

CHAPTER 10
INTEREST, PENALTY, AND EXCEPTIONS TO PENALTY

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

Rules 701—10.20(421) to 701—10.111(422A) are excerpted from 701—Chs 12, 30, 44, 46, 52, 58, 63, 81, 86, 88, 89, 104, IAB 1/23/91

Chapter rescission date pursuant to Iowa Code section 17A.7: 3/26/30

701—10.1(421) Definitions. As used in the rules contained herein, the following definitions apply unless the context otherwise requires:

“*Department*” means the Iowa department of revenue.

“*Director*” means the director of the department or the director’s designee.

“*Taxes*” means all taxes and charges arising under Title X of the Iowa Code, and all other taxes administered by the department including but not limited to the moneys and credits tax arising under Iowa Code section 533.329, except the beer barrel tax under Iowa Code section 123.136 and the wine gallonage tax under Iowa Code section 123.183.

This rule is intended to implement Iowa Code chapter 421.

[ARC 8946C, IAB 2/19/25, effective 3/26/25]

701—10.2(421) Interest.

10.2(1) Rate determination. Except where a different rate of interest is provided by Title X of the Iowa Code, the rate of interest on interest-bearing taxes and interest-bearing refunds arising under Title X is fixed for each calendar year by the director. In addition to any penalty computed, there shall be added interest as provided by law from the original due date of the return. Any portion of the tax imposed by statute that has been erroneously refunded and is recoverable by the department shall bear interest as provided in Iowa Code section 421.7(2) from the date of payment of the refund, considering each fraction of a month as an entire month.

10.2(2) Examples of the application of interest. The following scenarios demonstrate how interest will be applied to tax liabilities and refunds under various fact patterns. For purposes of these examples, the interest rate in effect for year one is 5 percent per year, the interest rate in effect for year two is 7.5 percent per year, and the interest rate in effect for year three is 10 percent per year.

EXAMPLE 1: The taxpayer, A Corp, owes corporate income taxes assessed for tax year zero. The assessment was made by the department in year one. On January 1 of year two, that assessment had not been paid. The rate of interest on the unpaid tax assessed has accrued at the rate of 5 percent per annum (0.416 percent per month) through December 31 of year one. Commencing on January 1 of year two, the rate of interest on the unpaid tax will accrue at the rate of 7.5 percent per annum for the year (0.625 percent per month).

EXAMPLE 2: The taxpayer, Y, owes retail sales taxes assessed to it for the audit period January 1, through December 31 of year one. The assessment is made on March 1 of year two. For the tax periods in which the tax became due prior to January 1 of year two, the interest rate on such unpaid sales taxes accrued at 5 percent per annum (0.416 percent per month). Commencing on January 1 of year two, the entire unpaid portion of the tax assessed that was delinquent at that time will begin to accrue interest at the rate of 7.5 percent per annum. Those portions of the tax assessed first becoming delinquent in year two will bear interest at the rate of 7.5 percent per annum (0.625 percent per month). In the event that any portion of the tax assessed remains unpaid on January 1 of year three, the rate of interest will then accrue in year three at a rate of 10 percent per annum (0.833 percent per month).

EXAMPLE 3: The taxpayer, Z, files a refund claim for tax year zero individual income taxes in March of year two. The refund claim is allowed in May of year two and is paid. Z is entitled to receive interest at the rate of 5 percent per annum (0.416 percent per month) upon the refunded tax accruing through December 31 of year one and is entitled to interest at the rate of 7.5 percent per annum (0.625 percent per month) upon such tax from January 1 of year two until the refund is paid.

EXAMPLE 4: A’s tax year zero individual income tax liability becomes delinquent on May 1 of year one. A owes interest, commencing on May 1 of year one at the rate of 5 percent per annum (0.416 percent per

month). In the event that A does not pay the liability in year one, the interest will then accrue in year two at a rate of 7.5 percent per annum (0.625 percent per month).

EXAMPLE 5: Decedent died December 31 of year zero. The inheritance tax was due 12 months after death or December 31 of year one. Prior to the due date, the estate was granted an extension of time, until September 1 of year two, to file the return and pay the tax due. The tax, however, was paid March 15 of year three. Interest accrues on the unpaid tax during the period of the extension of time (January 1 to September 1 of year two) and the remainder of year two at the rate of 7.5 percent per annum. Interest accrues on the delinquent tax from January 1 to the date of payment on March 15 of year three at the rate of 10 percent per annum.

The examples set forth in these rules are not meant to be all-inclusive. In addition, other rules set forth the precise circumstance when interest begins to accrue and whether interest accrues for each month or fraction of a month or annually as provided by law. Interest accrues as provided by law, regardless of whether the department has made a formal assessment of tax.

This rule is intended to implement Iowa Code section 421.7.

[ARC 8946C, IAB 2/19/25, effective 3/26/25]

701—10.3(421,422,423,450,452A) Interest on refunds and unpaid tax.

10.3(1) *Interest on refunds.* For those taxes on which interest accrues on refunds, interest shall accrue through the month in which the refund is mailed to the taxpayer and no further interest will accrue unless the department did not use the most current address as shown on the latest return or refund claim filed with the department.

10.3(2) *Interest on unpaid tax.* Interest due cannot be waived except in accordance with the settlement authority described in Iowa Code sections 421.5 and 17A.10.

This rule is intended to implement Iowa Code sections 421.5, 421.60, 422.25(3), 422.28, 423.47, 437A.13, 450.94, 452A.65 and 533.329.

[ARC 8946C, IAB 2/19/25, effective 3/26/25]

701—10.4(421) Frivolous return penalty. A \$500 civil penalty is imposed on any return of a taxpayer that is considered to be a frivolous return. A frivolous return is a return that lacks sufficient information from which the substantial correctness of the amount of tax liability can be determined or contains information that on its face indicates that the amount of tax shown is substantially incorrect and that reflects a position of law that is frivolous or is intended to delay or impede the administration of the tax laws of this state.

If the frivolous return penalty is applicable, the penalty will be imposed in addition to any other penalty that has been assessed. If the frivolous return penalty is relevant, the penalty may be imposed even under circumstances when it is determined that there is no tax liability on the return.

10.4(1) *Nonexclusive examples of circumstances under which the frivolous return penalty may be imposed.* The following are examples of returns filed in circumstances under which the frivolous return penalty may be imposed:

a. A return claiming a deduction against income or a credit against tax liability that is clearly not allowed such as a “war,” “religious,” or “conscientious objector” deduction or tax credit.

b. A blank or partially completed return that was prepared on the theory that filing a complete return and providing required financial data would violate the Fifth Amendment privilege against self-incrimination or other rights guaranteed by the Constitution.

c. An unsigned return where the taxpayer refused to sign because the signature requirement was “incomprehensible or unconstitutional” or the taxpayer was not liable for state tax since the taxpayer had not signed the return.

d. A return that contained personal and financial information on the proper lines but where the words “true, correct and complete” were crossed out above the taxpayer’s signature or where the taxpayer claimed the taxpayer’s income was not legal tender and was exempt from tax.

e. A return where the taxpayer claimed that income was not “constructively received” and the taxpayer was the nominee-agent for a trust.

f. A return with clearly inconsistent information.

g. A document filed for refund of taxes erroneously collected with the contention that the document was not a return and that no wage income was earned. This was inconsistent with attached W-2 Forms reporting wages.

h. A return that includes falsified information or supporting documentation.

10.4(2) *Nonexclusive examples where the frivolous return penalty is not applicable.* The following examples illustrate situations where the frivolous return penalty would not be applicable:

a. A return that includes a deduction, credit, or other item that may constitute a valid item of dispute between the taxpayer and the department.

b. A return that includes innocent or inadvertent mathematical or clerical errors, such as an error in addition, subtraction, multiplication, or division or the incorrect use of a table provided by the department.

c. A return that includes a statement of protest or objection, provided the return contains all required information.

d. A return that shows the correct amount of tax due, but the tax due is not paid.

This rule is intended to implement Iowa Code section 421.8.

[ARC 8946C, IAB 2/19/25, effective 3/26/25]

701—10.5 Reserved.

701—10.6(421) Penalties.

10.6(1) *Penalties applicable to all taxpayers.* A penalty shall be assessed upon tax due under the circumstances described in this subrule. The rates for penalties described in this rule are uniform for all tax types. Unless otherwise specified in this subrule, see rule 701—10.7(421) for waivers that may apply to these penalties.

a. For failure to timely file a return, there is a 5 percent penalty on the unpaid tax. This penalty, once imposed, will be assessed on all subsequent amounts found by the taxpayer or the department to be due for the tax period. This penalty is in addition to any other penalty provided by law.

b. For failure to timely pay the tax due on a return, there is a 5 percent penalty on the unpaid tax. This penalty is in addition to any other penalty provided by law.

c. For a deficiency of tax due found during an audit or examination, there is a 5 percent penalty on the unpaid tax. This penalty is in lieu of the penalty for failure to timely pay but is in addition to any other penalty provided by law.

d. For willful failure to file a return with the intent to evade tax or a filing requirement, or in the case of willfully filing a false return with the intent to evade tax, there is a 75 percent penalty. This penalty is in lieu of other penalties applicable under this rule. This penalty is not subject to waiver.

e. For failure to remit at least 90 percent of the tax due by the time an extension for further time to file a return is made, there is a 10 percent penalty on the unpaid tax.

f. For failure to remit payment of taxes in the form or manner required by the rules of the director, there is a 5 percent penalty on the amount of the payment remitted in the incorrect form or manner, not to exceed \$500 per instance. This penalty shall be waived if the taxpayer was not notified of the requirement to remit tax payments electronically or if the incorrect electronic transmission of the payment was made before the taxpayer was notified of the requirement to remit tax payments electronically.

10.6(2) *Penalties applicable to specified businesses for tax years beginning on or after January 1, 2022, in which no tax is due.*

a. Definitions. For purposes of this subrule, the following definitions apply:

“*Imputed Iowa liability*” means the specified business’s Iowa net income after the application of the Iowa business activity ratio, if applicable, multiplied by the applicable tax rate for the tax year, less any Iowa tax credits available to be claimed by the specified business in the current year. For purposes of the imputed Iowa liability calculation, “Iowa tax credits” does not include any credit for withholding or estimated tax. The applicable tax rate is:

1. In the case of an entity taxed as a C corporation, the top corporation income tax rate under Iowa Code section 422.33,

2. In the case of a financial institution as defined in Iowa Code section 422.61, the franchise tax rate under Iowa Code section 422.63, or

3. In the case of an entity taxed as an S corporation or partnership, the top individual income tax rate under Iowa Code section 422.5.

“*Income return*” includes an Iowa corporation income tax return (IA 1120), an Iowa franchise tax return (IA 1120F), an Iowa S corporation income tax return (IA 1120S), and an Iowa partnership income tax return (IA 1065).

“*Specified business*” means any of the following:

1. An entity taxed as a C corporation that is required to file an Iowa corporation income tax return (IA 1120). This includes a consolidated group of corporations electing or required to file an Iowa consolidated return under Iowa Code section 422.37.

2. An entity taxed as an S corporation that is required to file an Iowa S corporation income tax return (IA 1120S).

3. A financial institution that is required to file an Iowa franchise tax return (IA 1120F).

4. An entity taxed as a partnership that is required to file an Iowa partnership income tax return (IA 1065).

b. For a failure by a specified business to timely file an income return when no tax is due, a penalty shall be assessed equal to the greater of \$200 or 5 percent of the imputed Iowa liability of the specified business, not to exceed \$25,000. A specified business that has Iowa tax due for a tax year (such as an S corporation subject to Iowa income tax on built-in gains or passive investment income) is not subject to this penalty for that tax year but may be subject to other penalties provided in this rule.

c. For willful failure by a specified business to file an income return with no tax shown due with the intent to evade a filing requirement, or in the case of willfully filing a false income return with no tax shown due with the intent to evade reporting of Iowa-source income, a penalty shall be assessed equal to the greater of \$1,500 or 75 percent of the imputed Iowa liability of the specified business. This penalty is not subject to waiver. A specified business that has Iowa tax due for a tax year (such as an S corporation subject to Iowa income tax on built-in gains or passive investment income) is not subject to this penalty for that tax year but may be subject to other penalties provided in this rule.

10.6(3) Examples. The following are examples to illustrate the computation of penalties imposed under this rule. For purposes of these examples, interest has been computed at the rate of 12 percent per year or 1 percent per month. The tax due amounts are assumed to be the total amounts due when considering whether the failure to pay penalty should be assessed on the basis that less than 90 percent of the tax due was paid.

Example (a) — Failure to Timely File and Failure to Timely Pay

a. Tax due is \$100.

b. Return filed 2 months and 10 days after the due date.

c. \$0 paid prior to filing.

The calculation for the total amount due 3 months after the due date is shown below:

Tax	\$100
Penalty	10 (5% for failure to timely file, 5% for failure to timely pay)
Interest	3 (3 months interest)
Total amount due	\$113

Example (b) — Failure to Timely Pay

a. Tax due is \$100.

b. Return is timely filed.

c. \$0 paid with the return.

The calculation for the total amount due 5 months after the due date is shown below:

Tax	\$100
Penalty	5 (5% for failure to timely pay)
Interest	5 (5 months interest)
Total amount due	\$110

Example (c) — Audit Deficiency on Timely Filed Return

a. Timely filed return reported \$100 tax due.

- b. \$100 paid with return.
- c. Audit completed 8 months after the due date of the return.
- d. \$100 in additional tax found due during audit.

The calculation for the total amount due is shown below:

Computed tax after audit	\$200
Less tax paid with return	100
Additional tax due	<u>\$100</u>
Penalty	5 (5% for audit deficiency)
Interest	<u>8 (8 months interest)</u>
Total amount due	\$113

Example (d) — Audit Deficiency on Late Return Granted an Exception From Failure to File

- a. Tax due reported on return is \$100.
- b. Return filed 3 months and 10 days after the due date.
- c. \$100 paid with the return.
- d. Taxpayer is granted an exception from penalty for failure to timely file and failure to timely pay.
- e. Audit completed 8 months after the due date of the return.
- f. \$100 additional tax found due during audit.

The computation for the total amount due is shown below:

Tax due after audit	\$200
Less tax paid with return	100
Additional tax due	<u>\$100</u>
Penalty	5 (5% for audit deficiency. No penalty for failure to file.)
Interest	<u>8 (8 months interest)</u>
Total amount due	\$113

Example (e) — Audit Deficiency on Late Filed Return No Pay Return

- a. Tax due reported on the return is \$100.
- b. Return filed 3 months and 10 days after the due date.
- c. \$114 in tax, penalty, and interest paid with the return.
- d. Audit completed 8 months after the due date.
- e. \$100 additional tax found due during audit.

The computation for the total amount due is shown below:

Tax due reported on original return	\$100
Penalty	10 (5% for failure to timely file, 5% for failure to timely pay)
Interest	<u>4 (4 months interest)</u>
Total amount due on original return	\$114
Additional tax due after audit	\$100
Penalty	10 (5% for failure to file, 5% for audit deficiency)
Interest	8 (8 months interest)
Amount due after audit	<u>\$118</u>
Total amount due for tax period	\$232

Example (f) — Failure to Timely File by a Specified Business

- a. Tax due for tax year 2023 is \$0 because the entity is a partnership (IA 1065).
- b. Return is filed 7 months and 10 days after the due date.
- c. Partnership net income after calculation of the Iowa business activity ratio is \$30,000.
- d. Net income multiplied by the top individual tax rate in 2023 of 6.5 percent is \$1,950.
- e. Iowa tax credits available are \$1,000.
- f. Imputed Iowa liability is \$950.
- g. The penalty is the greater of 5 percent of the imputed Iowa liability (\$48) or \$200.

The calculation for the total amount due is shown below:

Tax	\$0
Penalty	200
Interest	0
Total amount due	<u>\$200</u>

This rule is intended to implement Iowa Code section 421.27.

[ARC 8946C, IAB 2/19/25, effective 3/26/25]

701—10.7(421) Waiver of penalty. Under certain circumstances, the penalty for failure to timely file a return, failure to timely pay the tax due with the filing of a return, or failure to pay following an audit by the department may be waived. The taxpayer has the burden to prove the necessary conditions to waive a penalty.

10.7(1) Definitions. For purposes of this rule, the following definitions apply:

“*Act of God*” means an unusual and extraordinary manifestation of nature that could not reasonably be anticipated or foreseen and cannot be prevented by human care, skill, or foresight.

“*Immediate family*” includes the spouse, children, or parents of the taxpayer. There is a rebuttable presumption that relatives of the taxpayer beyond the relation of spouse, children, or parents of the taxpayer are not within the taxpayer’s immediate family for purposes of the waiver exceptions.

“*Sanctioned self-audit program*” means an audit performed by the taxpayer with forms provided by the department as a result of contact by the department to the taxpayer prior to voluntary filing or payment of the tax. Filing voluntarily without contact by the department does not constitute a sanctioned self-audit.

“*Substantial authority*” means the weight of authorities for the tax treatment of an item is substantial in relation to the weight of authorities supporting contrary positions.

In determining whether there is substantial authority, only the following will be considered authority: applicable provisions of Iowa statutes, provisions of the Internal Revenue Code and United States Treasury regulations that were applicable for the tax period(s) in question, Iowa administrative rules construing those statutes, court cases, administrative rulings, legal periodicals, department guidance and tax return instructions current for the applicable tax period(s), tax treaties and regulations, and legislative intent as reflected in committee reports.

Conclusions reached in treatises, legal opinions rendered by other tax professionals, descriptions of statutes prepared by legislative staff, legal counsel memoranda, and proposed rules and regulations are not substantial authority.

There is substantial authority for the tax treatment of an item if there was current substantial authority at the time the return containing the item is due to be filed or there was current substantial authority on the last day of the taxable year to which the return relates.

The taxpayer must notify the department at the time the return or payment is originally due of the substantial authority the taxpayer is relying upon for not filing the return or paying the tax due.

10.7(2) Documentation. Unless otherwise indicated, written documentation is required to support the waiver of a penalty.

10.7(3) For failure to timely file a return or failure to timely pay tax due, the 5 percent penalties shall be waived upon a showing of the following exceptions:

a. An amount of tax greater than \$0 is due and at least 90 percent of the tax required to be shown due has been paid by the due date of the tax return. This exception does not apply to the penalty for failure to timely file by a specified business under subrule 10.6(2).

b. A taxpayer required to file a monthly or quarterly return is allowed one late return or one late payment within a three-year period.

(1) The use by the taxpayer of any other penalty exception under this subrule will not count as a late return or payment for purposes of this subrule.

(2) If the taxpayer receives this waiver, the taxpayer must make timely filings and payments for three years prior to being eligible for another waiver under this paragraph.

(3) This exception does not apply to an income return, a franchise return, or a moneys and credits return.

(4) This exception is determined on the basis of the tax period for which the return or payment is due and not the date on which the return is filed or payment is made.

EXAMPLE: Taxpayer A, a retail business with multiple employees, has not been late in filing returns or making payments for five years. Taxpayer A files its withholding return for the fourth quarter of 2020, due January 20, 2021, on the due date but does not make the payment until the next day. Taxpayer A incurs the penalty for failing to timely pay, but the penalty will be waived under this exception. Taxpayer A is not eligible for a waiver for a late return filing or late payment again until the due date for the fourth quarter of 2023.

c. Death of a taxpayer, a member of the immediate family of the taxpayer, or the person directly responsible for filing the return and paying the tax, when the death interferes with timely filing of a return or timely payment of tax. There is a rebuttable presumption that a death that occurs more than 30 days before the date the return or payment is due does not interfere with timely filing or payment. The taxpayer, or taxpayer's legal representative, has the burden of supplying proof of when the death occurred. A taxpayer who is eligible for this waiver will be allowed 30 days from the date the return or payment is originally due to file the return or make the associated payment without incurring penalty.

d. The onset of serious, long-term illness or hospitalization of the taxpayer, a member of the taxpayer's immediate family, or the person directly responsible for filing the return and paying the tax when such illness or hospitalization interferes with the timely filing of a return or timely payment of tax.

(1) There is a rebuttable presumption that the onset of an illness or hospitalization that precedes the due date of the return or payment by more than 30 days does not interfere with the timely filing or timely payment of tax.

(2) The taxpayer will be allowed at least 30 days from the date the return or payment form is due or until the illness or hospitalization no longer reasonably interferes with the taxpayer's ability to file the return without incurring a penalty.

(3) The taxpayer has the burden of proof on whether or not a serious, long-term illness or hospitalization has occurred, when it occurred, and how the illness or hospitalization interfered with the taxpayer's ability to timely file a return or timely pay.

e. Destruction of records by fire, flood, or act of God when the destruction interferes with the timely filing of a return or timely payment of tax. There is a rebuttable presumption that an "act of God" that precedes the due date of the return or payment by 30 days or more did not interfere with the timely filing or payment.

f. The taxpayer presents proof that the taxpayer at the due date of the return or payment relied upon applicable, documented, written advice made specifically 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 Internal Revenue Service. The advice must be relevant to the agency offering the advice and not beyond the scope of the agency's area of expertise and knowledge. The reliance must be the direct cause of the failure to file or failure to pay. The advice must be current and not superseded by a court decision; ruling of a quasi-judicial body such as an administrative law judge or the director; or by the adoption, amendment, or repeal of a rule or law.

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

h. 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. Mathematical, computation, or transposition errors are not considered as facts and circumstances disclosed on a return. These types of errors will not be considered as penalty exceptions.

i. The return 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. The taxpayer must provide competent evidence of the mailing as stated in Iowa Code section 622.105.

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. 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.

m. For estates with disclaimers, a penalty will not be imposed for failure to pay or a late-filed Iowa inheritance tax return if the sole reason for the failure to pay or late-filed inheritance tax return is due to a beneficiary's decision to disclaim property or disclaim an interest in property from the estate. However, for the penalty to be waived, the Iowa inheritance tax return must be filed and all tax must be paid to the department within the later of nine months from the date of death or 60 days from the delivery or filing date of the disclaimer pursuant to Iowa Code section 633E.12.

10.7(4) In addition to any applicable waivers for failure to timely pay the tax due on a return in subrule 10.7(3), the 5 percent penalty for failure to timely pay the tax due shall be waived upon a showing of any of the following exceptions:

a. 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. This exception does not apply to a sanctioned self-audit program conducted by the department or to adjustments from a state partnership audit as described in Iowa Code section 422.25C(2).

b. Changes to Iowa tax liability.

(1) For changes to Iowa tax liability resulting from a federal partnership level audit, the partnership or a direct or indirect partner voluntarily and timely complies with its reporting and payment requirements following the final determination date of the audit. Requirements for reporting federal partnership level audit adjustment to Iowa can be found in Iowa Code section 422.25A.

(2) For changes to Iowa tax liability resulting from an audit or examination by the Internal Revenue Service other than a federal partnership level audit, the taxpayer voluntarily files a complete federal adjustments report and pays any additional Iowa tax due within 180 days of the final determination date of the federal audit or examination. For purposes of this paragraph, "federal adjustments report" means a filing that includes an amended Iowa return with any required supporting schedules, a copy of the federal audit report or other federal documents that show the final determination and explains all the final federal adjustments, and a copy of the amended federal return if one was filed.

(3) This exception does not apply to adjustments from a state partnership audit as described in Iowa Code section 422.25C(2).

10.7(5) For a deficiency of tax due on a return found during an audit or examination, the 5 percent penalty is waived under the following exceptions:

a. At least 90 percent of the tax due has been paid by the due date.

b. The taxpayer presents proof that the taxpayer relied upon applicable, documented, written advice as described in paragraph 10.7(3) "f."

c. Reliance upon results in a previous audit was a direct cause for failure to file or pay as described in paragraph 10.7(3) "g."

d. The taxpayer presents documented proof of substantial authority as described in paragraph 10.7(3) "h."

This rule is intended to implement Iowa Code section 421.27.

[ARC 8946C, IAB 2/19/25, effective 3/26/25]

701—10.8(421) Tax return extension in disaster areas. 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. The director will notify the public of any possible extensions of tax filings as well as possible suspensions of penalty and interest. Notification will be made through different means available to the director including but not limited to press releases, media information, and the department's website. Persons eligible for extension shall complete any application or form if required by the department and satisfy any requirements or conditions for the extension.

This rule is intended to implement Iowa Code section 421.17(30).
[ARC 8946C, IAB 2/19/25, effective 3/26/25]

701—10.9(421) Failure to file penalty. A penalty may be assessed for failure to file a return if a taxpayer is subject to a return filing requirement. This penalty may be assessed on any person required to file a return for any tax type administered by the department. This penalty shall be assessed 90 days after the department has issued a demand letter if a return has not been filed. This penalty will be equal to \$1,000 for each failure to file. This penalty is in addition to any other penalty provided by law.

10.9(1) Demand letter.

a. The department may send a demand letter to a taxpayer at any time after the taxpayer has failed to file a return, as defined in Iowa Code section 421.6, by the due date. Once this letter has been issued, the taxpayer has 90 days from the date on the letter to file all returns referenced in the letter or show proof that all returns referenced in the letter have already been filed before a penalty will be assessed.

b. The letter shall contain the following title and heading:

FAILURE TO FILE DEMAND LETTER

The Iowa Department of Revenue has determined you have not filed one or more required returns. Under Iowa Code section 421.27(8), failure to file your return(s) as described in this letter within 90 days of the date of this letter will result in a \$1,000 penalty for each return that is not filed. Penalties under Iowa Code section 421.27(8) are in addition to other penalties under Iowa law.

c. The letter shall also contain the following:

- (1) Date of demand letter.
- (2) Tax period(s) involved.
- (3) Return(s) to be filed.
- (4) Date by which the return(s) must be filed to avoid incurring a penalty under Iowa Code section 421.27(8).
- (5) Total penalty under Iowa Code section 421.27(8) that will be assessed if the return(s) are not filed within 90 days.

10.9(2) Waiver of penalty.

a. *Documentation.* Unless otherwise indicated, written documentation from the taxpayer is required to support the waiver of this penalty.

b. *Good reason.* This penalty can be waived if the taxpayer proves by a preponderance of the evidence that the taxpayer did not file a return within 90 days of the date of the demand letter due to a “good reason” as defined in this rule. “Good reason” can only be shown by proving one of the following circumstances:

(1) Destruction of records by fire, flood, or act of God when the destruction interferes with the filing of a return within 90 days of the date of demand letter. “Act of God” means the same as defined in subrule 10.7(1).

(2) The onset of serious, long-term illness or hospitalization of the taxpayer, a member of the taxpayer’s immediate family, or the person directly responsible for filing the return when such illness or hospitalization interferes with the filing of a return within 90 days of the date of the demand letter.

(3) The return is filed 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. The taxpayer must provide competent evidence of the mailing as stated in Iowa Code section 622.105.

(4) A timely appeal of a department action, other than the demand letter, contesting the filing requirement of the return(s) stated in the demand letter was filed before the date stated in the letter pursuant to subparagraph 10.9(1)“c”(4).

(5) Other good reason within the discretion of the department, if the taxpayer has mutually agreed, in writing, with the department to file the required return(s) within a reasonable period of time beyond the date stated in the letter pursuant to subparagraph 10.9(1)“c”(4).

c. *Subsequent issuance.* The department may issue a new demand letter for the same filing obligation if the taxpayer continues to fail to file after the waiver is granted.

EXAMPLE 1: X fails to file a return. The department sends X a failure to file demand letter pursuant to subrule 10.9(1). X fails to file the return within 90 days of the date of the demand letter. X is assessed a \$1,000 penalty. X is still required to file the return.

EXAMPLE 2: Y fails to file a return. The department sends Y a failure to file demand letter under subrule 10.9(1). Y fails to file the return within 90 days of the date of the demand letter. Y is assessed a \$1,000 penalty. Y demonstrates to the department that Y was in the hospital and that the hospitalization interfered with Y's filing of the return within 90 days of the demand letter. The department waives the \$1,000 penalty. Y is still required to file the return.

EXAMPLE 3: Same facts as Example 2. After receiving the good reason waiver, Y does not file the return. The department issues a new failure to file demand letter under subrule 10.9(1) for the same return that the department sought to be filed in Example 2. Y fails to file the return within 90 days of the date of the second demand letter. Y is assessed a \$1,000 penalty. Y is no longer hospitalized and has no other good reason pursuant to paragraph 10.9(2) "b." The \$1,000 penalty is not waived. A good reason waiver for the first demand letter does not permanently relieve Y from filing the return. Granting the waiver for a good reason for the first demand letter does not prevent the department from issuing a new demand letter for the same filing obligation.

10.9(3) Rescission. The department may rescind the demand letter in writing any time before the penalty is assessed under Iowa Code section 421.27(8) if the taxpayer demonstrates to the department's satisfaction that the taxpayer has no Iowa return filing requirement or that the filing requirement has been met. The taxpayer has the burden to prove by a preponderance of the evidence that no filing obligation exists. The department may also rescind the demand letter if the taxpayer proves a good reason exists as described in paragraph 10.9(2) "b" that prevents the taxpayer from filing the return and the taxpayer has mutually agreed, in writing, with the department to file the required return within a reasonable period of time. The department may issue a new demand letter for the same filing obligation if the taxpayer continues to fail to file after the reasonable period of time mutually agreed to by the taxpayer and the department due to proof of a good reason has expired or if, after the department previously determined the taxpayer had no filing requirement, the department obtains additional information that shows the taxpayer does have a filing requirement.

EXAMPLE 4: Z fails to file a return and receives a demand letter. Z presents proof to the department that Z has no filing requirement. In response to this information, the department rescinds the demand letter. Z does not need to file the return within 90 days, and the department does not impose a \$1,000 penalty on Z.

EXAMPLE 5: Same facts as Example 4. After the department rescinds the demand letter, the department receives new information showing Z is required to file a return. The department can send Z a new demand letter for the same return.

This rule is intended to implement Iowa Code section 421.27.

[ARC 8946C, IAB 2/19/25, effective 3/26/25]

- [Filed 12/31/81, Notice 11/25/81—published 1/20/82, effective 2/24/82]
- [Filed 12/17/82, Notice 11/10/82—published 1/5/83, effective 2/9/83]
- [Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
- [Filed 12/14/84, Notice 11/7/84—published 1/2/85, effective 2/6/85]
- [Filed 8/23/85, Notice 7/17/85—published 9/11/85, effective 10/16/85]
- [Filed 12/2/85, Notice 10/23/85—published 12/18/85, effective 1/22/86]
- [Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]
- [Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]
- [Filed 11/26/86, Notice 10/22/86—published 12/17/86, effective 1/21/87]
- [Filed 12/11/87, Notice 11/4/87—published 12/30/87, effective 2/3/88]
- [Filed 12/9/88, Notice 11/2/88—published 12/28/88, effective 2/1/89]
- [Filed without Notice 6/12/89—published 6/28/89, effective 8/2/89]
- [Filed 11/22/89, Notice 10/18/89—published 12/13/89, effective 1/17/90]
- [Filed 11/21/90, Notice 10/17/90—published 12/12/90, effective 1/16/91]
- [Filed 1/4/91, Notice 11/28/90—published 1/23/91, effective 2/27/91]
- [Filed 12/6/91, Notice 10/30/91—published 12/25/91, effective 1/29/92]

- [Filed 9/11/92, Notice 8/5/92—published 9/30/92, effective 11/4/92]
- [Filed 12/4/92, Notice 10/28/92—published 12/23/92, effective 1/27/93]
- [Filed 12/3/93, Notice 10/27/93—published 12/22/93, effective 1/26/94]
- [Filed 11/18/94, Notice 10/12/94—published 12/7/94, effective 1/11/95]
- [Filed 12/2/94, Notice 10/26/94—published 12/21/94, effective 1/25/95]
- [Filed 11/3/95, Notice 9/27/95—published 11/22/95, effective 12/27/95]
- [Filed 12/1/95, Notice 10/25/95—published 12/20/95, effective 1/24/96]¹
- [Filed emergency 3/11/96—published 3/27/96, effective 3/11/96]
- [Filed 12/13/96, Notice 11/6/96—published 1/1/97, effective 2/5/97]
- [Filed 9/5/97, Notice 7/30/97—published 9/24/97, effective 10/29/97]
- [Filed 10/17/97, Notice 9/10/97—published 11/5/97, effective 12/10/97]
- [Filed 12/12/97, Notice 11/5/97—published 12/31/97, effective 2/4/98]
- [Filed 12/11/98, Notice 11/4/98—published 12/30/98, effective 2/3/99]
- [Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]
- [Filed 9/3/99, Notice 7/28/99—published 9/22/99, effective 10/27/99]
- [Filed 12/10/99, Notice 11/3/99—published 12/29/99, effective 2/2/00]^o
- [Filed 12/22/00, Notice 11/15/00—published 1/10/01, effective 2/14/01]
- [Filed 12/7/01, Notice 10/31/01—published 12/26/01, effective 1/30/02]
- [Filed 3/15/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]
- [Filed 5/9/03, Notice 11/27/02—published 5/28/03, effective 7/2/03]
- [Filed 1/30/04, Notice 12/10/03—published 2/18/04, effective 3/24/04]
- [Filed 10/22/04, Notice 9/15/04—published 11/10/04, effective 12/15/04]
- [Filed 11/4/04, Notice 9/29/04—published 11/24/04, effective 12/29/04]
- [Filed 12/30/04, Notice 11/24/04—published 1/19/05, effective 2/23/05]
- [Filed 12/30/05, Notice 11/23/05—published 1/18/06, effective 2/22/06]
- [Filed 5/5/06, Notice 3/29/06—published 5/24/06, effective 6/28/06]
- [Filed 12/13/06, Notice 11/8/06—published 1/3/07, effective 2/7/07]
- [Filed 2/8/08, Notice 1/2/08—published 2/27/08, effective 4/2/08]
- [Filed 3/7/08, Notice 1/30/08—published 3/26/08, effective 4/30/08]
- [Filed 12/10/08, Notice 11/5/08—published 12/31/08, effective 2/4/09]
- [Filed ARC 7761B (Notice ARC 7632B, IAB 3/11/09), IAB 5/6/09, effective 6/10/09]
- [Filed ARC 8225B (Notice ARC 8043B, IAB 8/12/09), IAB 10/7/09, effective 11/11/09]
- [Filed ARC 8551B (Notice ARC 8354B, IAB 12/2/09), IAB 2/24/10, effective 3/31/10]
- [Filed ARC 9103B (Notice ARC 8944B, IAB 7/28/10), IAB 9/22/10, effective 10/27/10]
- [Filed ARC 9308B (Notice ARC 9197B, IAB 11/3/10), IAB 12/29/10, effective 2/2/11]
- [Filed ARC 9966B (Notice ARC 9856B, IAB 11/16/11), IAB 1/11/12, effective 2/15/12]
- [Filed ARC 0557C (Notice ARC 0452C, IAB 11/14/12), IAB 1/9/13, effective 2/13/13]
- [Filed ARC 1250C (Notice ARC 1162C, IAB 10/30/13), IAB 12/25/13, effective 1/29/14]
- [Filed ARC 1303C (Notice ARC 1231C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]
- [Filed ARC 1442C (Notice ARC 1362C, IAB 3/5/14), IAB 4/30/14, effective 6/4/14]
- [Filed ARC 1545C (Notice ARC 1469C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]
- [Filed ARC 1767C (Notice ARC 1682C, IAB 10/15/14), IAB 12/10/14, effective 1/14/15]
- [Filed ARC 2657C (Notice ARC 2519C, IAB 4/27/16), IAB 8/3/16, effective 9/7/16]
- [Filed ARC 5916C (Notice ARC 5796C, IAB 7/28/21), IAB 9/22/21, effective 10/27/21]
- [Filed ARC 6566C (Notice ARC 6453C, IAB 8/10/22), IAB 10/5/22, effective 11/9/22]
- [Filed ARC 6583C (Notice ARC 6452C, IAB 8/10/22), IAB 10/5/22, effective 11/9/22]
- [Editorial change: IAC Supplement 10/18/23]
- [Filed ARC 7192C (Notice ARC 7101C, IAB 10/18/23), IAB 12/13/23, effective 1/17/24]

[Filed ARC 8946C (Notice ARC 8331C, IAB 11/13/24), IAB 2/19/25, effective 3/26/25]

◇ Two or more ARCs

1 Inadvertently omitted IAC 12/20/95; inserted 2/14/96.