

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

701—5.1(17A,22,421,422) Definitions. As used in this chapter:

“Confidential record” means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include but are not limited to records or information contained in records that the department is prohibited by law from making available for examination by members of the public; records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record; and confidential state tax information and federal tax information. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“Confidential state tax information” means information that is protected from disclosure by Iowa Code sections 422.20 and 422.72. Confidential state tax information includes but is not limited to state tax returns and return information. Confidential state tax information does not include federal tax information (FTI). If confidential state tax information is contained in a record, that record may also be considered a confidential record protected by Iowa Code chapter 22.

“Custodian” means the department, the director of revenue, the department’s public information officer, or a person lawfully delegated authority by the department to act for the department in implementing Iowa Code chapter 22.

“Department” means the department of revenue.

“Federal tax information” or *“FTI”* means return or return information received directly from the IRS or obtained through an authorized secondary source such as Social Security Administration (SSA), federal Office of Child Support Enforcement (OCSE), Bureau of the Fiscal Service (BFS) or Centers for Medicare and Medicaid Services (CMS) or another entity acting on behalf of the IRS pursuant to an IRC §6103(p)(2) (B) agreement. Copies of tax returns or return information provided to the department directly by a taxpayer or the taxpayer’s representative or obtained from public information files (e.g., federal tax liens on file with the county clerk, Offers in Compromise available for public inspection, court records) are not considered FTI for the purposes of this chapter.

“GovConnectIowa” means the e-services portal of the department.

“IRC” means the Internal Revenue Code.

“IRS” means the Internal Revenue Service.

“Open record” means a record other than a confidential record.

“Personally identifiable information” means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system. The term “personally identifiable information” includes “personal information” as defined in Iowa Code section 715C.1.

“Record” means the whole or a part of a “public record” as defined in Iowa Code section 22.1, that is owned by or in the physical possession of the department. Records include confidential records.

“Record system” means any group of records under the control of the department from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual. A record system is a “system,” as defined below.

“Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. “Routine use” includes disclosures required to be made by statute other than the public records laws codified at Iowa Code chapter 22.

“System” means any of the following:

1. Computer hardware or software;
2. Computerized processes and procedures;
3. Noncomputerized processes and procedures.

“*Tax administration*” means the administration, management, conduct, direction, and supervision of the execution and application of the state tax laws; means the development and formulation of state tax policy; and includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

[ARC 6583C, IAB 10/5/22, effective 11/9/22]

701—5.2(17A,22,421,422) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound department determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. The department is committed to the policies set forth in Iowa Code chapter 22 as well as to the taxpayer confidentiality provisions in Iowa Code chapter 422. Department staff shall cooperate with members of the public in implementing the relevant provisions of Iowa Code chapters 22 and 422.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

[ARC 6583C, IAB 10/5/22, effective 11/9/22]

701—5.3(17A,22,421,422) Requests for public records.

5.3(1) Availability of records. Department records are open for public inspection and copying unless they are confidential or otherwise not subject to public inspection by rule or law. The department is not obligated to create a record if a requested record does not exist.

5.3(2) Methods for submitting a records request. Record requests shall be submitted using one of the following methods:

a. Mail. Requests by mail should be addressed to: Public Information Officer, Iowa Department of Revenue, P.O. Box 10457, Des Moines, Iowa 50306.

b. Electronic submission. Instructions for submitting requests electronically can be found on the department’s website, tax.iowa.gov.

c. Hand delivery. Requests should be hand-delivered to the department of revenue office on the first floor of the Hoover State Office Building, 1305 East Walnut St., Des Moines, Iowa.

d. Telephone. Instructions for submitting requests by telephone can be found on the department’s website, tax.iowa.gov.

5.3(3) Content of a records request.

a. Requests shall identify the particular records sought by name or description and include the name, address, email, and telephone number of the person requesting the records.

b. A person shall not be required to give a reason for requesting an open record. However, if a person requesting a record requests a fee waiver pursuant to paragraph 5.3(6)“*f*,” the department may require the requester to provide information to support granting a fee waiver, including the reason for the records request. Requests for confidential records must comply with this rule and rule 701—5.4(17A,22,421,422). Department staff may request additional information from the requester for the purposes of clarification or identification of appropriate documents.

5.3(4) Response to requests. Records shall be provided as soon as feasible. Release of an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The redaction and request for redaction process in Iowa Code sections 422.20(5) and 422.72(8) and rule 701—7.8(17A) shall be considered a determination of whether a government record is a public record or a confidential record under Iowa Code section 422.8(4)“*c*.” The custodian shall promptly give notice to the requester of the reason for any delay in providing an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing. The custodian of a record may deny members of the public access to the record only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), that the record is a confidential record, or that its disclosure is prohibited by the order of the director or the director’s designee. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 701—5.4(17A,22,421,422) and other applicable provisions of law.

5.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from department files. Examination and copying of department records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

5.3(6) Fees.

a. When charged. Pursuant to Iowa Code section 22.3, the department may charge fees in connection with the search, retrieval, examination, and copying of requested records.

b. Copying and postage fees. Price schedules for published materials and for photocopies of records supplied by the department shall be posted on the department's website. Copies of records may be made for members of the public on department photocopy machines or from electronic storage systems at costs determined and posted on the department's website. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Search, retrieval, and examination fee. An hourly fee may be charged for actual department expenses associated with the search, retrieval, and examination of requested records. The fee shall be based upon the pay scale of the employee involved and other actual costs incurred. The department provides the first two hours of search, retrieval, and examination free of charge.

d. Estimated fee. Within a reasonable time after a request is made, the department shall provide to the requester an estimated fee of the actual costs expected to be incurred by the department in fulfilling the request.

e. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

f. Fee waivers. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

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[ARC 6583C, IAB 10/5/22, effective 11/9/22]

701—5.4(17A,22,421,422) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. The procedure governing the request and release of such confidential records is addressed below.

5.4(1) Procedure. In requesting the custodian to permit the examination and copying of such confidential records, the following procedures apply and are in addition to those specified for requests for access to records in rule 701—5.3(17A,22,421,422).

a. Form of request. A person requesting access to confidential records shall submit the request in writing. The department may require the requester to provide additional documentation, including but not limited to proof of identity and authority to secure access to the record. The department may also require the requester to sign a certified statement or affidavit listing the specific reasons justifying access to the record and provide any proof necessary to establish relevant facts.

b. Response to request. The department must notify the requester of approval or denial of the request for access. The notice must include:

(1) The name and title or position of the person responding on behalf of the department; and

(2) If the request for access is denied, a brief statement of the grounds for denial including a citation to the applicable statute or other provision of law.

c. Request granted. When the department grants a request for access to a confidential record to a particular person, the department must notify that person and indicate any lawful restrictions imposed by the department on that person's inspection and copying of the record.

d. Reconsideration of denial. A requester whose request is denied by the department may apply to the director for reconsideration of the request.

e. Persons who must follow procedure. The procedure described in this subrule must be followed by any person requesting information on delinquent tax, interest, penalty or other confidential information under rule 701—202.12(423).

5.4(2) *Notice to subject of record and opportunity to obtain an injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, or whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

5.4(3) *Requesting a copy of a return.* A taxpayer requesting a copy of the taxpayer's own tax return must do so via GovConnectIowa. There will be a \$5 charge for each return requested. Payment must be received prior to release of the return.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

[ARC 6583C, IAB 10/5/22, effective 11/9/22]

701—5.5(17A,22,421,422) Requests for treatment of a record as a confidential record and its withholding from examination. The department may treat a record as a confidential record and withhold it from examination only to the extent that it is authorized by Iowa Code sections 22.7, 422.20, and 422.72; other applicable provisions of law; or an order. Persons may request that the department treat a document as a confidential record and withhold the document from public inspection. The procedures for making a request are described below.

5.5(1) *Requests related to records submitted as part of an appeal or contested case.* Any person who seeks to request confidential treatment for any document submitted as part of an appeal or contested case filed under 701—Chapter 7 must file a motion for redaction as described in rule 701—7.8(17A).

5.5(2) *Requests for confidential treatment of any other record.* Any person who seeks to request confidential treatment of any record that has not been submitted as part of an appeal or contested case filed under 701—Chapter 7 must follow the following procedure:

a. Persons who may request. Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

b. Request. A request that a record be treated as a confidential record and be withheld from public inspection shall:

- (1) Be in writing; and
- (2) Be filed with the department using the one of the methods in subrule 5.3(2), excluding submission by telephone listed in paragraph 5.3(2)“d”; and
- (3) Set forth the legal and factual basis justifying such confidential record treatment for that record; and

(4) Include the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. A person may request that a record be treated as confidential for a limited period of time. Requests for limited confidential record treatment shall also specify the precise period of time for which that treatment is requested.

(5) The requester shall, if possible, include a copy of the record for which confidential record treatment is being sought with the request.

c. Failure to request. Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record, unless otherwise provided by law. However, if a person who has submitted information to the department that could be considered a confidential record under Iowa Code section 22.7(3) or 22.7(6) does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

d. Timing of decision. A decision by the custodian about whether to disclose a record or a portion of a record to members of the public may be made when a request for confidential record treatment is filed, or when the custodian receives a request for access to the record by a member of the public.

e. Request granted or deferred. If a request for confidential record treatment is granted, or if action on a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection during the pendency of that subsequent request.

f. Request denied and opportunity to seek an injunction. If a request for confidential record treatment is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

[ARC 6583C, IAB 10/5/22, effective 11/9/22]

701—5.6(17A,22,421,422) Consensual disclosure of confidential records.

5.6(1) *Consent to disclosure by a subject.* To the extent permitted by law, the subject may consent in writing to department disclosure of confidential records as provided in rules 701—5.7(17A,22,421,422) and 701—7.6(17A,22,421,422).

5.6(2) *Complaints to public officials not an authorization—separate authorization required.* A letter from the subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the department shall not, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter. The subject of a confidential record filing a complaint must submit a disclosure authorization as provided in rules 701—5.7(17A,22,421,422) and 701—7.6(17A,22,421,422).

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

[ARC 6583C, IAB 10/5/22, effective 11/9/22]

701—5.7(17A,22,421,422) Tax information disclosure designation.

5.7(1) *Powers authorized.* A taxpayer may designate an individual to receive, inspect, and discuss the taxpayer's confidential state tax information from the department. Such designation does not authorize the designee to act or authorize any action on the taxpayer's behalf in any way other than to receive information and communicate with the department. For transfers of decision-making authority, see Iowa Code section 421.59 and rule 701—7.6(17A,22,421,422).

5.7(2) *Contents of the tax information disclosure designation form.* A taxpayer must use the department's tax information disclosure designation form, or other designated method authorized by the department, to designate an individual to receive, inspect, and discuss confidential state tax information. A tax information disclosure designation form must contain the following information to be valid:

- a.* Legal name and address of the taxpayer;
- b.* Identification number of the taxpayer (i.e., social security number (SSN), federal identification number (FEIN), or any federal- or Iowa-issued tax identification number);

c. The designee's name, mailing address, and identification number (i.e., preparer's tax identification number (PTIN), FEIN, SSN, individual taxpayer identification number (ITIN), or Iowa department of revenue-issued account number (IAN)). In lieu of a designee's identification number, a taxpayer may indicate that an IAN is being requested for the designee;

d. Description of the matter(s) for which disclosure is authorized, which may include:

(1) The type of tax(es) involved or an indication that all tax types are within the scope of disclosure;

(2) The specific year(s) or period(s) involved or an indication that the scope is unlimited (not to exceed three years into the future beyond the signature date); and

(3) Business tax permit number or an indication that all tax types are within the scope of authority;

e. A clear expression of the taxpayer's intention concerning any restrictions to the scope of authority granted to the recognized representative(s) as provided in subrule 5.7(1);

f. An authorized signature of an individual listed in subrule 5.7(4) meeting the requirements of rule 701—8.2(17A,421);

g. Any other information required by the department.

5.7(3) *Authorization period for a tax information disclosure designation.*

a. A tax information disclosure designation may not be used to authorize disclosure for tax periods that end more than three years after the date on which the tax information disclosure designation is signed by the taxpayer. A tax information disclosure designation may concern an unlimited number of tax periods that have ended prior to the date on which the tax information disclosure designation is received by the department; however, tax periods must be stated if the intention is to limit the periods. If the tax periods section is left blank, all tax periods, including those ending up to three years in the future, are included.

b. A tax information disclosure designation continues to be effective for tax periods as defined in paragraph 5.7(3) "a" until revocation by the taxpayer, incapacity of the taxpayer, death of the taxpayer, or withdrawal, death, or incapacity of the tax information disclosure designee.

5.7(4) *Individuals who may execute a tax information disclosure designation.* The individual(s) who may execute a tax information disclosure designation depends on the type of taxpayer involved:

a. *Individual.* In matters involving an individual taxpayer, a tax information disclosure designation must be signed by the individual.

b. *Joint or combined returns.* In matters involving a joint return or married taxpayers who have elected to file separately on a combined return, each taxpayer must complete and submit a tax information disclosure designation form for the joint return.

c. *Third parties.* The tax information disclosure designation form may be signed by an individual who has been authorized to act on behalf of the taxpayer under Iowa Code section 421.59.

5.7(5) *Revocation and withdrawal.*

a. *Revocation by the taxpayer.*

(1) By written statement. By filing a statement of revocation with the department, a taxpayer may revoke a tax information disclosure designation without authorizing a new representative. The statement of revocation must include the following:

1. Name, address, and identification number of the taxpayer (i.e., SSN, FEIN, or any federal- or Iowa-issued tax identification number);

2. Name, address, and identification number (i.e., PTIN, FEIN, SSN, ITIN, or IAN) of the designee whose designation is to be revoked;

3. A clear statement to revoke the designee's disclosure designation; and

4. Signature of an authorized signatory as described in subrule 5.7(4).

(2) Does not automatically revoke. A new tax information disclosure designation for a particular tax type(s) and tax period(s) does not revoke a prior tax information disclosure designation for any tax type(s) and tax period(s), unless the taxpayer has indicated in a written submission to the department that a prior tax information disclosure designation is to be revoked.

b. *Withdrawal by the designee.* By filing a statement with the department, a designee may withdraw from the designation in a matter in which a tax information disclosure designation has been filed. The statement must include the following:

- (1) Name, address, and identification number of the taxpayer (i.e., SSN, FEIN, or any federal- or Iowa-issued tax identification number);
- (2) Name, address, and tax identification number (i.e., PTIN, FEIN, SSN, ITIN, or IAN) of the designee whose designation is to be withdrawn;
- (3) A clear statement that the designee wishes to withdraw;
- (4) Signature of withdrawing designee and signature date.

5.7(6) Submitting a form.

a. Submit separately. A tax information disclosure designation form may not be submitted as an attachment to a tax return except as provided by these rules. A tax information disclosure designation must be submitted separately to the department in accordance with the submission instructions on the form. However, the department may, at its discretion, provide a method for authorizing disclosure on the face of a tax return as defined in Iowa Code section 421.6.

b. Original or electronic forms accepted. The department will accept either the original, a copy, or an electronically scanned and transmitted form. A copy received by facsimile transmission (fax) or email will be accepted. All forms, whether original copy, received via fax, or electronically scanned and transmitted forms must include a valid signature meeting the requirements of rule 701—8.2(17A,421) of the taxpayer to be represented.

c. Timely submission. The form must be submitted within six months of the date it is signed, or it will be considered invalid.

d. Evaluation of documentation provided. The department will evaluate the tax information disclosure designation form and any additional documentation to confirm authorization. Authorization to receive, inspect, and discuss confidential state tax information from the department shall only cover those matters and time frames covered by the submitted documentation. The party claiming authorization to receive, inspect, and discuss confidential state tax information from the department on behalf of a taxpayer shall have the burden to prove, to the satisfaction of the department, the existence and extent of the claimed authorization.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

[ARC 6583C, IAB 10/5/22, effective 11/9/22]

701—5.8(17A,22,421,422) Disclosures without the consent of the subject. Open records and certain confidential records may be disclosed by the department without the consent of the subject. The guidelines governing such disclosures are described below.

5.8(1) Disclosure of open records. All open records may be disclosed without the consent of the subject.

5.8(2) Disclosure of confidential records that do not contain confidential state tax information. Certain confidential records that do not contain confidential state tax information may, in limited circumstances, be disclosed without the consent of the subject. The following disclosures will generally occur without notice to the subject:

a. For routine use. The following uses are considered routine uses:

- (1) Disclosure to those officers, employees, and agents of the department who have a need for the record in the performance of their duties;
- (2) Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory action;
- (3) Information released to staff of federal and state entities for audit purposes for purposes of determining whether the department is operating a program lawfully;
- (4) Any disclosure specifically authorized by statute.

b. To a recipient who has provided the department with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has

submitted a written request pursuant to rule 701—5.4(17A,22,421,422) to the department specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual. Confidential information will be disclosed pursuant to this paragraph only after notice is sent by the department to the last-known address of the subject of the confidential information.

e. To the legislative services agency.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a lawful court order or subpoena.

5.8(3) *Disclosure of confidential state tax information.*

a. Permitted disclosures. Confidential state tax information may be disclosed without the consent of the subject only to the extent that it is expressly permitted by law. The following is a nonexclusive list of permitted disclosures:

(1) Disclosures to other agencies, employees, or officials of this state to the extent required as part of their official duties and responsibilities pursuant to Iowa Code section 422.72(1)“*b.*” Officers or employees of the state of Iowa may examine confidential state tax information belonging to the department to the extent that access to the information is required as part of their official duties and responsibilities. Such information will only be disclosed upon the express written approval of the director of revenue or the director’s designee. Written approval will be granted in only those situations where the information obtained is used for a tax administrative purpose. The written approval will cover the conditions and procedures under which specific information will be released.

(2) Disclosures permitted by statute for purposes other than tax administration. Confidential state tax information may be disclosed without the consent of the subject when disclosure is expressly permitted by statute. Such disclosures may be made without a tax administrative purpose, unless the authorizing statute provides otherwise.

(3) Disclosures to the federal government and agencies of other states. The director of revenue or director’s designee may disclose confidential state tax information to tax officials of another state or the United States government without the consent of the subject so long as the disclosures are made for a tax administrative purpose and are made only to officers of those jurisdictions which by agreement with this state limit the disclosure of the information as strictly as the laws of this state protecting the confidentiality of returns and return information.

(4) Disclosure pursuant to subpoena. The director of revenue or the director’s designee must provide confidential state tax information in response to a subpoena as outlined in Iowa Code section 422.72(7).

(5) Disclosure pursuant to Iowa Code section 421.19. The department may disclose confidential state tax information in exercising any power under Iowa Code section 421.19, regardless of whether such disclosure is made for a tax administration purpose.

b. Penalties for unlawful disclosure of confidential state tax information. Any officer, employee, agent, former officer, former employee, or former agent of the state of Iowa who engages in any of the following activities commits a serious misdemeanor:

(1) Knowingly files a false affidavit with the department to secure confidential state tax information;

(2) Willfully or recklessly divulges, prints, publishes, inspects or permits unauthorized examination of confidential state tax information in violation of Iowa Code sections 422.20 and 422.72 or divulges information received under this rule in any manner prohibited by this rule.

[ARC 6583C, IAB 10/5/22, effective 11/9/22]

701—5.9(17A,22,421,422) Release to subject or owner of record.

5.9(1) The subject of a record may request to review the subject’s own records by following the procedures in rules 701—5.3(17A,22,421,422) and 701—5.4(17A,22,421,422). However, the department need not release the following records to the subject:

a. Communications to the department that are protected from disclosure under Iowa Code section 22.7(18). Such protected communications include responses to questionnaires solicited by the department that relate to tax administration.

b. Records that are work product of an attorney or are otherwise privileged.

c. Peace officer’s investigative reports, except when disclosure is required by law.

d. Any other records that may be withheld by law.

5.9(2) Where a requested record contains information on multiple subjects, the department may take reasonable steps to protect confidential information relating to the subject or subjects that did not make the request when releasing the record to the requesting subject.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

[ARC 6583C, IAB 10/5/22, effective 11/9/22]

701—5.10(17A,22,421,422) Personally identifiable information collected and stored by the department. The department collects and maintains both open records and confidential records that contain personally identifiable information. This rule describes the nature, extent, retrieval, storage, and processing of personally identifiable information within the department’s record systems.

5.10(1) Nature and extent. All record systems maintained by the department may contain personally identifiable information concerning matters such as income, property holdings, exchanges, financial transactions, and demographic information such as address and number of dependents.

5.10(2) Retrieval. Personal identifiers are used to retrieve information from any of the record systems that the department maintains that contain personally identifiable information.

5.10(3) Means of storage. Paper, microform, and various electronic means of storage are used to store records containing personally identifiable information.

5.10(4) Comparison. Electronic or manual data processing may be used to match, to collate, or to compare personally identifiable information in one system with personally identifiable information in another system of records or with personally identifiable information within the same system.

5.10(5) Comparison with data from outside the department. Personally identifiable information in systems of records maintained by the department may be compared with information from outside the department when specified by law. Permitted comparisons include, but are not limited to, comparisons for the purpose of setoffs.

5.10(6) Records containing personally identifiable information.

a. Personally identifiable information is collected from documents, returns, and any other record filed with the department, as well as from outside sources, including state and federal agencies. Authority to collect this information is found throughout Iowa Code chapters 8A and 17A and Title X of the Iowa Code, including Iowa Code section 421.17(35). Such information is stored within the department, in electronic or physical format. The chart below describes department records that contain personally identifiable information and identifies which records are open records, confidential records, partially open or partially confidential. A single record may contain information from several categories in the chart. This information is compiled for the purposes of Iowa Code section 22.11.

Code.....Meaning

O.....The records are open for public inspection.

C.....The records are confidential and are not open to public inspection.

O/C.....The record is partly open and partly confidential.

Description of Record	Type of Record	Legal Authority for Confidentiality
State tax returns, return information, permit records, tax liability and penalty records, tax policy, tax research records, and all related records	O/C	Iowa Code Title X, including Iowa Code sections 422.20 and 422.72
Nontax collection records	O/C	Iowa Code Title X, including Iowa Code sections 422.20 and 422.72, and contractual authority
Federal tax returns and return information	C	26 U.S.C. §6103
Department personnel records, communication records, budget records, and payroll records	O/C	Iowa Code section 22.7
Minutes of closed meetings of a government body	C	Iowa Code section 21.5(4)
Records that constitute attorney work product or attorney-client communications or are otherwise privileged	C	Iowa Code section 22.7(4), Iowa Rule of Civil Procedure 1.503, Federal Rule of Civil Procedure 26(b)(3), and case law

b. The procedure for public records request may be found in rule 701—5.3(17A,22,421,422).

c. The procedure for allowing a person to have additions, dissents, or objections entered in the record will be determined on a case-by-case basis.

d. The subject of the confidential record may either request the record independently and give it to the named third party or authorize the third party to request the subject's confidential information under Iowa Code section 421.59, 422.20(7), or 422.72(9).

e. The department will utilize information, including confidential information, in executing its duties under the Iowa Code. Subjects of the information will not be notified when the information is used. Persons outside of the department receiving confidential information are held to the same confidentiality standard as departmental employees. Whether information is required or optional will be indicated along with the request for information. Failing to provide required information may result in penalties or interest being charged.

f. The department utilizes more than one data processing system, and information is matched between systems.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

[ARC 6583C, IAB 10/5/22, effective 11/9/22]

701—5.11(17A,22,421,422) Retention of submitted documents. When the subject or owner of a record has submitted a document to the department, the department will store the document in the same manner that it stores other records of a similar nature. Documents submitted to the department may be destroyed by the department at the conclusion of the applicable time period detailed in the department's record retention schedules, unless destruction is otherwise prohibited by law. The department discourages submitting original documents in situations where an original is not required. If an original document must be submitted, the person submitting the document shall indicate conspicuously that the document is an original and shall also indicate whether that person requests that the original be returned at the conclusion of its use by the department.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

[ARC 6583C, IAB 10/5/22, effective 11/9/22]

701—5.12(17A,22,421,422) Limited applicability. This chapter does not:

1. Require the department to index or retrieve records that contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records that would otherwise not be available under Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of, or access to records in possession of the department that are governed by regulations of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the department in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the department.

This rule is intended to implement Iowa Code chapters 17A, 22, 421, and 422.

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