

CHAPTER 421

DEPARTMENT OF REVENUE

[P]

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421.1 State board of tax review.

1. There is hereby established within the department of revenue for administrative and budgetary purposes a state board of tax review for the state of Iowa. The state board of tax review, hereinafter called the state board, shall consist of three members who shall be registered voters of the state and shall hold no other elective or appointive public office.

Members of the state board shall serve for six-year staggered terms beginning and ending as provided by section 69.19. A member who is appointed for a six-year term shall not be permitted a successive term.

Members shall be appointed by the governor subject to confirmation by the senate. Appointments to the board shall be bipartisan.

The members of the state board shall qualify by taking the regular oath of office as prescribed by law for state officers. A vacancy on the board shall be filled by appointment by the governor in the same manner as the original appointment.

The members of the state board shall be allowed their necessary travel and expenses while engaged in their official duties. Each member of the board may also be eligible to receive compensation as provided in section 7E.6. The members shall organize the board and select one of their members as chairperson.

2. The place of office of the state board shall be in the office of the tax department in the capitol of the state.

3. The state board shall meet as deemed necessary by the chairperson. Special meetings of the state board may be called by the chairperson on five days' notice given to each member. All meetings shall be held at the office of the tax department unless a different place within the state is designated by the state board or in the notice of the meeting.

4. It shall be the responsibility of the state board to exercise the following general powers and duties:

a. Determine and adopt such policies as are authorized by law and are necessary for the more efficient operation of any phase of tax review.

b. Perform such duties prescribed by law as it may find necessary for the improvement of the state system of taxation in carrying out the purposes and objectives of the tax laws.

c. Employ, pursuant to the Iowa merit system provisions in chapter 8A, subchapter IV, adequate clerical help to keep such records as are necessary to set forth clearly all actions and proceedings of the state board.

d. Advise and counsel with the director of revenue concerning the tax laws and the rules adopted pursuant to the law and conduct hearings and hear appeals in the manner provided in subsection 5.

e. Adopt a long-range program for the state system of tax reform based upon special studies, surveys, research, and recommendations submitted by or proposed under the direction of the director of revenue.

f. Constitute a continuing research commission as to tax matters in the state and cause to be prepared and submitted to each regular session of the general assembly a report containing such recommendations as to revisions, amendments, and new provisions of the law as the state board has decided should be submitted to the general assembly for its consideration.

5. Upon its own motion or upon appeal by any affected taxpayer, the state board shall review the record evidence and the decisions of, and any orders or directive issued by, the director of revenue for the identification of taxable property, classification of property as real or personal, or for assessment and collection of taxes by the department or an order to reassess or to raise assessments to any local assessor, and shall affirm, modify, reverse, or remand them within sixty days from the date the case is submitted to the board for decision. For an appeal to the board to be valid, written notice must be given to the department within thirty days of the rendering of the decision, order, or directive from which the appeal is taken. The director shall certify to the board the record, documents, reports, audits, and all other information pertinent to the decision, order, or directive from which the appeal is taken.

The affected taxpayer and the department shall be given at least fifteen days' written notice by the board of the date the appeal shall be heard and both parties may be present at such hearing if they desire. The board shall adopt and promulgate, pursuant to chapter 17A, rules for the conduct of appeals by the board. The record and all documents, reports, audits and all other information certified to the board by the director, and hearings held by the board pursuant to the appeal and the decision of the board thereon shall be open to the public notwithstanding the provisions of section 422.72, subsection 1, and section 422.20; except that the board upon the application of the affected taxpayer may order the record and all documents, reports, audits, and all other information certified to it by the director, or so much thereof as it deems necessary, held confidential, if the public disclosure of same would reveal trade secrets or any other confidential information that would give the affected taxpayer's competitor a competitive advantage. Any deliberation of the board in reaching a decision on any appeal shall be confidential.

Judicial review of the decisions or orders of the board resulting from the review of decisions or orders of the director of revenue for assessment and collection of taxes by the department may be sought by the taxpayer or the director of revenue in accordance with the terms of chapter 17A.

All of the provisions of section 422.70 shall also be applicable to the state board of tax review.

[C51, §481, 482; R60, §742; C73, §834; C97, §1378; S13, §1378; C24, 27, 31, 35, 39, §7140; C46, 50, 54, 58, §422.15; C62, 66, §441.46; C71, 73, 75, 77, 79, 81, §421.1]

86 Acts, ch 1245, §418; 87 Acts, ch 82, §1; 88 Acts, ch 1251, §1; 95 Acts, ch 49, §12; 99 Acts, ch 151, §1, 89; 2003 Acts, ch 145, §286; 2004 Acts, ch 1073, §3; 2006 Acts, ch 1010, §99

[P] Confirmation, see §2.32

421.1A Property assessment appeal board.

1. A statewide property assessment appeal board is created for the purpose of establishing a consistent, fair, and equitable property assessment appeal process. The statewide property assessment appeal board is established within the department of revenue for administrative

and budgetary purposes. The board's principal office shall be in the office of the department of revenue in the capital of the state.

2. *a.* The property assessment appeal board shall consist of three members appointed to staggered six-year terms, beginning and ending as provided in section 69.19, by the governor and subject to confirmation by the senate. Subject to confirmation by the senate, the governor shall appoint from the members a chairperson of the board to a two-year term. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as regular appointments are made. The term of office for the initial board shall begin January 1, 2007.

b. Each member of the property assessment appeal board shall be qualified by virtue of at least two years' experience in the area of government, corporate, or private practice relating to property appraisal and property tax administration. One member of the board shall be a certified real estate appraiser or hold a professional appraisal designation, one member shall be an attorney practicing in the area of state and local taxation or property tax appraisals, and one member shall be a professional with experience in the field of accounting or finance and with experience in state and local taxation matters. No more than two members of the board may be from the same political party as that term is defined in section 43.2.

c. The property assessment appeal board shall organize by appointing a secretary who shall take the same oath of office as the members of the board. The board may employ additional personnel as it finds necessary. All personnel employed by the board shall be considered state employees and are subject to the merit system provisions of chapter 8A, subchapter IV.

3. At the election of a property owner or aggrieved taxpayer or an appellant described in section 441.42, the property assessment appeal board shall review any final decision, finding, ruling, determination, or order of a local board of review relating to protests of an assessment, valuation, or application of an equalization order.

4. The property assessment appeal board may do all of the following:

a. Affirm, reverse, or modify a final decision, finding, ruling, determination, or order of a local board of review.

b. Order the payment or refund of property taxes in a matter over which the board has jurisdiction.

c. Grant other relief or issue writs, orders, or directives that the board deems necessary or appropriate in the process of disposing of a matter over which the board has jurisdiction.

d. Subpoena documents and witnesses and administer oaths.

e. Adopt administrative rules pursuant to chapter 17A for the administration and implementation of its powers, including rules for practice and procedure for protests filed with the board, the manner in which hearings on appeals of assessments shall be conducted, filing fees to be imposed by the board, and for the determination of the correct assessment of property which is the subject of an appeal.

f. Adopt administrative rules pursuant to chapter 17A necessary for the preservation of order and the regulation of proceedings before the board, including forms or notice and the service thereof, which rules shall conform as nearly as possible to those in use in the courts of this state.

5. The property assessment appeal board shall employ a competent attorney to serve as its general counsel, and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The general counsel is the attorney for, and legal advisor of, the board. The general counsel or an assistant to the general counsel shall provide the necessary legal advice to the board in all matters and shall represent the board in all actions instituted in a court challenging the validity of a rule or order of the board. The general counsel shall devote full time to the duties of the office. During employment as general counsel to the board, the counsel shall not be a member of a political committee, contribute to a political campaign, participate in a political campaign, or be a candidate for partisan political office. The general counsel and assistants to the general counsel shall be considered state employees and are subject to the merit system provisions of chapter 8A, subchapter IV.

6. The members of the property assessment appeal board shall receive compensation from the state commensurate with the salary of a district judge through December 31, 2013. The members of the board shall be considered state employees for purposes of salary and benefits.

The members of the board and any employees of the board, when required to travel in the discharge of official duties, shall be paid their actual and necessary expenses incurred in the performance of duties.

7. a. Effective January 1, 2012, a property assessment appeal board review committee is established. Staffing assistance to the committee shall be provided by the department of revenue. The committee shall consist of six members of the general assembly, two appointed by the majority leader of the senate, one appointed by the minority leader of the senate, two appointed by the speaker of the house of representatives, and one appointed by the minority leader of the house of representatives; the director of revenue or the director's designee; a county assessor appointed by the Iowa state association of counties; and a city assessor appointed by the Iowa league of cities.

b. The property assessment appeal board review committee shall review the activities of the property assessment appeal board since its inception. The review committee may recommend the revision of any rules, regulations, directives, or forms relating to the activities of the property assessment appeal board.

c. The review committee shall report to the general assembly by January 15, 2013. The report shall include any recommended changes in laws relating to the property assessment appeal board, the reasons for the committee's recommendations, and any other information the committee deems advisable.

2005 Acts, ch 150, §121; 2006 Acts, ch 1185, §30; 2007 Acts, ch 215, §27

[P] Confirmation, see §2.32

[SP] For future repeal of this section effective July 1, 2013, see 2005 Acts, ch 150, §134

421.2 Department of revenue.

A department of revenue is created. The department shall be administered by a director of revenue who shall be appointed by the governor subject to confirmation by the senate and shall serve at the pleasure of the governor. If the office of the director becomes vacant, the vacancy shall be filled in the same manner as provided for the original appointment. The director may establish, abolish, and consolidate divisions within the department of revenue when necessary for the efficient performance of the various functions and duties of the department of revenue.

[C31, 35, §6943-c11, -c12, -c15, -c17; C39, §6943.010, 6943.011, 6943.014, 6943.016; C46, 50, 54, 58, 62, 66, §421.1, 421.2, 421.5, 421.7; C71, 73, 75, 77, 79, 81, §421.2]

86 Acts, ch 1245, §419; 2003 Acts, ch 145, §286

[P] Confirmation, see §2.32

421.3 Director to have no conflicting interests.

The director of revenue shall not hold any other office under the laws of the United States or of this or any other state or hold any other position of profit. The director shall not engage in any occupation, business, or profession interfering with or inconsistent with the director's duties, serve on or under any committee of any political party, or contribute to the campaign fund of any person or political party. The director shall be of high moral character, shall be recognized for executive and administrative capacity, and shall possess expert knowledge and skills in the fields of taxation and property tax assessment. The director shall devote full time to the duties of the office.

[C31, 35, §6943-c14; C39, §6943.013; C46, 50, 54, 58, 62, 66, §421.4; C71, 73, 75, 77, 79, 81, §421.3]

2003 Acts, ch 145, §286

421.4 Deputies.

The director may appoint deputy directors and may designate one or more of the deputies as acting director. A deputy designated to serve in the absence of the director has all of the powers possessed by the director. The director may employ certified public accountants, engineering and technical assistants, and other employees, or independent contractors necessary to protect the interests of the state and any political subdivision.

[C71, 73, 75, 77, 79, 81, §421.4]

86 Acts, ch 1245, §420; 94 Acts, ch 1165, §1; 97 Acts, ch 158, §4

421.5 Settling doubtful claims for taxes.

The director may compromise and settle doubtful and disputed claims for taxes or refunds or tax liability of doubtful collectibility notwithstanding the provisions of section 7D.9. Whenever such a compromise and settlement is made, the director shall make a complete record of the case showing the tax assessed or claimed due, tax refund claimed, recommendations, reports, and audits of departmental personnel if any, the taxpayer's grounds for dispute or contest together with all evidence thereof, and the amounts, conditions, and settlement or compromise of same.

[C71, 73, 75, 77, 79, 81, §421.5]

94 Acts, ch 1165, §2

421.6 Rules — deposit of departmental moneys. Repealed by 2003 Acts, ch 145, §291. See § 8A.503.

421.7 Interest rate.

1. Except where a different rate of interest is stated in a provision of this title,* the rate of interest on interest-bearing obligations arising under this title shall be the rate of interest in effect under this section.

2. The rate of interest that shall be in effect during a calendar year shall be the rate which is two percentage points greater than the numerical average, rounded to the nearest one percent, of the respective prime rates for each of the months in the twelve-month period that ends September 30 of the previous calendar year. The rate of interest established by this subsection takes effect January 1, and applies to any amount which is due or becomes payable on or after that date.

3. Notwithstanding contrary provisions of subsection 2, the rate of interest that is in effect during a calendar year shall also be the rate of interest to be in effect for the following calendar year, unless the rate of interest as calculated under subsection 2 is at least one percentage point higher or lower than the rate then in effect.

4. In the event interest accrues or is calculated on a monthly basis, the rate of interest for each month shall be one-twelfth, rounded to the nearest one-tenth of one percent, of the rate specified in subsection 2.

5. As used in subsection 3, the term “*prime rate*” means the prime rate charged by banks on short-term business loans, as determined by the board of governors of the federal reserve system and published in the federal reserve bulletin.

6. In October of each year the director shall cause an advisory notice to be published in the Iowa administrative bulletin and in a newspaper of general circulation in this state, stating the rate of interest to be in effect on or after January 1 of the following year, as established by this section. The calculation and publication of the rate of interest by the director is exempt from chapter 17A.

[S13, §1481-a23; C24, 27, 31, §7310, 7368; C35, §6943-f20, -f21, -f24, 7310, 7368; C39, §6943.056, 6943.057, 6943.060, 7310, 7368; C46, 50, 54, §422.24, 422.25, 422.28, 450.6, 450.63; C58, 62, §324.64, 422.24, 422.25, 422.28, 450.6, 450.63; C66, §324.64, 422.16(9)(10, b), 422.24, 422.25, 422.28, 422.58, 423.18, 450.6, 450.63; C71, 73, 75, §324.65, 422.16(9)(10, b), 422.24, 422.25, 422.28, 422.58, 423.18, 450.6, 450.63; C77, §324.65, 422.16(9)(10, b)(11, e), 422.24, 422.25, 422.28, 422.58, 423.18, 450.6, 450.63, 450.94; C79, §324.65, 422.16(9)(10, b)(11, e), 422.24, 422.25, 422.28, 422.58, 422.88, 423.18, 435.4, 435.6, 450.6, 450.63, 450.94, 450A.9; C81, §324.65, 422.16(9)(10, b)(11, e), 422.24, 422.25, 422.28, 422.58, 422.88, 422.91, 423.18, 435.4, 435.6, 450.6, 450.63, 450.94, 450A.9; 81 Acts, ch 131, §1]

86 Acts, ch 1007, §16; 90 Acts, ch 1172, §5; 94 Acts, ch 1023, §48

[P] *This provision does not include chapters 421B, 427C, 435, 452A, and 453A, which were moved into this title by the Code editor. Chapters 421B, 427C, 435, 452A, and 453A contain the applicable provisions pertaining to those chapters.

421.8 Penalty for defective return under certain circumstances.

If a person files a purported return of tax which does not contain information on which the substantial correctness of the self-assessment may be judged or which contains information that on its face indicates that the self-assessment is substantially incorrect and the conduct previously referred to in this section is due to a position which is frivolous or a desire which

appears on the purported return to delay or impede the administration of the tax laws of this state, then the person shall pay a penalty of five hundred dollars. This penalty shall be in addition to any other penalty provided by law.

86 Acts, ch 1007, §17

[SP] Waiver of penalty or interest on timely amendments to 2008 returns for taxpayers relying in good faith on Iowa's conformity to federal treatment of disaster-related casualty losses in computing net income for state tax purposes; waiver applies retroactively to January 1, 2008, for tax years beginning on or after that date and before January 1, 2009; 2010 Acts, ch 1193, §211, 212

421.8A Repealed by 90 Acts, ch 1232, § 22.

421.9 Duties and powers — office.

1. The director of revenue or a designated deputy shall sign on behalf of the department all orders, subpoenas, warrants, and other documents of like character issued by the department.

2. The office of the department shall be maintained at the seat of government in this state. The department shall be deemed to be in continuous session and open for the transaction of business except Saturdays, Sundays, and legal holidays. The director of revenue may hold sessions in conducting investigations any place within the state when necessary to facilitate and render more thorough the performance of the director's duties.

3. The director may make application to the district court or judicial magistrate in the county where the books, records, or assets are located for an administrative search warrant as authorized by section 808.14, to ensure equitable administration of state tax law, if any of the following occurs:

a. A person refuses to allow the director or the director's authorized representative to audit the person's books or records or to inspect or value the person's assets.

b. The director has good and sufficient reason to believe that a person will not allow the department to audit books or records or inspect or value assets or to believe that the person will destroy books or records or secrete or transfer assets.

4. Immediately upon issuance of a distress warrant authorized by section 422.26, the director may make application to the district court or judicial magistrate for an administrative search warrant as authorized by section 808.14 to execute the distress warrant.

[C31, 35, §6943-c20, -c21, -c22, -c23; C39, §6943.019, 6943.020, 6943.021, 6943.022; C46, 50, 54, 58, 62, 66, §421.10, 421.11, 421.12, 421.13; C71, 73, 75, 77, 79, 81, §421.9]

86 Acts, ch 1245, §421; 90 Acts, ch 1232, §3; 94 Acts, ch 1165, §3; 2003 Acts, ch 145, §286; 2007 Acts, ch 126, §64

421.10 Appeal period — applicability.

The appeal period for revision of assessment of tax, interest, and penalties set out under section 422.28, 423.37, 437A.9, 437A.22, 452A.64, 453A.29, or 453A.46 applies to appeals to notices from the department denying changes in filing methods, denying refund claims, and denying portions of refund claims for the tax covered by that section, and notices of any department action directed to a specific taxpayer, other than licensing, which involves a calculation.

89 Acts, ch 251, §10; 95 Acts, ch 83, §1; 2000 Acts, ch 1114, §1, 18; 2003 Acts, 1st Ex, ch 2, §177, 205

421.11 through 421.13 Repealed by 67 Acts, ch 342, § 7.

421.14 Rules — director's duties.

The director shall have power to establish all needful rules not inconsistent with law for the orderly and methodical performance of the director's duties, and to require the observance of such rules by those having business with or appearing before the department.

[C31, 35, §6943-c24; C39, §6943.023; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §421.14]

421.15 Seal.

The director shall have an official seal, and orders or other papers executed by the director may, under the director's direction, be attested, with the seal affixed, by the secretary.

[C31, 35, §6943-c25; C39, §6943.024; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §421.15]

421.16 Expenses.

The director and department employees are entitled to receive from the state their actual necessary expenses while traveling on the business of the department. The expenditures shall be sworn to by the party who incurred the expense, and approved and allowed by the director. However, such expenses shall not be allowed residents of Polk county while in the city of Des Moines or traveling between their homes and the city of Des Moines.

[C31, 35, §6943-c26; C39, §6943.025; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §421.16] 88 Acts, ch 1158, §72; 89 Acts, ch 284, §6; 97 Acts, ch 23, §41; 99 Acts, ch 151, §2, 89

421.17 Powers and duties of director.

In addition to the powers and duties transferred to the director of revenue, the director shall have and assume the following powers and duties:

1. To have and exercise general supervision over the administration of the assessment and tax laws of the state, over boards of supervisors and all other officers or boards in the performance of their official duties in all matters relating to assessments and taxation, to the end that all assessments of property and taxes levied on the property be made relatively just and uniform in substantial compliance with the law.

2. To supervise the activity of all assessors and boards of review in the state of Iowa; to cooperate with them in bringing about a uniform and legal assessment of property as prescribed by law.

- a. The director may order the reassessment of all or part of the property in any assessing jurisdiction in any year. Such reassessment shall be made by the local assessor according to law under the direction of the director and the cost of making the assessment shall be paid in the same manner as the cost of making an original assessment.

- b. The director shall determine the degree of uniformity of valuation as between the various assessing jurisdictions of the state and shall have the authority to employ competent personnel for the purpose of performing this duty.

- c. For the purpose of bringing about uniformity and equalization of assessments throughout the state of Iowa, the director shall prescribe rules relating to the standards of value to be used by assessing authorities in the determination, assessment and equalization of actual value for assessment purposes of all property subject to taxation in the state, and such rules shall be adhered to and followed by all assessing authorities.

3. To prescribe and promulgate all forms of books and forms to be used in the listing and assessment of property, and on or before November 1 of each year shall furnish to the county auditor of each county such prescribed forms of assessment rolls and other forms to properly list and assess all property subject to taxation in each county. The department of revenue shall also from time to time prepare and furnish in like manner forms for any and all other blanks, memoranda or instructions which the director deems necessary or expedient for the use or guidance of any of the officers over which the director is authorized by law to exercise supervision.

4. To confer with, advise, and direct boards of supervisors, boards of review, and others obligated by law to make levies and assessments, as to their duties under the laws.

5. To direct proceedings, actions, and prosecutions to be instituted for the enforcement of the laws relating to the penalties, liabilities, and punishment of public officers, and officers or agents of corporations, and other persons or corporations, for failure or neglect to comply with the provisions of the statutes governing the return, assessment and taxation of property; to make or cause to be made complaints against members of boards of review, boards of supervisors or other assessing, reviewing, or taxing officers for official misconduct or neglect of duty. Employees of the department of revenue shall not during their regular hours of employment engage in the preparation of tax returns, except in connection with a regular audit of a tax return or in connection with assistance requested by the taxpayer.

6. To require city, township, school districts, county, state, or other public officers to report information as to the assessment of property and collection of taxes and such other information as may be needful or desirable in the work of the department in such form and upon such blanks as the director may prescribe.

The director shall require all city and county assessors to prepare a quarterly report in the

manner and form to be prescribed by the director showing for each warranty deed or contract of sale of real estate, divided between rural and urban, during the last completed quarter the amount of real property transfer tax, the sale price or consideration, and the equalized value at which that property was assessed that year. This report with further information required by the director shall be submitted to the department within sixty days after the end of each quarter. The department shall prepare annual summaries of the records of the ratio of assessments to actual sales prices for all counties, and for cities having city assessors, and the information for the preceding year shall be available for public inspection by May 1.

7. To hold public hearings either at the seat of government or elsewhere in the state, and tax the costs thereof; to summon and compel witnesses to appear and give testimony, to administer oaths to said witnesses, and to compel said witnesses to produce for examination records, books, papers, and documents relating to any matter which the director shall have the authority to investigate or determine. Provided, however, that no bank or trust company or its officers or employees shall be required to divulge knowledge concerning the property of any person when such knowledge was obtained through information imparted as a part of a business transaction with or for such person and in the usual and ordinary course of business of said bank or trust company, and was necessary and proper to the discharge of the duty of said bank or trust company in relation to such business transaction. This proviso shall be additional to other provisions of the law relating to confidential and privileged communications.

8. To cause the depositions of witnesses residing within or without the state, or absent therefrom, to be taken either on written or oral interrogatories, and the clerk of the district court of any county shall upon the order of the director issue a commission for the taking of such depositions. The proceedings therefor shall be the same as the proceedings for the taking of depositions in the district court so far as applicable.

9. To investigate the work and methods of boards of review, boards of supervisors, or other public officers, in the assessment, equalization, and taxation of all kinds of property, and for that purpose the director or employees of the department may visit the counties or localities when deemed necessary so to do.

10. To require any board of review at any time after its adjournment to reconvene and to make such orders as the director shall determine are just and necessary; to direct and order any board of review to raise or lower the valuation of the property, real or personal, in any township, city, or taxing district, to order and direct any board of review to raise or lower the valuation of any class or classes of property in any township, city, or taxing district, and generally to make any order or direction to any board of review as to the valuation of any property, or any class of property, in any township, city, county, or taxing district, which in the judgment of the director may seem just and necessary, to the end that all property shall be valued and assessed in the manner and according to the real intent of the law. For the purpose of this paragraph the words "*taxing district*" include drainage districts and levee districts.

a. The director may correct obvious errors or obvious injustices in the assessment of any individual property, but the director shall not reduce the valuation of any individual property except upon the recommendation of the local board of review and an order of the director affecting any valuation shall not be retroactive as to any reduction or increase in taxes payable prior to January 1 of the year in which that order is issued, or prior to September 1 of the preceding year in cities under special charter which collect their own municipal levies. The director shall not correct errors or injustices under the authority of this paragraph if that correction would involve the exercise of judgment. Judicial review of the actions of the director may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

b. The director may order made effective reassessments or revaluations in any taxing district for any taxing year or years and the director may in any year order uniform increases or decreases in valuation of all property or upon any class of property within any taxing district or any area within such taxing district, such orders to be effective in the year specified by the director. For the purpose of this paragraph the words "*taxing district*" include drainage districts and levee districts.

11. To carefully examine into all cases where evasion or violation of the law for assessment

and taxation of property is alleged, complained of, or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered, and cause to be instituted such proceedings as will remedy improper or negligent administration of the laws relating to the assessment or taxation of property.

12. To make a summary of the tax situation in the state, setting out the amount of moneys raised by both direct and indirect taxation; and also to formulate and recommend legislation for the better administration of the fiscal laws so as to secure just and equal taxation. To recommend such additions to and changes in the present system of taxation that in the director's judgment are for the best interest of the state and will eliminate the necessity of any levy for state purposes.

13. To transmit biennially to the governor and to each member and member-elect of the legislature, thirty days before the meeting of the legislature, the report of the director, covering the subject of assessment and taxation, the result of the investigation of the director, recommendations for improvement in the system of taxation in the state, together with such measures as may be formulated for the consideration of the legislature.

14. Reserved.

15. The director may establish criteria allowing for the use of electronic filing or the use of alternative filing methods of any return, deposit, or document required to be filed for taxes administered by the department. The director may also establish criteria allowing for payment of taxes, penalty, interest, and fees by electronic funds transfer or other alternative methods. The director shall adopt rules setting forth procedures for use in electronic filing and electronic funds transfer or other alternative methods and standards that provide for acceptance of a signature in a form other than the handwriting of a person. The rules shall also take into consideration any undue hardship electronic filing or electronic funds transfer or other alternative methods create for filers.

16. To call upon a state agency or institution for technical advice and data which may be of value in connection with the work of the department.

17. To prepare and issue a state appraisal manual which each county and city assessor shall use in assessing and valuing all classes of property in the state. The appraisal manual shall be continuously revised and the manual and revisions shall be issued to the county and city assessors in such form and manner as prescribed by the director.

18. To issue rules as are necessary, subject to the provisions of chapter 17A, to provide for the uniform application of the exemptions provided in section 427.1 in all assessor jurisdictions in the state.

19. To subpoena from property owners and taxpayers any and all records and documents necessary to assist the department in the determination of the fair market value of industrial real estate.

a. The burden of showing reasonable cause to believe that the documents or records sought by the subpoena are necessary to assist the department under this subsection shall be upon the director.

b. The provisions of sections 17A.10 to 17A.18A relating to contested cases shall not apply to any matters involving the equalization of valuations of classes of property as authorized by this chapter and chapter 441. This exemption shall not apply to a hearing before the state board of tax review.

20. To cooperate with the child support recovery unit created in chapter 252B to establish and maintain a process to implement the provisions of section 252B.5, subsection 9. The department of revenue shall forward to individuals meeting the criteria under section 252B.5, subsection 9, paragraph "a", a notice by first class mail that the individual is obligated to file a state estimated tax form and to remit a separate child support payment.

a. Individuals notified shall submit a state estimated tax form on a quarterly basis.

b. The individual shall pay monthly, the lesser of the total delinquency or one hundred fifty percent of the current or most recent monthly obligation.

c. The individual shall remit the payment to the department of revenue separate from any tax liability payments, identify the payment as a support payment, and make the payment payable to the collection services center. The department shall forward all payments received pursuant to this section to the collection services center established pursuant to chapter 252B,

for processing and disbursement. The department of revenue may establish a process for the child support recovery unit or collection services center to directly receive the payments. For purposes of crediting the support payments pursuant to sections 252B.14 and 598.22, payments received by the department of revenue and forwarded to the collection services center shall be credited as if received directly by the collection services center.

d. The notice shall provide that, as an alternative to the provisions of paragraph “b”, the individual may contact the child support recovery unit to formalize a repayment plan and obtain an exemption from the quarterly filing requirement when payments are made pursuant to the repayment plan or to contest the balance due listed in the notice.

e. The department of revenue, in cooperation with the child support recovery unit, may adopt rules, if necessary, to implement this subsection.

21. To provide information contained in state individual tax returns to the child support recovery unit for the purposes of establishment or enforcement of support obligations. The department of revenue and child support recovery unit may exchange information in a manual or automated fashion. The department of revenue, in cooperation with the child support recovery unit, may adopt rules, if necessary, to implement this subsection.

22. To employ collection agencies, within or without the state, to collect delinquent taxes, including penalties and interest, administered by the department or delinquent accounts, charges, loans, fees or other indebtedness due the state or any state agency, that have formal agreements with the department for central debt collection where the director finds that departmental personnel are unable to collect the delinquent accounts, charges, loans, fees, or other indebtedness because of a debtor’s location outside the state or for any other reason. Fees for services, reimbursement, or other remuneration, including attorney fees, paid to collection agencies shall be based upon the amount of tax, penalty, and interest or debt actually collected and shall be paid only after the amount of tax, penalty, and interest or debt is collected. All funds collected must be remitted in full to the department within thirty days from the date of collection from a debtor or in a lesser time as the director prescribes. The funds shall be applied toward the debtor’s account and handled as are funds received by other means. An amount is appropriated from the amount of tax, penalty, and interest, delinquent accounts, charges, loans, fees, or other indebtedness actually collected by the collection agency sufficient to pay all fees for services, reimbursement, or other remuneration pursuant to a contract with a collection agency under this subsection. A collection agency entering into a contract with the department for the collection of delinquent taxes, penalties, and interests, delinquent accounts, charges, loans, fees, or other indebtedness pursuant to this subsection is subject to the requirements and penalties of the confidentiality laws of this state regarding tax or indebtedness information.

23. To develop, modify, or contract with vendors to create or administer systems or programs which identify nonfilers of returns or nonpayers of taxes administered by the department. Fees for services, reimbursements, costs incurred by the department, or other remuneration may be funded from the amount of tax, penalty, or interest actually collected and shall be paid only after the amount is collected. An amount is appropriated from the amount of tax, penalty, and interest actually collected, not to exceed the amount collected, which is sufficient to pay for services, reimbursement, costs incurred by the department, or other remuneration pursuant to this subsection. Vendors entering into a contract with the department pursuant to this subsection are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information. The director shall report annually to the legislative services agency and the chairpersons and ranking members of the ways and means committees on the amount of costs incurred and paid during the previous fiscal year pursuant to this subsection.

24. To enter into agreements or compacts with remote sellers, retailers, or third-party providers for the voluntary collection of Iowa sales or use taxes attributable to sales into Iowa. The director has the authority to enter into and perform all duties required of the office of director by multistate agreements or compacts that provide for the collection of sales and use taxes, including joint audits with other states or audits on behalf of other states. The agreements or compacts shall generally conform to the provisions of Iowa sales and use tax statutes. All fees for services, reimbursements, remuneration, incentives, and

costs incurred by the department associated with these agreements or compacts may be paid or reimbursed from the additional revenue generated. An amount is appropriated from amounts generated to pay or reimburse all costs associated with this subsection. Persons entering into an agreement or compact with the department pursuant to this subsection are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information. Notwithstanding any other provisions of law, the contract, agreement, or compact shall provide for the registration, collection, report, and verification of amounts subject to this subsection.

25. At the director's discretion, accept payment of taxes, penalties, interest, and fees, or any portion thereof, by credit card. The director may adjust the payable amount to reflect the costs of processing the payment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charged by the credit card issuer.

26. To ensure that persons employed under contract, other than officers or employees of the state, who provide assistance in administration of tax laws and who are directly under contract or who are involved in any way with work under the contract and who have access to confidential information are subject to applicable requirements and penalties of tax information confidentiality laws of the state regarding all tax return, return information, or investigative or audit information that may be required to be divulged in order to carry out the duties specified under the contract.

27. a. To establish, administer, and make available a centralized debt collection capability and procedure for the use by any state agency or local government entity including, but not limited to, the department of revenue, along with other boards, commissions, departments, and any other entity reported in the Iowa comprehensive annual financial report, to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by the state. The department's collection facilities shall only be available for use by other state agencies or local government entities for their discretionary use when resources are available to the director and subject to the director's determination that use of the procedure is feasible. The director shall prescribe the appropriate form and manner in which this information is to be submitted to the office of the department. The obligations or indebtedness must be delinquent and not subject to litigation, claim, appeal, or review pursuant to the appropriate remedies of each state agency or local government entity.

b. The director shall establish, as provided in this section, a centralized computer data bank to compile the information provided and shall establish in the centralized data bank all information provided from all sources within the state concerning addresses, financial records, and other information useful in assisting the department in collection services.

c. The director shall establish a formal debt collection policy for use by state agencies and local government entities which have not established their own policy. Other state agencies and local government entities may use the collection facilities of the department pursuant to formal agreement with the department. The agreement shall provide that the information provided to the department shall be sufficient to establish the obligation in a court of law and to render it as a legal judgment on behalf of the state or the local government agency. After transferring the file to the department for collection, an individual state agency or the local government agency shall terminate all collection procedures and be available to provide assistance to the department. Upon receipt of the file, the department shall assume all liability for its actions without recourse to the agency or the local government agency, and shall comply with all applicable state and federal laws governing collection of the debt. The department may use a participating agency's or local government agency's statutory collection authority to collect the participating agency's delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by the state. The department has the powers granted in this section regarding setoff from income tax refunds or other accounts payable by the state for any of the obligations transferred by state agencies or local government agencies.

d. The department's existing right to credit against tax due shall not be impaired by any right granted to, or duty imposed upon, the department or other state agency or local government agency by this section.

e. All state agencies and local government agencies shall be given access, at the discretion of the director, to the centralized computer data bank and, notwithstanding any other provision of law to the contrary, may deny, revoke, or suspend any license or deny any renewal authorized by the laws of this state to any person who has defaulted on an obligation owed to or collected by the state. The confidentiality provisions of sections 422.20 and 422.72 do not apply to tax information contained in the centralized computer data bank. State agencies and local government agencies shall endeavor to obtain the applicant's social security or federal tax identification number, or state driver's license number from all applicants.

f. At the director's discretion, the department may accept payment of debts, interest, and fees, or any portion by credit card. The director may adjust the payable amount to reflect the costs of processing the payment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charge by the credit card issuer.

g. The director shall adopt administrative rules to implement this subsection, including, but not limited to, rules necessary to prevent conflict with federal laws and regulations or the loss of federal funds, to establish procedures necessary to guarantee due process of law, and to provide for reimbursement of the department by other state agencies and local government entities for the department's costs related to debt collection for state agencies and local government entities.

h. The director shall report quarterly to the legislative fiscal committee, the legislative services agency, and the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation concerning the implementation of the centralized debt collection program, the number of departmental collection programs initiated, the amount of debts collected, and an estimate of future costs and benefits which may be associated with the collection program. It is the intent of the general assembly that the centralized debt collection program will result in the collection of at least two dollars of indebtedness for every dollar expended in administering the collection program during a fiscal year.

i. The director may distribute to credit reporting entities and for publication the names, addresses, and amounts of indebtedness owed to or being collected by the state if the indebtedness is subject to the centralized debt collection procedure established in this subsection. The director shall adopt rules to administer this paragraph, and the rules shall provide guidelines by which the director shall determine which names, addresses, and amounts of indebtedness may be distributed for publication. The director may distribute information for publication pursuant to this paragraph, notwithstanding sections 422.20, 422.72, and 423.42, or any other provision of state law to the contrary pertaining to confidentiality of information.

j. Of the amount of debt actually collected pursuant to this subsection an amount, not to exceed the amount collected, which is sufficient to pay for salaries, support, maintenance, services, and other costs incurred by the department related to the administration of this subsection shall be retained by the department. Revenues retained by the department pursuant to this section shall be considered repayment receipts as defined in section 8.2. The director shall, in the annual budget request pursuant to section 8.23, make an estimate as to the amount of receipts to be retained and the estimated amount of additional receipts to be collected. The director shall report annually to the department of management, the legislative fiscal committee, and the legislative services agency on any additional positions added and the costs incurred during the previous fiscal year pursuant to this subsection.

k. A county treasurer may collect delinquent taxes, including penalties and interest, administered by the department in conjunction with renewal of a vehicle registration as provided in section 321.40, subsection 6, paragraph "b", and rules adopted pursuant to this paragraph. County treasurers shall be given access to information required for the collection of delinquent taxes, including penalties and interest, as necessary to accomplish the purposes of section 321.40, subsection 6, paragraph "b". The confidentiality provisions of sections 422.20 and 422.72 do not apply to information provided by the department to a county treasurer pursuant to this paragraph. A county treasurer collecting taxes, penalties,

and interest administered by the department is subject to the requirements and penalties of the confidentiality laws of this state regarding tax or indebtedness information. The director shall adopt rules to implement the collection of tax debt as authorized in section 321.40 and this paragraph.

28. To place on the department's official website the official electronic state of Iowa voter registration form and a link to the Iowa secretary of state's official website.

29. To administer the county endowment fund created in section 15E.311.

30. If a natural disaster is declared by the governor in any area of the state, the director may extend for a period of up to one year the due date for the filing of any tax return and may suspend any associated penalty or interest that would accrue during that period of time for any affected taxpayer whose principal residence or business is located in the covered area if the director determines it necessary for the efficient administration of the tax laws of this state.

31. If the director has reason to believe, as a result of an investigation or audit, that a taxpayer may have misclassified workers, then to assist the department of workforce development, the director is authorized to provide to the department of workforce development the following confidential information with respect to such a taxpayer:

- a. Withholding and payroll tax information.
- b. The taxpayer's identity, including taxpayer identification number and date of birth.
- c. The results or most recent status of the audit or investigation.

32. a. To the extent permissible by federal law, to subpoena certain records held by a public or private utility company with respect to an individual who has a debt or obligation placed with the centralized collection unit of the department. The subpoena authority granted in this subsection may be used only after reasonable efforts have been made by the centralized collection unit to identify and locate the individual.

b. The department may subpoena customer records in order to obtain a telephone number and last known address, but shall not request or require the disclosure of transaction information, account activity, or proprietary information.

c. A public or private utility company shall respond to the subpoenas. The subpoenas shall not be served more frequently than quarterly.

d. The burden of showing reasonable cause to believe that the documents or records sought by the subpoena are necessary to assist the department under this subsection shall be upon the director. In administering this subsection, the director and the department shall comply with all applicable state and federal laws pertaining to the confidentiality or privacy of individuals or public or private utility companies. The information and customer records obtained by the department pursuant to this subsection are confidential records and are not subject to requests for examination pursuant to chapter 22.

e. A public or private utility company shall not be held liable for any action arising as a result of providing the records described in paragraph "b" or for any other action taken reasonably and in good faith to comply with this subsection.

f. As used in this subsection, "*public or private utility company*" means a public utility, cable, video, or satellite television company, cellular telephone company, or internet service provider.

[C97, §1010, 1011; C24, 27, §6868, 6869; C31, 35, §6868, 6869, 6943-c27; C39, **§6868, 6869, 6943.026**; C46, §420.209, 420.210, 421.17; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §421.17; 82 Acts, ch 1057, §2 – 4, ch 1216, §1]

83 Acts, ch 96, §157, 159, 160; 83 Acts, ch 153, §20, 21; 85 Acts, ch 197, §8, 9; 86 Acts, ch 1091, §4; 86 Acts, ch 1237, §24; 86 Acts, ch 1245, §422; 87 Acts, ch 199, §4, 5; 88 Acts, ch 1109, §25, 26; 89 Acts, ch 250, §2, 3; 90 Acts, ch 1232, §4; 90 Acts, ch 1253, §122; 91 Acts, ch 159, §3; 91 Acts, ch 268, §127; 92 Acts, ch 1195, §208, 507; 92 Acts, ch 1242, §32, 33; 92 Acts, ch 1243, §31; 93 Acts, ch 79, §34; 93 Acts, ch 97, §40; 93 Acts, ch 110, §5, 6; 94 Acts, ch 1107, §22 – 24; 94 Acts, ch 1142, §1; 94 Acts, ch 1165, §4 – 6; 94 Acts, ch 1171, §39; 95 Acts, ch 169, §4, 5; 95 Acts, ch 194, §7 – 9; 96 Acts, ch 1167, §1; 97 Acts, ch 153, §3; 97 Acts, ch 158, §5 – 9; 97 Acts, ch 175, §231; 98 Acts, ch 1047, §30, 68; 98 Acts, ch 1115, §4 – 6; 98 Acts, ch 1202, §41, 46; 99 Acts, ch 152, §1, 40; 2000 Acts, ch 1195, §1, 7; 2001 Acts, ch 116, §3, 4; 2003 Acts, ch 35, §45, 49; 2003 Acts, ch 44, §114; 2003 Acts, ch 145, §254, 286; 2003 Acts, ch 178, §110, 121;

2003 Acts, ch 179, §142; 2003 Acts, 1st Ex, ch 2, §178, 180, 205; 2004 Acts, ch 1073, §4; 2004 Acts, ch 1136, §56; 2005 Acts, ch 19, §52; 2006 Acts, ch 1158, §7; 2006 Acts, ch 1177, §28, 29; 2006 Acts, ch 1185, §82; 2008 Acts, ch 1184, §52; 2010 Acts, ch 1146, §7, 8, 26; 2010 Acts, ch 1193, §146, 149

[T] 2010 amendments amending subsection 27 and adding new subsection 32 are effective January 1, 2011; 2010 Acts, ch 1146, §26

[T] Subsection 27, NEW paragraph k

[T] NEW subsections 31 and 32

421.17A Administrative levy against accounts.

1. *Definitions.* As used in this section, unless the context otherwise requires:

a. “*Account*” means “account” as defined in section 524.103, “share account or shares” as defined in section 534.102, or the savings or deposits of a member received or being held by a credit union, or certificates of deposit. “*Account*” also includes deposits held by an agent, a broker-dealer, or an issuer as defined in section 502.102. However, “*account*” does not include amounts held by a financial institution as collateral for loans extended by the financial institution.

b. “*Bank*” means “bank”, “insured bank”, and “state bank” as these are defined in section 524.103.

c. “*Credit union*” means “credit union” as defined in section 533.102.

d. “*Facility*” means the centralized debt collection facility of the department of revenue established pursuant to section 421.17, subsection 27.

e. “*Financial institution*” includes a bank, credit union, or savings and loan association. “*Financial institution*” also includes an institution which holds deposits for an agent, broker-dealer, or an issuer as defined in section 502.102.

f. “*Obligor*” means a person who is indebted to the state or a state agency for any delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or indebtedness being collected by the state.

g. “*Savings and loan association*” means “association” as defined in section 534.102.

h. “*Working days*” means Monday through Friday, excluding the holidays specified in section 1C.2, subsection 1.

2. *Purpose and use.*

a. Notwithstanding other statutory provisions which provide for execution, attachment, garnishment, or levy against accounts, the facility may utilize the process established in this section to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or being collected by the state provided that any exemptions or exceptions which specifically apply to enforcement of such obligations also apply to this section. Administrative levy under this section is the equivalent of condemning funds under chapter 642. It is expressly provided that these remedies shall be cumulative and that no action taken by the director or attorney general shall be construed to be an election on the part of the state or any of its officers, employees, or representatives to pursue any other remedy provided by law.

b. An obligor is subject to this section if the obligor’s debt is being collected by the facility.

c. Any amount forwarded by a financial institution under this section shall not exceed the delinquent or accrued amount of the obligor’s debt being collected by the state.

3. *Notice of intent to obligor.* The facility may proceed under this section only if twenty days’ notice has been provided by regular mail to the last known address of the obligor, notifying the obligor that the obligor is subject to this section and of the facility’s intention to use the levy process. The twenty days’ notice period shall not be required if the facility determines that the collection of past due amounts would be jeopardized.

4. *Verification of accounts and immunity from liability.*

a. The facility may contact a financial institution to obtain verification of the account number, the names and social security numbers listed for the account, and the account balance of an account held by an obligor. Contact with a financial institution may be by telephone or by written communication. The financial institution may require positive voice recognition and may require the telephone number of the authorized person from the facility before releasing an obligor’s account information by telephone.

b. The financial institution is immune from any civil or criminal liability which might

otherwise be incurred or imposed for information released by the financial institution to the facility pursuant to this section.

c. The financial institution or the facility is not liable for the cost of any early withdrawal penalty of an obligor's certificate of deposit.

5. *Administrative levy — notice to financial institution.*

a. If an obligor is subject to this section, the facility may initiate an administrative action to levy against an account of the obligor.

b. The facility shall send a notice to the financial institution with which the account is placed, directing that the financial institution forward all or a portion of the moneys in the obligor's account to the facility.

c. The notice to the financial institution shall contain all of the following:

(1) The name and social security number of the obligor.

(2) A statement that the obligor is believed to have an account at the financial institution.

(3) A statement that pursuant to the provisions of this section, the obligor's account is subject to seizure and the financial institution is authorized and required to forward moneys to the facility.

(4) The maximum amount that shall be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of debt being collected by or owed to the state by the obligor.

(5) The prescribed time frame which the financial institution must meet in forwarding any amounts.

(6) The address of the facility and the account number utilized by the facility for the obligor.

(7) The telephone number of the agent for the facility initiating the action.

6. *Administrative levy — notice of initiation of action to obligor and other account holders.*

a. The facility may administratively initiate an action to seize one or more accounts of an obligor who is subject to this section and section 421.17, subsection 27.

b. The facility shall notify an obligor subject to this section. The notice shall contain all of the following:

(1) The name and social security number of the obligor.

(2) A statement that the obligor is believed to have an account at the financial institution.

(3) A statement that pursuant to the provisions of this section, the obligor's account is subject to seizure and the financial institution is authorized and required to forward moneys to the facility.

(4) The maximum amount to be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of debt being collected by or owed to the state by the obligor.

(5) The prescribed time frames the financial institution must meet in forwarding any amounts.

(6) A statement that any challenge to the action must be in writing and must be received by the facility within ten days of the date of the notice to the obligor.

(7) The address of the facility and the account number utilized by the facility for the obligor.

(8) The telephone number of the agent for the facility initiating the action.

c. The facility shall forward the notice of initiation of action to the obligor by regular mail within two working days of sending the notice to the financial institution pursuant to subsection 5, paragraph "b".

d. The facility shall notify any other party known to have an interest in the account. The notice shall contain all of the following:

(1) The name of the obligor.

(2) The name of the financial institution.

(3) A statement that the account in which the other party is known to have an interest is subject to seizure.

(4) A statement that any challenge to the action must be in writing and must be received by the facility within ten days of the date of the notice to the party known to have an interest.

(5) The address of the facility and the name of the obligor who also has an interest in the account.

(6) The telephone number of the agent for the facility initiating the action.

e. The facility shall forward the notice to the other party known to have an interest by regular mail within two working days of sending the notice to the financial institution pursuant to subsection 5, paragraph “b”.

7. *Responsibilities of financial institution.* Upon receipt of a notice under subsection 5, paragraph “b”, the financial institution shall do all of the following:

a. Immediately encumber funds in any account in which the obligor has an interest to the extent of the debt indicated in the notice from the facility.

b. No sooner than fifteen days, and no later than twenty days from the date the financial institution receives the notice under subsection 5, paragraph “b”, unless notified by the facility of a challenge by the obligor or an account holder of interest, forward the moneys encumbered to the facility with the obligor’s name and social security number, the facility’s account number for the obligor, and any other information required in the notice.

c. The financial institution may assess a fee against the obligor, not to exceed twenty-five dollars, for forwarding of moneys to the facility. This fee is in addition to the amount owed to or being collected by the state by the obligor. If insufficient moneys are available in the debtor’s account to cover the fee and the amount in the notice, the institution may deduct the fee amount prior to forwarding moneys to the facility and the amount credited to the obligor’s account with the state shall be reduced by the fee amount.

8. *Challenges to action.*

a. Challenges under this section may be initiated only by an obligor or by an account holder of interest. Reviews by the facility under this section are not subject to chapter 17A.

b. The person challenging the action shall submit a written challenge to the person identified as the agent for the facility in the notice, within ten days of the date of the notice of initiation of the levy.

c. The facility, upon receipt of a written challenge, shall review the facts of the administrative levy with the challenging party within ten days of receipt of the challenge. If the challenging party is not available for the review on the scheduled date, the review shall take place without the challenging party being present. Information in favor of the challenging party shall be considered by the facility in the review. The facility may utilize additional information if such information is available. Only a mistake of fact, including, but not limited to, a mistake in the identity of the obligor or a mistake in the amount owed to or being collected by the state shall be considered as a reason to dismiss or modify the action.

d. If the facility determines that a mistake of fact has occurred, the facility shall proceed as follows:

(1) If a mistake in identity has occurred or the obligor does not have a delinquent or accrued amount being collected by or owed to the state, the facility shall notify the financial institution that the administrative levy has been released. The facility shall provide a copy of the notice to the obligor by regular mail.

(2) If the delinquent or accrued amount being collected by or owed to the state is less than the amount indicated in the notice, the facility shall provide a notice to the financial institution of the revised amount, with a copy of the original notice, and issue a notice to the obligor by regular mail. Upon written receipt of the notice from the facility, the financial institution shall release the funds in excess of the revised amount and forward the revised amount to the facility pursuant to the administrative levy.

e. If the facility finds no mistake of fact, the facility shall provide a notice to that effect to the challenging party by regular mail and notify the financial institution to forward the moneys pursuant to the administrative levy.

f. The challenging party shall have the right to file an action for wrongful levy in district court within thirty days of the date of the notice in paragraph “e”, either in the county where the obligor or the party known to have an interest in the account resides or in Polk county where the facility is located. Actions under this section are in equity and not actions at law.

g. Recovery under this section is limited to restitution of the amount that has been wrongfully encumbered or obtained by the department.

h. A challenge to an administrative action under this subsection cannot be used to extend or reopen the statute of limitations to protest other departmental actions or to contest the amount or validity of the tax. Only issues involving the levy can be raised in a challenge to an administrative action under this subsection.

95 Acts, ch 194, §10, 12; 96 Acts, ch 1034, §34; 96 Acts, ch 1079, §11; 2003 Acts, ch 145, §286; 2004 Acts, ch 1073, § 5 – 10; 2007 Acts, ch 174, §93; 2008 Acts, ch 1031, §113

[P] See also chapter 252I pertaining to collection of child support payments

421.17B Administrative wage assignment cooperative agreement.

1. *Definitions.* As used in this section, unless the context otherwise requires:

a. “*Employer*” means any person or entity that pays an obligor to do a specific task. “*Employer*” only includes such a person or entity in an employer-employee relationship and does not include an obligor acting as a contractor, distributor, agent, or in any representative capacity in which the obligor receives any form of consideration.

b. “*Employment*” means the performance of personal services for another. “*Employment*” only includes parties in an employer-employee relationship and does not include one acting as a self-employer, contractor, distributor, agent, or in any representative capacity.

c. “*Facility*” means the centralized debt collection facility of the department of revenue established pursuant to section 421.17, subsection 27.

d. “*Obligor*” means a person who is indebted to the state or a state agency for any delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or indebtedness being collected by the state.

e. “*Wage*” means any form of compensation due to an obligor. “*Wage*” includes, but is not limited to, wages, salary, bonus, commission, or other payment directly or indirectly related to employment. If a wage is assigned to the facility, wage only includes a payment in the form of money.

2. *Purpose and use.*

a. Notwithstanding other statutory provisions which provide for the execution, attachment, garnishment, or levy against accounts, the facility may utilize the process established in this section to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the facility or being collected by the facility provided all administrative remedies have been waived or exhausted by the obligor. Any exemptions or exceptions which specifically apply to enforcement of such obligations also apply to this section. Administrative wage assignment under this section is the equivalent of condemning funds under chapter 642. It is expressly provided that these remedies shall be cumulative and that no action taken by the director or the attorney general shall be construed to be an election on the part of the state or any of its officers or representatives to pursue any other remedy provided by law.

b. An obligor is subject to this section if the obligor’s debt is being collected by the facility.

c. Any amount forwarded to the facility by an employer under this section shall not exceed the delinquent or accrued amount of the obligor’s debt being collected by the facility.

3. *Notice of intent to the obligor.*

a. The facility may proceed under this section only if twenty days’ notice has been provided by regular mail to the last known address of the obligor, notifying the obligor that the obligor is subject to this section. If the facility determines that collection of the debt may be in jeopardy, the facility may request that the employer deliver notice of the wage assignment simultaneously with the remainder of or in lieu of the obligor’s compensation due from the employer.

The facility may obtain one or more wage assignments of an obligor who is subject to this section. If the obligor has more than one employer, the facility may receive wage assignments from one or more of the employers until the full debt obligation of the obligor is satisfied. If an obligor has more than one employer, the facility shall give notice to all employers from whom an assignment is sought.

b. The notice from the facility to the obligor shall contain all of the following:

(1) The name and social security number of the obligor.

(2) A statement that the obligor is believed to have employment with the stated employer.

(3) A statement that pursuant to the provisions of this section, the obligor's wages will be assigned to the facility for payment of the specified debts and that the employer is authorized and required to forward moneys to the facility.

(4) The maximum amount to be forwarded by the employer, which shall not exceed the delinquent or accrued amount of debt being collected by or owed to the facility by the obligor.

(5) The prescribed time frames the employer must meet in forwarding any amounts.

(6) A statement that any challenge to the action must be in writing and must be received by the facility within ten days of the date of the notice to the obligor.

(7) The address of the facility and the account number utilized by the facility for the obligor.

(8) The telephone number of the agent for the facility initiating the action.

4. *Verification of employment and immunity from liability.*

a. The facility may contact an employer to obtain verification of employment, and any specific information from the employer that the facility needs to initiate, effectuate, or maintain collection of the obligation. Contact with an employer may be by telephone, fax, or by written communication. The employer may require proof of authority from the person from the facility and the telephone number of the authorized person from the facility before releasing an obligor's employment information by telephone.

b. The employer is immune from any civil or criminal liability for information released by the employer to the facility pursuant to this section.

5. *Costs.* The facility is not liable for any costs incurred or imposed for initiating, effectuating, or maintaining an administrative wage assignment under this section. Such costs will be the sole responsibility of the obligor and will be added to the amount to be collected by the facility.

6. *Administrative wage assignment — notice to the employer.*

a. If an obligor is subject to this section, the facility may initiate an administrative wage assignment to have compensation due the obligor to be assigned by the employer to the facility up to the amount of the full debt to be collected by the facility.

b. The facility shall send a notice to the employer within fourteen days of sending notice of the wage assignment to the obligor. The notice shall inform the employer of the amount to be assigned to the facility from each wage, salary, or payment period that is due the obligor. The facility may receive assignment of up to one hundred percent of the obligor's disposable income, salary, or payment for any given period until the full obligation to the facility is paid in full.

c. The notice to the employer shall contain all of the following:

(1) The name and social security number of the obligor.

(2) A statement that the obligor is believed to be employed by the employer.

(3) A statement that pursuant to the provisions of this section, the obligor's wages are subject to assignment and the employer is authorized and required to forward moneys to the facility.

(4) The maximum amount that shall be forwarded by the employer, which shall not exceed the delinquent or accrued amount of debt being collected by or owed to the facility by the obligor.

(5) The prescribed time frame the employer must meet in forwarding any amounts.

(6) The address of the facility and the account number utilized by the facility for the obligor.

(7) The telephone number of the agent for the facility initiating the action.

7. *Responsibilities of employer.* Upon receipt of the notice of wage assignment from the facility, the employer shall do all of the following:

a. Immediately give effect to the wage assignment and hold compensation which the obligor has owing to the extent of the debt indicated in the notice from the facility.

b. No sooner than ten days, and no later than twenty days from the date the employer receives the notice of wage assignment, unless notified by the facility of a challenge of the wage assignment by the obligor, the employer shall begin forwarding the obligor's compensation, to the extent required in the notice, to the facility with the obligor's name

and social security number, the facility's account number for the obligor, and any other information required in the notice.

c. The employer may assess a fee against the obligor, not to exceed twenty-five dollars, for forwarding of moneys to the facility. This fee is in addition to the amount owed to or being collected by the facility from the obligor. If insufficient moneys are available from the obligor's compensation to cover the fee and the amount in the notice, the employer may deduct the fee amount prior to forwarding moneys to the facility and the amount credited to the obligor's account with the facility shall be reduced by the fee amount. However, if the employer can present evidence to the facility that the employer's costs were in excess of twenty-five dollars and that such costs were necessary and reasonable, then the employer may impose a fee in excess of the twenty-five dollar fee limit.

8. *Challenges to action.*

a. Challenges under this section may be initiated only by an obligor. An administrative wage assignment only occurs after the obligor has waived or exhausted administrative remedies. Reviews by the facility of a challenge to an administrative wage assignment are not subject to chapter 17A.

b. The obligor challenging the administrative wage assignment shall submit a written challenge to the person identified as the agent for the facility in the notice, within ten days of the date of the notice of initiation of the assignment.

c. The facility, upon receipt of a written challenge, shall review the facts of the administrative wage assignment with the obligor within ten days of receipt of the challenge. If the obligor is not available for the review on the scheduled date, the review shall take place without the obligor being present. Information in favor of the obligor shall be considered by the facility in the review. The facility may utilize additional information if such information is available. Only a mistake of fact, including, but not limited to, a mistake in the identity of the obligor or a mistake in the amount owed to or being collected by the facility shall be considered as a reason to dismiss or modify the administrative wage assignment.

d. If the facility determines that a mistake of fact has occurred, the facility shall proceed as follows:

(1) If a mistake in identity has occurred or the obligor does not have a delinquent or accrued amount being collected by or owed to the facility, the facility shall notify the employer that the administrative wage assignment has been released. The facility shall provide a copy of the notice to the obligor by regular mail.

(2) If the delinquent or accrued amount being collected by or owed to the facility is less than the amount indicated in the notice, the facility shall provide a notice to the employer of the revised amount, with a copy of the original notice, and issue a notice to the obligor by regular mail. Upon written receipt of the notice from the facility, the employer shall release the funds in excess of the revised amount and forward the revised amount to the facility pursuant to the administrative wage assignment.

(3) Any moneys received by the facility in excess of the amount owed to or to be collected by the facility shall be returned to the obligor.

e. If the facility finds no mistake of fact, the facility shall provide a notice to that effect to the obligor by regular mail and notify the employer to forward the moneys pursuant to the administrative wage assignment.

f. The obligor shall have the right to file an action for wrongful assignment in district court within thirty days of the date of the notice to the obligor, either in the county where the obligor is located or in Polk county where the facility is located. Actions under this section are in equity and not actions at law.

g. Recovery under this subsection is limited to restitution of the amount that has been wrongfully encumbered or obtained by the department.

h. A challenge to an administrative action under this subsection cannot be used to extend or reopen the statute of limitations to protest other departmental actions or to contest the amount or validity of the tax. Only issues involving the assignment can be raised in a challenge to an administrative action under this subsection.

9. *Validity and duration of a wage assignment notice.* A notice of wage assignment given

to the obligor is effective without the serving of another notice until the earliest of either of the following:

- a. The debt owed to the facility is paid in full.
- b. The obligor receives notice that the wage assignment shall cease.

Cessation of the wage assignment does not affect the obligor's duties and liabilities respecting the wages already withheld pursuant to the wage assignment.

2002 Acts, ch 1151, §2; 2003 Acts, ch 145, §286; 2004 Acts, ch 1073, §11 – 16

421.18 Duties of public officers and employees.

It shall be the duty of all public officers and employees of the state and local governments to give to the director of revenue information in their possession relating to taxation when required by the director, and to cooperate with and aid the director's efforts to secure a fair, equitable, and just enforcement of the taxation and revenue laws.

[C31, 35, §6943-c28; C39, §**6943.027**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §421.18] 99 Acts, ch 151, §3, 89; 2003 Acts, ch 145, §286

421.19 Counsel.

It shall be the duty of the attorney general and of the county attorneys in their respective counties to commence and prosecute actions, prosecutions, and complaints, when so directed by the director of revenue and to represent the director in any litigation arising from the discharge of the director's duties.

[C31, 35, §6943-c29; C39, §**6943.028**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §421.19] 2003 Acts, ch 145, §286

[P] Assistant attorney general assigned, §13.5

421.20 Actions.

The director of revenue may bring actions of mandamus or injunction or any other proper actions in the district court to compel the performance of any order made by the director or to require any board or any other officer or person to perform any duty required by this chapter. The director shall commence an action only in the district court in the county in which the defendant or defendants in the action perform their official duties.

Upon the filing of an action in the county required by this section the director may move to change the action to another county, and the motion shall be granted upon a showing of good cause. As used in this section, good cause shall mean those grounds for change specified in rule of civil procedure 1.801; however, the director shall not be required to submit affidavits of disinterested persons in order to prevail in the motion.

[C31, 35, §6943-c30; C39, §**6943.029**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §421.20] 94 Acts, ch 1107, §25; 2003 Acts, ch 145, §286

[P] Garnishment proceedings for collection of tax, §626.29 – 626.31

421.21 Administration of oaths.

The director of revenue, or the deputies and other employees of the department when duly authorized by the director, shall have the power to administer all oaths authorized and required under the provisions of this chapter.

Each county treasurer, each deputy treasurer, and each automobile clerk of each county treasurer's office shall have the power to administer all oaths authorized and required by the director in connection with the issuance in this state of an original certificate of registration for motor vehicles and trailers and concerning the collection of, or exemption from, use tax thereon. The personal signature of the person administering such an oath shall be subscribed to the jurat thereof and the seal of the county treasurer shall be affixed thereto.

[C31, 35, §6943-c31; C39, §**6943.030**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §421.21] 2003 Acts, ch 145, §286

421.22 Service of orders.

Any sheriff or other person may serve any subpoena or order issued under the provisions of this chapter.

[C31, 35, §6943-c32; C39, §**6943.031**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §421.22]

421.23 Fees and mileage.

The fees and mileage of witnesses attending any hearing of the department, including contested case hearings, pursuant to any subpoena, shall be the same as those of witnesses in civil cases in district court.

[C31, 35, §6943-c33; C39, §6943.032; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §421.23] 94 Acts, ch 1165, §7

[P] Civil case fees and mileage, §622.69 – 622.75

421.24 Reciprocal interstate tax enforcement.

1. At the request of the director the attorney general may bring suit in the name of this state, in the appropriate court of any other state to collect any tax legally due in this state, and any political subdivision of this state or the appropriate officer thereof, acting in its behalf, may bring suit in the appropriate court of any other state to collect any tax legally due to such political subdivision.

2. The courts of this state shall recognize and enforce liabilities for taxes lawfully imposed by any other state, or any political subdivision thereof, which extends a like comity to this state, and the duly authorized officer of any such state or a political subdivision thereof may sue for the collection of such tax in the courts of this state. A certificate by the secretary of state of such other state that an officer suing for the collection of such a tax is duly authorized to collect the same shall be conclusive proof of such authority.

3. For the purposes of this section, the words “tax” and “taxes” shall include interest and penalties due under any taxing statute, and liability for such interest or penalties, or both, due under a taxing statute of another state or a political subdivision thereof, shall be recognized and enforced by the courts of this state to the same extent that the laws of such other state permit the enforcement in its courts of liability for such interest or penalties, or both, due under a taxing statute of this state or a political subdivision thereof.

The courts of this state may not enforce interest rates or penalties on taxes of any other state which exceed the interest rates and penalties imposed by the state of Iowa for the same or a similar tax.

[C66, 71, 73, 75, 77, 79, 81, §421.24]

421.25 Professional appraisers employed.

The director shall employ professional appraisers to assist county and city assessors in assessing and valuing property required to be assessed and valued by county and city assessors and assist the director in equalizing property values in the state. The department shall, upon request, provide technical assistance to county and city assessors in assessing and valuing property required to be assessed and valued by county and city assessors.

[C73, 75, 77, 79, 81, §421.25]

421.26 Personal liability for tax due.

If a licensee or other person under section 452A.65, a retailer or purchaser under chapter 423A, 423B, or 423E, or section 423.31 or 423.33, or a retailer or purchaser under section 423.32, a user under section 423.34, or a permit holder or licensee under section 453A.13, 453A.16, or 453A.44 fails to pay a tax under those sections when due, an officer of a corporation or association, notwithstanding section 489.304, a member or manager of a limited liability company, or a partner of a partnership, having control or supervision of or the authority for remitting the tax payments and having a substantial legal or equitable interest in the ownership of the corporation, association, limited liability company, or partnership, who has intentionally failed to pay the tax is personally liable for the payment of the tax, interest, and penalty due and unpaid. However, this section shall not apply to taxes on accounts receivable. The dissolution of a corporation, association, limited liability company, or partnership shall not discharge a person's liability for failure to remit the tax due.

86 Acts, ch 1007, §19; 90 Acts, ch 1232, §5; 94 Acts, ch 1165, §8; 2003 Acts, 1st Ex, ch 2, §181, 205; 2007 Acts, ch 186, §5; 2008 Acts, ch 1162, §134, 154, 155

[T] 2008 amendment to this section by 2008 Acts, ch 1162, §154 takes effect December 31, 2010; 2008 Acts, ch 1162, §155

[T] Section amended

421.27 Penalties.

1. *Failure to timely file a return or deposit form.* If a person fails to file with the department on or before the due date a return or deposit form there shall be added to the tax shown due or required to be shown due a penalty of ten percent of the tax shown due or required to be shown due. The penalty, if assessed, shall be waived by the department upon a showing of any of the following conditions:

a. At least ninety percent of the tax required to be shown due has been paid by the due date of the tax.

b. Those taxpayers who are required to file quarterly returns, or monthly or semimonthly deposit forms may have one late return or deposit form within a three-year period. The use of any other penalty exception will not count as a late return or deposit form for purposes of this exception.

c. The death of a taxpayer, death of a member of the immediate family of the taxpayer, or death of the person directly responsible for filing the return and paying the tax, when the death interferes with timely filing.

d. The onset of serious, long-term illness or hospitalization of the taxpayer, of a member of the immediate family of the taxpayer, or of the person directly responsible for filing the return and paying the tax.

e. Destruction of records by fire, flood, or other act of God.

f. The taxpayer presents proof that the taxpayer relied upon applicable, documented, written advice specifically made to the taxpayer, to the taxpayer's preparer, or to an association representative of the taxpayer from the department, state department of transportation, county treasurer, or federal internal revenue service, whichever is appropriate, that has not been superseded by a court decision, ruling by a quasi-judicial body, or the adoption, amendment, or repeal of a rule or law.

g. Reliance upon results in a previous audit was a direct cause for the failure to file where the previous audit expressly and clearly addressed the issue and the previous audit results have not been superseded by a court decision, or the adoption, amendment, or repeal of a rule or law.

h. Under rules prescribed by the director, the taxpayer presents documented proof of substantial authority to rely upon a particular position or upon proof that all facts and circumstances are disclosed on a return or deposit form.

i. The return, deposit form, or payment is timely, but erroneously, mailed with adequate postage to the internal revenue service, another state agency, or a local government agency and the taxpayer provides proof of timely mailing with adequate postage.

j. The tax has been paid by the wrong licensee and the payments were timely remitted to the department for one or more tax periods prior to notification by the department.

k. The failure to file was discovered through a sanctioned self-audit program conducted by the department.

l. If the availability of funds in payment of tax required to be made through electronic funds transfer is delayed and the delay of availability is due to reasons beyond the control of the taxpayer. "*Electronic funds transfer*" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal telephone, computer, magnetic tape, or similar device for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

m. The failure to file a timely inheritance tax return resulting solely from a disclaimer that required the personal representative to file an inheritance tax return. The penalty shall be waived if such return is filed and any tax due is paid within the later of nine months from the date of death or sixty days from the delivery or filing of the disclaimer pursuant to section 633E.12.

n. That an Iowa inheritance tax return is filed for an estate within the later of nine months from the date of death or sixty days from the filing of a disclaimer by the beneficiary of the estate refusing to take the property or right or interest in the property.

2. *Failure to timely pay the tax shown due, or the tax required to be shown due, with the filing of a return or deposit form.* If a person fails to pay the tax shown due or required to be shown due, on a return or deposit form on or before the due date there shall be added to

the tax shown due or required to be shown due a penalty of five percent of the tax due. The penalty, if assessed, shall be waived by the department upon a showing of any of the following conditions:

a. At least ninety percent of the tax required to be shown due has been paid by the due date of the tax.

b. The taxpayer voluntarily files an amended return and pays all tax shown to be due on the return prior to any contact by the department, except under a sanctioned self-audit program conducted by the department.

c. The taxpayer provides written notification to the department of a federal audit while it is in progress and voluntarily files an amended return which includes a copy of the federal document showing the final disposition or final federal adjustments within sixty days of the final disposition of the federal government's audit.

d. The taxpayer presents proof that the taxpayer relied upon applicable, documented, written advice specifically made to the taxpayer, to the taxpayer's preparer, or to an association representative of the taxpayer from the department, state department of transportation, county treasurer, or federal internal revenue service, whichever is appropriate, that has not been superseded by a court decision, ruling by a quasi-judicial body, or the adoption, amendment, or repeal of a rule or law.

e. Reliance upon results in a previous audit was a direct cause for the failure to pay the tax required to be shown due where the previous audit expressly and clearly addressed the issue and the previous audit results have not been superseded by a court decision, or the adoption, amendment, or repeal of a rule or law.

f. Under rules prescribed by the director, the taxpayer presents documented proof of substantial authority to rely upon a particular position or upon proof that all facts and circumstances are disclosed on a return or deposit form.

g. The return, deposit form, or payment is timely, but erroneously, mailed with adequate postage to the internal revenue service, another state agency, or a local government agency and the taxpayer provides proof of timely mailing with adequate postage.

h. The tax has been paid by the wrong licensee and the payments were timely remitted to the department for one or more tax periods prior to notification by the department.

i. That an Iowa inheritance tax return is filed for an estate within the later of nine months from the date of death or sixty days from the filing of a disclaimer by the beneficiary of the estate refusing to take the property or right or interest in the property.

3. *Audit deficiencies.* If any person fails to pay the tax required to be shown due with the filing of a return or deposit and the department discovers the underpayment, there shall be added to the tax required to be shown due a penalty of five percent of the tax required to be shown due. The penalty, if assessed, shall be waived by the department upon a showing of any of the following conditions:

a. At least ninety percent of the tax required to be shown due has been paid by the due date.

b. The taxpayer presents proof that the taxpayer relied upon applicable, documented, written advice specifically made to the taxpayer, to the taxpayer's preparer, or to an association representative of the taxpayer from the department, state department of transportation, county treasurer, or federal internal revenue service, whichever is appropriate, that has not been superseded by a court decision, ruling by a quasi-judicial body, or the adoption, amendment, or repeal of a rule or law.

c. Reliance upon results in a previous audit was a direct cause for the failure to pay the tax shown due or required to be shown due where the previous audit expressly and clearly addressed the issue and the previous audit results have not been superseded by a court decision, or the adoption, amendment, or repeal of a rule or law.

d. Under rules prescribed by the director, the taxpayer presents documented proof of substantial authority to rely upon a particular position or upon proof that all facts and circumstances are disclosed on a return or deposit form.

4. *Willful failure to file or deposit.*

a. In case of willful failure to file a return or deposit form with the intent to evade tax, or in case of willfully filing a false return or deposit form with the intent to evade tax, in lieu

of the penalties otherwise provided in this section, a penalty of seventy-five percent shall be added to the amount shown due or required to be shown as tax on the return or deposit form. If penalties are applicable for failure to file a return or deposit form and failure to pay the tax shown due or required to be shown due on the return or deposit form, the penalty provision for failure to file shall be in lieu of the penalty provisions for failure to pay the tax shown due or required to be shown due on the return or deposit form, except in the case of willful failure to file a return or deposit form or willfully filing a false return or deposit form with intent to evade tax.

b. The penalties imposed under this subsection are not subject to waiver.

5. *Failure to remit on extension.* If a person fails to remit at least ninety percent of the tax required to be shown due by the time an extension for further time to file a return is made, there shall be added to the tax shown due or required to be shown due a penalty of ten percent of the tax due.

6. *Improper receipt of refund or credit.* A person who makes an erroneous application for refund or credit shall be liable for any overpayment received or tax liability reduced plus interest at the rate in effect under section 421.7. In addition, a person who willfully makes a false or frivolous application for refund or credit with intent to evade tax or with intent to receive a refund or credit to which the person is not entitled is guilty of a fraudulent practice and is liable for a penalty equal to seventy-five percent of the refund or credit being claimed. Payments, penalties, and interest due under this subsection may be collected and enforced in the same manner as the tax imposed.

7. *Failure to use required form.* If a person fails to remit payment of taxes in the form required by the rules of the director, there shall be added to the amount of the tax a penalty of five percent of the amount of tax shown due or required to be shown due. The penalty imposed by this subsection shall be waived if the taxpayer did not receive notification of the requirement to remit tax payments electronically or if the electronic transmission of the payment was not in a format or by means specified by the director and the payment was made before the taxpayer was notified of the requirement to remit tax payments electronically.

86 Acts, ch 1007, §20; 89 Acts, ch 6, §3; 90 Acts, ch 1172, §6, 7, 14 – 16; 90 Acts, ch 1232, §6, 29; 91 Acts, ch 97, §45; 91 Acts, ch 159, §4 – 6; 94 Acts, ch 1165, §9; 96 Acts, ch 1167, §2, 8; 2007 Acts, ch 134, §1, 28; 2007 Acts, ch 186, §6, 7; 2010 Acts, ch 1193, §124

[SP] 2007 amendment adding new paragraph m to subsection 1 applies to estates of decedents dying on or after July 1, 2007; 2007 Acts, ch 134, §28

[SP] Waiver of penalty or interest on timely amendments to 2008 returns for taxpayers relying in good faith on Iowa's conformity to federal treatment of disaster-related casualty losses in computing net income for state tax purposes; waiver applies retroactively to January 1, 2008, for tax years beginning on or after that date and before January 1, 2009; 2010 Acts, ch 1193, §211, 212

[T] Subsection 4, unnumbered paragraphs 1 and 2 editorially designated as paragraphs a and b

[T] Subsection 6 amended

421.28 Exceptions to successor liability.

The immediate successor to a licensee's or retailer's business or stock of goods under chapter 423A or 423B, or section 423.33 or 452A.65, is not personally liable for the amount of delinquent tax, interest, or penalty due and unpaid if the immediate successor shows that the purchase of the business or stock of goods was made in good faith that no delinquent tax, interest, or penalty was due and unpaid. For purposes of this section the immediate successor shows good faith by evidence that the department had provided the immediate successor with a certified statement that no delinquent tax, interest, or penalty is unpaid, or that the immediate successor had taken in good faith a certified statement from the licensee, retailer, or seller that no delinquent tax, interest, or penalty is unpaid. When requested to do so by a person with whom the licensee or retailer is negotiating the sale of the business or stock of goods, the director of revenue shall, upon being satisfied that such a situation exists, inform that person as to the amount of unpaid delinquent tax, interest, or penalty due by the licensee or the retailer. The giving of the information under this circumstance is not a violation of section 422.20, 422.72, or 452A.63.

86 Acts, ch 1007, §21; 90 Acts, ch 1232, §7; 92 Acts, 2nd Ex, ch 1001, §236; 2003 Acts, ch 145, §286; 2003 Acts, 1st Ex, ch 2, §182, 205

421.29 Registrations.

For purposes of the provisions of the Code which are administered by the department, “permit” or “license” includes registration. Unless otherwise specifically provided, the director shall determine by rule the circumstances for which registrations shall be issued and displayed.

94 Acts, ch 1165, §10

421.30 Reassessment expense fund.

1. There is created in the office of the treasurer of state a “reassessment expense fund” for the purpose of providing loans to a city and county conference board for conducting reassessments of property. There is appropriated to the reassessment expense fund from the general fund of the state from any unappropriated funds in the general fund of the state such funds as are necessary to carry out the provisions of this section, section 421.17, subsection 19, and the last paragraph of section 441.19, subject to the approval of the director of revenue. Repayment of loans shall be credited to the fund.

2. The director of revenue shall maintain and administer the reassessment expense fund created pursuant to subsection 1.

3. Within sixty days of the receipt of an order of the director to reassess all or part of the property in an assessing jurisdiction, the conference board and assessor of the assessing jurisdiction shall submit to the director a detailed proposal for complying with the order. The proposal shall contain specifications for the completion of the reassessment project, the financial condition of the assessing jurisdiction, and any other information deemed necessary by the director.

4. Each proposal submitted pursuant to subsection 3 shall be reviewed by the director to determine if the proposal will result in compliance with the reassessment order. The director shall approve or disapprove each proposal and shall notify the appropriate conference board and assessor of the decision. If the director determines the proposal will not result in compliance with the reassessment order, the notice shall contain the reasons for the director’s determination and an explanation as to how the proposal shall be corrected in order to be approved by the director.

5. If the notice to the conference board and the assessor states that the director has determined that the proposal will result in compliance with the reassessment order, the conference board may, if it lacks the financial resources to comply in all respects with the reassessment order, file with the director an application for a loan from the reassessment expense fund. The loan to the conference board may be for all or part of the funds required to comply with the reassessment order. The director shall approve, amend and approve, or reject each application and notify the conference board and assessor of its decision. If the application is amended or rejected, the notice shall contain the director’s reasons for the amendment or rejection.

6. Upon the director’s approval of the advancement of funds from the reassessment expense fund, the director shall certify to the appropriate conference board and assessor a schedule for disbursing the loan to the assessing jurisdiction’s appraiser fund authorized by section 441.50. The schedule shall provide for the disbursement of funds over the period of the reassessment project, except that ten percent of the funds shall not be disbursed until the project is completed. The conference board shall at its next opportunity levy pursuant to section 441.50 sufficient funds for purposes of repaying the loan made from the reassessment expense fund. The amount levied shall be sufficient to repay the loan in semiannual installments during the course of the reappraisal project as specified by a repayment schedule established by the director. The repayment schedule shall provide for repayment of the loan not later than one year following the completion of the reassessment. Semiannual repayments of the proceeds of the loan shall be made on or before December 1 and May 1 of each year.

7. Any reassessment of property ordered by the director, whether or not undertaken with funds provided in this section, shall be conducted by the assessor in accordance with the Iowa real property appraisal manual issued under authority of section 421.17, subsection 17, the assessment laws of this state, and any reassessment order issued by the director

under authority of this chapter. The conference board may employ appraisers or other expert help to assist the assessor in completing the reassessment, except that no conference board receiving funds under this section shall enter into a contract for the reassessment of property until the board's proposal for completing the reassessment is approved. The director shall supervise the conduct of all reassessments of property and issue to the assessor or conference board such instructions, directives, or orders as are necessary to ensure compliance with the provisions of this section and the assessment laws of this state.

8. The assessor of each assessing jurisdiction receiving funds under this section shall submit to the director, in the form and manner prescribed by the director, reports showing the progress of the reassessment. If the director determines that a reassessment undertaken with funds provided in this section is not being conducted in accordance with the proposal submitted pursuant to subsection 3, the director shall notify the appropriate conference board and assessor of the director's determination. The notice shall contain an explanation as to how the deficiencies in the reassessment may be corrected. If the deficiencies noted by the director are not corrected within sixty days of the date the assessor and conference board are notified of their existence, the director shall suspend payments from the reassessment expense fund until the deficiencies have been corrected.

9. Funds obtained under this section shall be used only to conduct reassessments of property as approved and conducted pursuant to this section.

[C79, 81, §421.30]

86 Acts, ch 1245, §423; 2003 Acts, ch 145, §286

421.31 through 421.45 Repealed by 2003 Acts, ch 145, § 291. See § 8A.502, 8A.506 – 8A.519.

421.46 Terminal liability health insurance fund.

1. A terminal liability health insurance fund is created in the state treasury under the control of the department of administrative services. The proceeds of the terminal liability health insurance fund shall be used by the department of administrative services to pay the state's share of the terminal liability of the existing health insurance contract administered by the department of administrative services. The moneys appropriated to the terminal liability health insurance fund plus any additional moneys appropriated or collected pursuant to 2001 Acts, ch. 190, or other Acts of the general assembly shall constitute the total amount due to pay the terminal liability specified in this section.

2. Notwithstanding section 8.33, any unencumbered or unobligated balance remaining in the terminal liability health insurance fund at the close of a fiscal year shall not revert.

2001 Acts, ch 190, §20; 2002 Acts, ch 1175, §15; 2003 Acts, ch 145, §286

421.47 Tax agreements with Indian tribes.

1. "Indian country" means the Indian country as defined in 18 U.S.C. § 1151, and includes trust land as defined by the United States secretary of the interior.

2. The department and the governing body of an Indian tribe may enter into an agreement to provide for the collection and distribution or refund by the department within Indian country of any tax or fee imposed by the state and administered by the department.

An agreement may also provide for the collection and distribution by the department of any tribal tax or fee imposed by tribal ordinance. The agreement may provide for the retention of an administrative fee by the department which fee shall be an agreed-upon percentage of the gross revenue of the tribal tax or fee collected.

3. An Act of Congress regulating the collection of state taxes and their remittance to the states shall preempt an agreement between the department and the governing body of an Indian tribe under this section to the extent such federal Act regulates the collection and remittance of a tax covered by the agreement.

4. An agreement between the department and the governing body of an Indian tribe under this section shall not preclude the negotiation of an amendment to such agreement, which

conforms to an Act of Congress regulating the collection of state taxes and their remittance to the states.

2002 Acts, ch 1151, §4

421.48 through 421.59 Reserved.

421.60 Tax procedures and practices.

1. *Short title.* This section shall be known and may be cited as the “*Tax Procedures and Practices Act*”.

2. *Procedures and practices.*

a. The department shall prepare a statement which sets forth in simple and nontechnical terms all of the following:

(1) The rights of a taxpayer and the obligations of the department during an audit.

(2) The procedures by which a taxpayer may appeal an adverse decision of the department, including administrative and judicial appeals.

(3) The procedures which the department may use in enforcing the tax laws, including notices of assessment and jeopardy assessment and the filing and enforcement of liens.

The statement prepared in accordance with this paragraph shall be distributed by the department to all taxpayers at the first contact by the department with respect to the determination or collection of any tax, except in the case of simply providing tax forms.

b. The department shall furnish to the taxpayer, before or at the time of issuing a notice of assessment or denial of a refund claim, an explanation of the reasons for the assessment or refund denial. An inadequate explanation shall not invalidate the notice. For purposes of this section, an explanation by the department shall be sufficient where the amount of tax, interest, and penalty is stated together with an attachment setting forth the computation of the tax by the department.

c. If the notice of assessment or denial of a claim for refund relates to a tax return filed pursuant to section 422.14 or chapter 450, 450A, or 451, by the taxpayer which designates an individual as an authorized representative of the taxpayer with respect to that return, or if a power of attorney has been filed with the department by the taxpayer which designates an individual as an authorized representative of the taxpayer with respect to any tax that is included in the notice of assessment or denial of a claim for refund, a copy of the notice together with any additional information required to be sent to the taxpayer shall be sent to the authorized representative as well.

If the department fails to mail a notice of assessment to the last known address of a taxpayer or fails to personally deliver such notice to a taxpayer, interest for the month such mailing or personal delivery fails to occur through the month of the correct mailing or personal delivery is waived.

If the department fails to mail a notice of assessment or denial of a claim for refund to the taxpayer's last known address or fails to personally deliver such notice to a taxpayer and, if applicable, to the taxpayer's authorized representative, the time period to appeal the notice of assessment or a denial of a claim for refund is suspended until the notice or claim denial is correctly mailed or personally delivered, or in any event, for a period not to exceed one year, whichever is the lesser period.

Collection activities, except where a jeopardy situation exists, shall be suspended and the statute of limitations for assessment or collection of the tax shall be tolled during the period in which interest is waived.

d. A taxpayer is permitted to designate in writing the type of tax and tax periods to which any voluntary payment relates, provided that separate written instructions accompany the payment. This paragraph does not apply to jeopardy assessments and does not apply if the department has to enforce collection of the payment.

e. Unless otherwise provided by law, all Iowa taxes which are administered by the department and which result in a refund shall accrue interest at the rate in effect under section 421.7 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 latest.

f. A taxpayer may appeal a refund claim to the director if a claim for refund has been filed

and not denied by the department within six months of the filing of the claim. The filing of an appeal by a taxpayer shall not affect the ability of the department to examine and inspect a taxpayer's records.

g. A taxpayer may request in writing that a contested case proceeding be commenced by the department after a period of six months from the filing of a proper appeal by the taxpayer. The department shall file an answer within thirty days of receipt of the request and a contested case proceeding shall be commenced. In the case of an appeal of an assessment, failure to answer within the thirty-day time period and after a request has been made shall result in the suspension of interest from the time that the department was required to answer until the date that the department files its answer. In the case of an appeal of a denial of a refund, failure to answer within the thirty-day time period, and after a request has been made, shall result in the accrual of interest payable to the taxpayer at double the rate in effect under section 421.7 from the time the department was required to answer until the date that the department files its answer.

h. A taxpayer who has failed to appeal a notice of assessment to the department within the time provided by law may contest the assessment by paying the tax, interest, and penalty, which in the case of divisible taxes might not be the entire liability and by filing a refund claim within the time period provided for filing such claim. The filing of a refund claim allows the time period for which the refund is claimed to be open to examination and to be open to offset, to zero, based upon any issue associated with the type of tax for which the refund is claimed and which has not up to that time been resolved between the taxpayer and the department, irrespective of whether the period of limitations to issue a notice of assessment has expired. The department may make this offset at any time until the department grants or denies the refund.

i. The director may, at any time, abate any unpaid portion of assessed tax, interest, or penalties which the director determines is erroneous, illegal, or excessive. The director shall prepare quarterly reports summarizing each case in which abatement of tax, interest, or penalties was made. However, the report shall not disclose the identity of the taxpayer.

j. The director shall adopt rules for setting times and places for taxpayer interviews and to permit any taxpayer to record the interviews.

k. If the determination that a return is incorrect is the result of an audit of the books and records of the taxpayer, the tax or additional tax, if any, shall be assessed and the notice of assessment to the taxpayer shall be given by the department within one year after the completion of the examination of the books and records.

l. The department shall annually report to the general assembly all areas of recurrent taxpayer noncompliance with rules or guidelines issued by the department and shall make recommendations concerning the noncompliance in the report.

m. (1) The director may abate unpaid state sales and use taxes and local sales and services taxes owed by a retailer in the event that the retailer failed to collect tax from the purchaser as a result of erroneous written advice issued by the department that was specially directed to the retailer by the department and the retailer is unable to collect the tax, interest, or penalties from the purchaser. Before the tax, interest, and penalties shall be abated on the basis of erroneous written advice, the retailer must present a copy of the retailer's request for written advice to the department and a copy of the department's reply. The department shall not maintain a position against the retailer that is inconsistent with the erroneous written advice, except on the basis of subsequent written advice sent by the department to that retailer, or a change in state or federal law, a reported court case to the contrary, a contrary rule adopted by the department, a change in material facts or circumstances relating to the retailer, or the retailer's misrepresentation or incomplete or inadequate representation of material facts and circumstances in requesting the written advice.

(2) The director shall abate the unpaid state sales and use taxes and any local sales and services taxes owed by a retailer where the retailer failed to collect the tax from the purchaser on the charges paid for access to on-line computer services as a result of erroneous written advice issued by the department regarding the taxability of charges paid for access to on-line computer services. To qualify for the abatement under this subparagraph, the erroneous

written advice shall have been issued by the department prior to July 1, 1999, and shall have been specially directed to the retailer by the department.

If an abatement of unpaid state sales and use taxes and any local sales and services taxes is granted to the retailer by the director pursuant to this subparagraph, the department is precluded from collecting from the purchaser any unpaid state sales and use taxes and any local sales and services taxes which were abated.

(3) The director shall prepare quarterly reports summarizing each case in which abatement of tax, interest, or penalties was made. However, the report shall not disclose the identity of the taxpayer. An abatement authorized by this paragraph to a retailer shall not preclude the department from proceeding to collect the liability from a purchaser, except as provided in subparagraph (2).

3. *Installment payments.* The department may permit the payment of a delinquent tax on a deferred basis where the equities indicate that a deferred payment agreement would be in the interest of the state and that without a deferred payment agreement the taxpayer would experience extreme financial hardship. A deferred payment agreement shall include applicable penalty and interest at the rate in effect under section 421.7 on the unpaid balance of the liability.

4. *Costs.*

a. A prevailing taxpayer in an administrative hearing or a court proceeding related to the determination, collection, or refund of a tax, penalty, or interest may be awarded reasonable litigation costs by the department, state board of tax review, or a court, incurred subsequent to the issuance of the notice of assessment or denial of claim for refund in the proceeding, based upon the following:

(1) The reasonable expenses of expert witnesses.

(2) The reasonable costs of studies, reports, and tests.

(3) The reasonable fees of independent attorneys or independent accountants retained by the taxpayer.

(4) An award for reasonable litigation costs shall not exceed twenty-five thousand dollars per case.

b. An award under paragraph "a" shall not be made with respect to a portion of the proceedings during which the prevailing taxpayer has unreasonably protracted the proceedings.

c. For purposes of this section, "*prevailing taxpayer*" means a taxpayer who establishes that the position of the state was not substantially justified and who has substantially prevailed with respect to the amount in controversy or has substantially prevailed with respect to the most significant issue or set of issues presented. The determination of whether a taxpayer is a prevailing taxpayer is to be determined in accordance with chapter 17A.

d. An award for reasonable litigation costs shall be paid to the taxpayer from the general fund of the state. For purposes of this subsection, there is appropriated from the general fund of the state an amount sufficient to pay each taxpayer entitled to an award under this subsection.

e. This subsection does not apply to the tax imposed by chapter 453B if the department relied upon information provided or action conducted by federal, state, or local officials or law enforcement agencies.

5. *Damages.* Notwithstanding section 669.14, subsection 2, if the director or an employee of the department recklessly or intentionally disregards any tax law or rule in the collection of any tax, or if the director or an employee of the department knowingly or negligently fails to release a lien against or bond on a taxpayer's property, the taxpayer may file a claim in accordance with the Iowa tort claims Act, chapter 669, for damages against the state. However, the damages shall be limited to the actual direct economic damages suffered by the taxpayer as a proximate result of the actions of the director or employee, plus costs, reduced by the amount of such damages and costs as could reasonably have been mitigated by the taxpayer. The Iowa tort claims Act shall be the exclusive remedy for recovering damages resulting from such actions. This subsection does not apply to the tax imposed by chapter 453B.

6. *Burden of proof.* The burden of proof with respect to assessments or denial of refunds in contested case proceedings shall be allocated as follows:

a. With respect to the issue of fraud with intent to evade tax, the burden of proof is upon the department. The burden of proof must be carried by clear and convincing evidence.

b. In a case where the assessment was not made within six years after the return became due, excluding any extension of time for filing, the burden of proof shall be upon the department. However, the burden of proof shall be upon the taxpayer where the determination of the department is the result of the final disposition of a matter between the taxpayer and the internal revenue service or where the taxpayer and the department have signed a waiver of the statute of limitations.

c. In all other cases, the burden of proof shall be upon the taxpayer who challenges the assessment or refund denial, except that, with respect to any new matter or affirmative defense, the burden of proof shall be upon the department. For purposes of this provision, “*new matter*” means an adjustment not set forth in the computation of the tax in the assessment or refund denial as distinguished from a new reason for the assessment or refund denial. “*Affirmative defense*” is one resting on facts not necessary to support the taxpayer’s case.

7. *Employee evaluations.* It is unlawful to base a performance evaluation for an employee of the department on the total amount of assessments issued by that employee.

8. *Refund of untimely assessed taxes.* Notwithstanding any other refund statute, if it appears that an amount of tax, penalty, or interest has been paid to the department after the expiration of the statute of limitations for the department to determine and assess or collect the amount of such tax due, then the amount paid shall be credited against another tax liability of the taxpayer which is outstanding, if the statute of limitations for assessment or collection of that other tax has not expired or the amount paid shall be refunded to the person or, with the person’s approval, credited to tax to become due. An application for refund or credit under this subsection must be filed within one year of payment. This subsection shall not be construed to prohibit the department from offsetting the refund claim against any tax due, if the statute of limitations for that other tax has not expired. However, any tax, penalty, or interest due for which a notice of assessment was not issued by the department but which was voluntarily paid by a taxpayer after the expiration of the statute of limitations for assessment shall not be refunded.

9. *No applicability to real property.* The provisions of this section do not apply to the assessment and taxation of real property.

10. *Illegal tax.* A tax shall not be collected by the department if it is prohibited under the Constitution of the United States or laws of the United States, or under the Constitution of the State of Iowa.

94 Acts, ch 1133, §1, 16; 95 Acts, ch 83, §2; 2000 Acts, ch 1189, §28, 34; 2002 Acts, ch 1122, §2, 4; 2008 Acts, ch 1119, §6; 2008 Acts, ch 1184, §53; 2010 Acts, ch 1138, §52

[T] Subsection 2, paragraph c, unnumbered paragraph 1 amended

421.61 Unconstitutionally withheld tax benefits.

If a provision in the Code grants a tax benefit to taxpayers that is unconstitutionally withheld from other taxpayers as expressed in an Iowa attorney general’s opinion based upon decisions of the Iowa supreme court, United States supreme court, or other courts of competent jurisdiction, the tax benefit shall also be granted to the adversely affected taxpayers as if the unconstitutional provision did not exist.

97 Acts, ch 158, §10

421.62 through 421.69 Reserved.

421.70 Repealed by 2002 Acts, ch 1161, § 1.