities, apartment units not individually metered, and group homes.

231.16(2) Schedule for phase-out of tax. State sales tax on energies will be phased out at the rate of 1 percent per year based on the following schedule:

a. If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is on or after January 1, 2002, through December 31, 2002, or if the sale, furnishing, or service of fuel for purposes of residential energy and the delivery of the fuel occur on or after January 1, 2002, through December 31, 2002, the rate of state tax is 4 percent of the sales price.

b. If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is on or after January 1, 2003, through December 31, 2003, or if the sale, furnishing, or service of fuel for purposes of residential energy and the delivery of the fuel occur on or after January 1, 2003, through December 31, 2003, the rate of state tax is 3 percent of the sales price.

c. If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is on or after January 1, 2004, through December 31, 2004, or if the sale, furnishing, or service of fuel for purposes of residential energy and the delivery of
the fuel occur on or after January 1, 2004, through December 31, 2004, the rate of state tax is 2 percent of the sales price.

d. If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is on or after January 1, 2005, through December 31, 2005, or if the sale, furnishing, or service of fuel for purposes of residential energy and the delivery of the fuel occur on or after January 1, 2005, through December 31, 2005, the rate of state tax is 1 percent of the sales price.

e. If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is on or after January 1, 2006, or if the sale, furnishing, or service of fuel for purposes of residential energy and the delivery of the fuel occur on or after January 1, 2006, the rate of state tax is 0 percent of the sales price.

231.16(3) Determination of tax rate. Determination of the rate of state tax to be imposed on a transaction depends on the type of energy that is being purchased.

a. Electricity or metered natural gas. If the energy being purchased is either electricity or natural gas, then the rate of tax is governed by either the billing date or meter reading date. For example, ABC natural gas company sends out bills with a billing date of December 31, 2002, to qualifying residential customers. However, the bills to these qualifying customers are not placed in the United States mail until January 2, 2003. Based on the foregoing facts, the state sales tax to be imposed on the bills is 4 percent. Four percent is the tax rate imposed at the time of the billing date on the gas bills sent to the customers. If a billing for the same usage period needs to be billed more than once due to loss of the original bill or some other error, the billing date of the original bill controls qualification for the phase-out provisions of metered gas or electricity. For example, a utility company issues a billing for metered gas on December 28, 2001, to a customer and the customer loses the billing. The customer calls the utility company on January 10, 2002, to report the lost billing and to request a new billing. The utility company issues a new billing with a billing date of January 12, 2002, to the customer. The original billing date issued to the customer is determinative for the tax rate to be imposed. As a result, a 5 percent state tax rate should be imposed on the billing because the original billing date was prior to January 1, 2002.

b. Fuel and heating oil. The proper rate of tax to be imposed for the sale, furnishing or service of fuel including propane is governed by the date of delivery of the fuel to the customer. Consequently, if a farmer purchases propane for home heating by executing an agreement and paying for the propane in October 2002 but the propane is not delivered to the farmer until January 2003, the rate of state sales tax that should be imposed on the transaction is 3 percent.

231.16(4) Qualifying and nonqualifying usage. Customers that have both qualifying and nonqualifying usage on the same meter or fuel tank are subject to a proration formula to obtain the qualifying portion eligible for the phase-out provisions. In these situations, the percentage of qualifying usage must be determined by the purchaser for the purposes of applying the phase-out tax. Nonqualifying usage would be subject to the full state tax rate. Consequently, a proration of the metered gas, electricity or fuel usage for the qualifying and the nonqualifying usage must be calculated by the purchaser. Reference 701—subrules 15.3(4) and 15.4(5) for guidance on proration of electricity, natural gas and fuels. In addition, the purchaser must furnish an exemption certificate to the supplier with respect to that percentage of metered gas or electricity that is eligible for the phase-out provisions. Reference 701—subrule 15.3(2). The customer may provide a calculation which includes only the usage not subject to phase-out.

The customer must notify the utility provider of the percentage of qualifying and nonqualifying usage and the customer has the burden of proof regarding the percentage. The customer is liable for any mistakes or misrepresentations made regarding the computation or for failure to notify the utility provider in writing of the percentage of qualifying or nonqualifying usage.

Security lights used by customers that are billed as a flat rate tariff will be subject to the phase-out if the customer is classified as a residential customer. However, if a customer uses security lights which are billed as a flat rate tariff and that customer is classified as a commercial customer, the sales price including the usage of the security lights is not subject to the phase-out of state sales tax and is subject to the full state sales tax rate, unless another exemption from state sales tax is applicable.
231.16(5) Reporting over the phase-out period. Sales/use tax returns will be filed on the same basis as they are currently filed. During each phase-out period, the entire sales price from sales should be reported on the return. The appropriate state sales tax rate for the tax period will be applied by claiming the phased-out portion of the tax rate as a deduction on the return.

The sales prices for local option taxes are also to be reported in their entirety and computed by applying the appropriate local option tax rate.

The following are examples regarding how state sales and local option taxes should be reported:

**EXAMPLE 1. Reporting of tax by an energy provider:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales price for a tax period in 2002</td>
<td>$100,000</td>
</tr>
<tr>
<td>Phase-out (20,000 for the first year, 40,000 for the second year, etc.)</td>
<td>20,000</td>
</tr>
<tr>
<td>Taxable sales</td>
<td>80,000</td>
</tr>
<tr>
<td>State tax at 5% (to compute state sales tax due)</td>
<td>4,000</td>
</tr>
<tr>
<td>Sales price to be reported for local option</td>
<td>100,000</td>
</tr>
<tr>
<td>Local option tax rate (assuming a 1% local option tax rate)</td>
<td>(\times 1%)</td>
</tr>
<tr>
<td>Local option tax due</td>
<td>1,000</td>
</tr>
<tr>
<td>Total tax due (local option and state sales tax)</td>
<td>$5,000</td>
</tr>
</tbody>
</table>

**EXAMPLE 2. Reporting of tax on an individual billing:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly charge during a billing or delivery period in 2002</td>
<td>$400</td>
</tr>
<tr>
<td>State tax rate</td>
<td>(\times 4%)</td>
</tr>
<tr>
<td>State tax due</td>
<td>16</td>
</tr>
<tr>
<td>Sales price for local option tax</td>
<td>400</td>
</tr>
<tr>
<td>Local option tax rate</td>
<td>(\times 1%)</td>
</tr>
<tr>
<td>Local option tax due</td>
<td>4</td>
</tr>
<tr>
<td>Total tax (local option and state sales tax)</td>
<td>$20</td>
</tr>
</tbody>
</table>

This rule is intended to implement 2005 Iowa Code section 423.3(68).
[Filed 12/29/04, Notice 11/24/04—published 1/19/05, effective 2/23/05]
[Filed 6/3/05, Notice 4/27/05—published 6/22/05, effective 7/27/05]
[Filed 5/5/06, Notice 3/29/06—published 5/24/06, effective 6/28/06]
[Filed 10/31/08, Notice 9/24/08—published 11/19/08, effective 12/24/08]
[Filed ARC 0281C (Notice ARC 0119C, IAB 5/16/12), IAB 8/22/12, effective 9/26/12]
[Filed ARC 1664C (Notice ARC 1544C, IAB 7/23/14), IAB 10/15/14, effective 11/19/14]