

CHAPTER 307
WITHHOLDING

[Prior to 12/17/86, Revenue Department[730]]
[Prior to 11/2/22, see Revenue Department[701] Ch 46]

701—307.1(422) Who must withhold.

307.1(1) Requirement of withholding.

a. General rule. Every employer maintaining an office or transacting business within this state and required under provisions of Sections 3401 to 3404 of the Internal Revenue Code to withhold and pay federal income tax on compensation paid for services performed in this state to an individual is required to deduct and withhold from such compensation for each payroll period (as defined in Section 3401(b) of the Internal Revenue Code) an amount computed in accordance with subrules 307.2(1) and 307.2(2). Iowa income tax is not required to be withheld on any compensation paid in this state of a character which is not subject to federal income tax withholding (whether or not such compensation is subject to withholding for federal taxes other than income tax, e.g., FICA taxes), except as provided in rule 701—307.4(422).

b. Examples. Paragraph “a” above may be illustrated by the following examples:

(1) *Temporary help.* A is a typist in the offices of B corporation, where she has worked regularly for two months. A is, however, supplied to B corporation by C, a temporary help agency located in Iowa. C renders a weekly bill to B corporation for A’s services, and C then pays A. B corporation is not A’s “employer” within Section 3401(d) of the Internal Revenue Code, and B corporation is therefore not required by the Internal Revenue Code to withhold a tax on A’s compensation. Since B corporation is not required to withhold a tax for federal purposes on A’s compensation, B is not required to do so for Iowa purposes. C, the temporary help agency, however, is required to withhold from A’s compensation for federal purposes and must also do so for Iowa purposes.

(2) *Domestic help.* A is employed as a cook by Mr. and Mrs. B. The B’s are required to withhold FICA (i.e., Social Security) tax from compensation paid to A, but are not required to withhold income tax from such compensation under the Internal Revenue Code, because under Section 3401(a)(3), A’s compensation does not constitute “wages”. Since the B’s are not required to withhold income tax for federal purposes, they are not required to do so for Iowa purposes.

(3) *Executives.* A is a corporate executive. On January 1, 1998, A entered into an agreement with B corporation under which he was to be employed by B in an executive capacity for a period of five years. Under the contract, A is entitled to a stated annual salary and to additional compensation of \$10,000 for each year. The additional compensation is to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of \$5,000 on A’s retirement beginning January 1, 2003. In the event of A’s death prior to exhaustion of the account, the balance is to be paid to A’s personal representative. A is not required to render any service to B after December 31, 2002. During 2003, A is paid \$5,000 while a resident of Iowa. The \$5,000 is not excluded from “wages” under Section 3401(a) of the Internal Revenue Code; therefore, B is required to withhold federal income tax, and, since it is compensation paid in this state, B must withhold Iowa income tax on A’s deferred compensation.

(4) *Agricultural labor.* Wages paid for agricultural labor are subject to withholding for state income tax purposes to the same extent that the wages are subject to withholding for federal income tax purposes.

c. Exemption from withholding. An employer may be relieved of the responsibility to withhold Iowa income tax on an employee who does not anticipate an Iowa income tax liability for the current tax year.

An employee who anticipates no Iowa income tax liability for the current tax year shall file with the employer a withholding allowance certificate claiming exemption from withholding. An employee who meets this criterion may claim an exemption from withholding at any time; however, this exemption from withholding must be renewed by February 15 of each tax year that the criterion is met. If the employee wishes to discontinue or is required to revoke the exemption from withholding, the employee must file a new withholding allowance certificate within ten days from the date the employee anticipates

a tax liability or on or before December 31 if a tax liability is anticipated for the next tax year. Subrule 307.3(3) contains more information.

d. Withholding from lottery winnings. Every person, including employees and agents of the Iowa lottery authority, making any payment of “winnings subject to withholding” shall deduct and withhold a tax in an amount equal to 5 percent of the winnings. The tax shall be deducted and withheld upon payment of the winnings to a payee by the person or payer making this payment. Any person or payee receiving a payment of winnings subject to withholding must furnish the payer with a statement as is required under Treasury Regulation §31.3402(q)-1, paragraph “e,” with the information required by that paragraph. Payers of winnings subject to withholding must file Form W-2G with the Internal Revenue Service, the department of revenue, and the payee of the lottery winnings by the dates specified in the Internal Revenue Code and in Iowa Code section 422.16. The W-2G form shall include the information described in Treasury Regulation §31.3402(q)-1, paragraph “f.”

“Winnings subject to withholding” means any payment where the proceeds from a wager exceed \$600. The rules for determining the amount of proceeds from a wager under Treasury Regulation Section 31.3402(q)-1, paragraph “c,” shall apply when determining whether the proceeds from Iowa lottery winnings are great enough so that withholding is required. This rule shall apply to winnings from tickets purchased from the Powerball and Hot Lotto games or any other similar games to the extent the tickets were purchased within the state of Iowa.

e. Withholding from prizes from games of skill, games of chance, or raffles. Every person making any payment of a “prize subject to withholding” must deduct and withhold a tax in an amount equal to 5 percent of the prize from a game of skill, a game of chance, or a raffle. Effective July 1, 2015, any person making any payment of a “prize subject to withholding” for bingo must withhold tax in the same manner as persons making payments of prizes subject to withholding for games of skill, games of chance, or raffles. The tax must be deducted and withheld upon payment of the winnings to a payee by the person making this payment. Any person or payee receiving a payment of winnings subject to withholding must furnish the payer with a statement as is required under Treasury Regulation Section 31.3402(q)-1, paragraph “e,” with the information required by that paragraph. Payers of prizes subject to withholding must file Form W-2G with the Internal Revenue Service, the department of revenue, and the payee of the prize by the dates specified in the Internal Revenue Code and in Iowa Code section 422.16. The W-2G form must include the information described in Treasury Regulation Section 31.3402(q)-1, paragraph “f.”

“Prizes subject to withholding” means any payment of a prize where the amount won exceeds \$600.

f. Withholding from winnings from pari-mutuel wagers. Every person making any payment of “winnings subject to withholding” must deduct and withhold a tax in an amount equal to 5 percent of the winnings from pari-mutuel wagers. The tax must be deducted and withheld upon payment of the winnings to a payee by the person making this payment. Any person or payee receiving a payment of winnings subject to withholding must furnish the payer with a statement as is required under Treasury Regulation Section 31.3402(q)-1, paragraph “e,” with the information required by that paragraph. Payers of winnings subject to withholding must file Form W-2G with the Internal Revenue Service, the department of revenue, and the payee of the winnings by the dates specified in the Internal Revenue Code and in Iowa Code section 422.16. The W-2G form must include the information described in Treasury Regulation Section 31.3402(q)-1, paragraph “f.”

“Winnings subject to withholding” are winnings in excess of \$1,000.

g. Withholding from winnings from slot machines on riverboat gambling vessels and from winnings from slot machines at racetracks. Withholding of state income tax is required if the winnings from slot machines on riverboat gambling vessels or from slot machines at racetracks exceed \$1,200.

307.1(2) *Withholding on pensions, annuities and other nonwage payments to Iowa residents.* State income tax is required to be withheld from payments of pensions, annuities, supplemental unemployment benefits and sick pay benefits and other nonwage income payments made to Iowa residents in those circumstances mentioned in the following paragraphs. This subrule covers those nonwage payments described in Sections 3402(o), 3402(p), 3402(s), 3405(a), 3405(b), and 3405(c) of the Internal Revenue Code. This includes, but is not limited to, payments from profit-sharing plans, stock bonus plans, deferred

compensation plans, individual retirement accounts, lump-sum distributions from qualified retirement plans, other retirement plans, and annuities, endowments and life insurance contracts issued by life insurance companies. These payments are subject to Iowa withholding tax if they are also subject to federal withholding tax. However, no state income tax withholding is required from nonwage payments to residents to the extent those payments are not subject to state income tax. In the case of some nonwage payments to residents, such as payments of pensions and annuities, no state income tax is required to be withheld if no federal income tax is being withheld from the payments of the pensions and annuities.

For purposes of this subrule, an individual receiving nonwage payments will be considered to be an Iowa resident and subject to this subrule if the individual's permanent residence is in Iowa. The fact that a nonwage payment is deposited in a recipient's account in a financial institution located outside Iowa does not mean that the recipient's permanent residence is established in the place where the financial institution is situated.

Payers of pension and annuity benefits and other nonwage payments have the option of either withholding Iowa income tax from these payments on the basis of tables and formulas included in the Iowa withholding tax guide of the department of revenue or withholding Iowa income tax from these payments at the rate of 5 percent.

a. Withholding from pension and annuity payments to residents. Withholding of state income tax is required from payments of pensions and annuities to Iowa residents to the extent that the recipients of the payments have not filed with the payers of the benefits election forms which specify that no federal income tax is to be withheld. Therefore, state income tax is to be withheld when federal income tax is being withheld from the pensions or annuities.

However, although Iowa income tax is ordinarily required to be withheld from pension and annuity payments made to Iowa residents if federal income tax is being withheld from the payments, no state income tax is required to be withheld if pension and annuity payments are not subject to Iowa income tax, as in the case of railroad retirement benefits which are exempt from Iowa income tax by a provision of federal law or retirement distributions subject to the retirement income exclusion described in rule 701—302.47(422).

b. Withholding from payments to residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and from annuities, endowments and life insurance contracts issued by life insurance companies. Payments to Iowa residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and payments from life insurance companies for contracts for annuities, endowments or life insurance benefits are subject to withholding of state income tax if federal income tax is withheld from the benefits. However, no state income tax is to be withheld from the income tax payments described above to the extent those income tax payments are exempt from Iowa income tax. Rule 701—302.47(422) provides more information about the retirement income exclusion.

In cases where the recipients elect withholding of state income tax from the income payments, the payers are to withhold from the payments at a rate of 5 percent on the taxable portion of the payment, if that can be determined by the payer or on the entire income payment if the payer does not know how much of the payment is taxable. Once a recipient makes an election for state income tax withholding, that election will remain in effect until a later election is made.

c. Withholding from payments to residents for supplemental unemployment compensation benefits and sick pay benefits. Income payments made for supplemental unemployment compensation benefits described in Section 3402(o)(2)(a) of the Internal Revenue Code and for sick pay benefits are subject to withholding of state income tax. In the case of supplemental unemployment compensation benefits, those benefits are treated as wages for purposes of state income tax withholding. Therefore, state income tax should be withheld from these payments when federal income tax is withheld. The amount of state income tax withholding should be determined by the withholding tables provided in the Iowa employers' "Withholding Tax Guide."

In the case of state income tax withholding for sick pay benefits paid by third-party payers in accordance with Section 3402(o)(1) of the Internal Revenue Code, state income tax is to be withheld from the benefits by the payer only if state income tax withholding is requested by the payee of the

benefits. If withholding is requested by the payee, the withholding should be done at a 5 percent rate on the sick pay benefits. Once withholding is started, it should continue until such time as the payee requests that no state income tax be withheld. For sick pay benefits not paid by third-party payers, state income tax is required to be withheld since federal income tax is required to be withheld.

d. Voluntary state income tax withholding from unemployment benefit payments. Recipients of unemployment benefit payments described in Section 3402(p)(2) of the Internal Revenue Code may elect to have state income tax withheld from the benefit payments at a rate of 5 percent. An individual's election to have state income tax withheld from unemployment benefits is separate from any election to have federal income tax withheld from the benefits.

e. Withholding on lump-sum distributions from qualified retirement plans. For lump-sum distribution payments from qualified retirement plans made to Iowa residents, state income tax is required to be withheld under the conditions described in this paragraph. No state income tax is required to be withheld from a lump-sum distribution payment to an Iowa resident in a situation where the payment is not subject to Iowa income tax. Rule 701—302.47(422) provides more information about the retirement income exclusion. Iowa income tax is to be withheld from a lump-sum distribution made to an Iowa resident to the extent that federal income tax is being withheld from the distribution. The rate of withholding of state income tax from the lump-sum distribution is 5 percent from the total distribution or 5 percent from the taxable amount if that amount is known by the payer. Note that in the case of a lump-sum distribution, the Iowa income tax imposed on the taxable amount of the distribution is 25 percent of the federal income tax on the distribution.

f. Withholding of state income tax from nonwage payments to residents on the basis of tax tables and tax formulas. State income tax from the nonwage payments made to Iowa residents may be withheld on the basis of formulas and tables included in the Iowa withholding tax guide of the department of revenue. When state income tax is being withheld based upon the formulas or tables in the withholding guide, the amounts of the nonwage payments are treated as wage payments for purposes of the tables or the formulas.

The frequency of the nonwage payments determines which of the withholding tables to use or the number of pay periods in the calendar year to use in the formula. For example, if the nonwage payment is made on a monthly basis, the monthly wage bracket withholding table should be utilized for withholding or 12 should be utilized in the formula to indicate that there will be 12 nonwage payments in the year.

The payers of nonwage payments should withhold state income tax from the nonwage payments to Iowa residents when federal income tax is being withheld from the nonwage payments. The payers should withhold from the nonwage payments to Iowa residents from tables or the formulas in the Iowa withholding guide on the basis of the number of withholding exemptions claimed on Form IA W-4 which has been completed by the payees of the payments. However, if a payee of a nonwage payment has not completed an IA W-4 form (Iowa employee's withholding allowance certificate) by the time a nonwage payment is to be made by the payer of the nonwage payment, the payer is to withhold state income tax on the basis that the payee has claimed one withholding allowance or exemption.

In a situation when a payee of a nonwage payment completes Form IA W-4 and claims exemption from state income tax withholding when federal income tax is being withheld from the nonwage payment, the payer of the nonwage payment should withhold state income tax using one withholding allowance or exemption unless the payee has verified exemption from state income tax.

g. Withholding on distributions from qualified retirement plans that are not directly rolled over. Other than distributions to payees who qualify for the retirement income exclusion, state income tax is to be withheld at a rate of 5 percent from the gross amount or taxable amount if known by the payer of the distribution made to Iowa residents if the distributions are not transferred directly to an IRA, Section 403(a) annuity or another qualified retirement plan. The distributions that are subject to state income tax withholding are those distributions that are subject to 20 percent withholding for

federal income tax purposes. Rule 701—302.47(422) provides more information about the retirement income exclusion.

This rule is intended to implement Iowa Code sections 96.3, 99B.8, 99D.16, 99F.18, 99G.31, 422.5, 422.7, and 422.16.

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701—307.2(422) Computation of amount withheld.

307.2(1) Amount withheld.

a. General rules. Every employer required to deduct and withhold a tax on compensation paid in Iowa to an individual shall deduct and withhold for each payroll period an amount the total of which will approximate the employee's annual tax liability. "Payroll period" for Iowa withholding purposes shall have the same definition as in Section 3401 of the Internal Revenue Code and shall include "miscellaneous payroll period" as that term is defined and used in that section and the associated regulations.

b. Methods of computations. Employers required to withhold Iowa income tax on compensation paid in this state shall compute the amount of tax to be withheld for each payroll period pursuant to the methods and rules provided herein.

(1) Tables. An employer may elect to use the withholding tables provided in the Iowa employers' withholding tax guide and withholding tables, which are available from the department of revenue.

(2) Formulas. Formulas that are provided in the Iowa employers' withholding tax guide and tax tables are available for employers who have a computerized payroll system.

(3) Other methods. An employer may request and be granted the use of an alternate method for computing the amount of Iowa tax to be deducted and withheld for each payroll period so long as the alternate proposal approximates the employee's annual Iowa tax liability. When submitting an alternate formula, the withholding agent should explain the formula and show examples comparing the amount of withholding under the proposed formula with the department's tables or computer formula at various income levels and by using various numbers of personal exemptions. Any alternate formula must be approved by the department prior to its use.

c. Supplemental wage payments. A supplemental wage payment is the payment of a bonus, commission, overtime pay, or other special payment that is made in addition to the employee's regular wage payment in a payroll period. When such supplemental wages are paid, the amount of tax required to be withheld shall be determined by using the current withholding tables or formulas. If supplemental wages are paid at the same time as regular wages, the regular tables or formulas are used in determining the amount of tax to be withheld as if the total of the supplemental and regular wages were a single wage payment for the regular payroll period. If supplemental wages are paid at any other time, the regular tables or formulas are used in determining the amount of tax to be withheld as if the supplemental wage were a single wage payment for the regular payroll period. When a withholding agent makes a payment of supplemental wages to an employee and the employer withholds federal income tax on a flat-rate basis, pursuant to Treasury Regulation §31.3402(g)-1, state income tax shall be withheld from the supplemental wages at a rate of 6 percent without consideration for any withholding allowances or exemptions.

d. Vacation pay. Amounts of so-called "vacation allowances" shall be subject to withholding as though they were regular wage payments made for the period covered by the vacation. If the vacation allowance is paid in addition to the regular wage payment for such period, the allowance shall be treated as supplemental wage payments.

307.2(2) Correction of underwithholding or overwithholding.

a. Underwithholding. If an employer erroneously underwithholds an amount of Iowa income tax required to be deducted and withheld from compensation paid to an employee within a payroll period, the employer should correct the error within the same calendar year by deducting the difference between the amount withheld and the amount required to be withheld from any compensation still owed the

employee, even though such compensation may not be subject to withholding. If the error is discovered in a subsequent calendar year, no correction shall be made by the employer.

b. Overwithholding. If an employer erroneously overwithholds an amount of tax required to be deducted and withheld from compensation paid to an employee, repayment of such overwithheld amount shall be made in the same calendar year. Repayment may be made in either of two ways: (1) the amount of overwithholding may be repaid directly to the employee, in which case the employer must obtain written receipt showing the date and amount of the repayment, or (2) the employer may reimburse the employee by applying the overcollection against the tax required to be deducted and withheld on compensation to be paid in the same calendar year in which the overcollection occurred. If the error is discovered in a subsequent calendar year, no repayment shall be made.

This rule is intended to implement Iowa Code section 422.16.

[Editorial change: IAC Supplement 11/2/22]

701—307.3(422) Forms, returns, and reports.

307.3(1) Definitions. For the purposes of this rule, the following definitions apply:

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

“Income statement” means a statement that conforms to the requirements of Iowa Code section 422.16(7)“a.” An income statement includes, but is not limited to, Internal Revenue Service (IRS) Form W-2, IRS Form 1099, and IRS Form W-2G.

“Payee” means an employee or other person who had Iowa income tax withheld pursuant to Iowa Code section 422.16.

“Payer” means an employer or other person required to withhold and remit Iowa income tax pursuant to Iowa Code section 422.16.

307.3(2) Withholding registration.

a. Every payer required to deduct and withhold Iowa income tax must register with the department of revenue by filing an Iowa Business Tax Registration Form either on a paper form available online at tax.iowa.gov or through GovConnectIowa. The form shall indicate the payer’s federal employer identification number. If a payer has not received a federal employer identification number, the payer must notify the department of the payer’s federal employer identification number once the number has been assigned. If a payer fails to provide the payer’s federal employer identification number within 90 days of the registration filing, the department will consider the payer’s withholding registration invalid.

b. If a payer deducts and withholds Iowa income tax but does not file the Iowa Business Tax Registration Form, the department may register the payer using the best information available. If a payer uses a service provider to report and remit Iowa withholding tax on behalf of the payer, the department may use information obtained from the service provider to register the payer if an Iowa Business Tax Registration Form is not filed. This information would include, but is not limited to, the name, address, federal employer identification number, filing frequency, and withholding contact of the payer.

307.3(3) Allowance certificate.

a. General rules. On or before the date on which an individual commences employment with an employer, the individual shall furnish the employer with a signed Iowa employee’s withholding allowance certificate (IA W-4) indicating the number of withholding allowances which the individual claims, which in no event shall exceed the number to which the individual is entitled. The employer is required to request a withholding allowance certificate from each employee. If the employee fails to furnish a certificate, the employee shall be considered as claiming no withholding allowances. Subrule 307.3(5) contains information on Form IA W-4P, which is to be used by payers of pensions, annuities, deferred compensation, individual retirement accounts and other retirement incomes.

The employer must submit to the department of revenue a copy of a withholding allowance certificate received from an employee if:

- (1) The employee claimed more than a total of 22 withholding allowances, or
- (2) The employee is claiming an exemption from withholding and it is expected that the employee’s wages from that employer will normally exceed \$200 per week.

Employers required to submit withholding certificates should use the following address:

Iowa Department of Revenue
Compliance Division
Examination Section
Hoover State Office Building
P.O. Box 10456
Des Moines, Iowa 50306

The department will notify the employer whether to honor the withholding certificate or to withhold as though the employee is claiming no withholding allowances.

b. Form and content. The "Iowa Employee's Withholding Allowance Certificate" (IA W-4) must be used to determine the number of allowances that may be claimed by an employee for Iowa income tax withholding purposes. Generally, the greater number of allowances an employee is entitled to claim, the lower the amount of Iowa income tax to be withheld for the employee. The following withholding allowances may be claimed on the IA W-4 form:

(1) Personal allowances. An employee can claim one personal allowance or two if the individual is eligible to claim head of household status. The employee can claim an additional allowance if the employee is 65 years of age or older and another additional allowance if the employee is blind.

If the employee is married and the spouse either does not work or is not claiming an allowance on a separate W-4 form, the employee can claim an allowance for the spouse. The employee may also claim an additional allowance if the spouse is 65 years of age or older and still another allowance if the spouse is blind.

(2) Dependent allowances. The employee can claim an allowance for each dependent that the employee will be able to claim on the employee's Iowa return.

(3) Allowances for itemized deductions. The employee can claim allowances for itemized deductions to the extent the total amount of estimated itemized deductions for the tax year for the employee exceeds the applicable standard deduction amount by \$200. In instances where an employee is married and the employee's spouse is a wage-earner, the total allowances for itemized deductions for the employee and spouse should not exceed the aggregate amount itemized deduction allowances to which both taxpayers are entitled.

(4) Allowances for the child/dependent care credit. Employees who expect to be eligible for the child/dependent care credit for the tax year can claim withholding allowances for the credit. The allowances are determined from a chart included on the IA W-4 form on the basis of net income shown on the Iowa return for the employee. If the employee is married and has filed a joint federal return with a spouse who earns Iowa wages subject to withholding, the withholding allowances claimed by both spouses for the child/dependent care credit should not exceed the aggregate number of allowances to which both taxpayers are entitled. Taxpayers that expect to have a net income of \$45,000 or more for a tax year beginning on or after January 1, 2006, should not claim withholding allowances for the child and dependent care credit, since these taxpayers are not eligible for the credit.

(5) Allowances for adjustments to income. For tax years beginning on or after January 1, 2008, employees can claim allowances for adjustments to income which are set forth in Treasury Regulation §31.3402(m)-1, paragraph "b." This includes adjustments to income such as alimony, deductible IRA contributions, student loan interest and moving expenses which are allowed as deductions in computing income subject to Iowa income tax. In instances where an employee is married and the employee's spouse is a wage earner, the withholding allowances claimed by both spouses for adjustments to income for the employee and spouse should not exceed the aggregate number of allowances to which both taxpayers are entitled.

c. Change in allowances which affect the current calendar year.

(1) Decrease. If, on any day during the calendar year, the number of withholding allowances to which an employee is entitled is less than the number of withholding allowances claimed by the individual on a withholding certificate then in effect, the employee must furnish the employer with a new Iowa withholding allowance certificate relating to the number of withholding allowances which the employee then claims, which must in no event exceed the number to which the employee is entitled on such day.

(2) Increase. If, on any day during the calendar year, the number of withholding allowances to which an employee is entitled is more than the number of withholding allowances claimed by the employee on the withholding allowance certificate then in effect, the employee may furnish the employer with a new Iowa withholding allowance certificate on which the employee must in no event claim more than the number of withholding allowances to which the employee is entitled on such day.

d. Change in allowances which affect the next calendar year. If, on any day during the calendar year, the number of withholding allowances to which the employee will be, or may reasonably be expected to be, entitled to for the employee's taxable year which begins in, or with, the next calendar year is different from the number to which the employee is entitled on such day, the following rules shall apply:

(1) If such number is less than the number of withholding allowances claimed by an employee on an Iowa withholding allowance certificate in effect on such day, the employee must within a reasonable time furnish the employee's employer with a new withholding allowance certificate reflecting the decrease.

(2) If such number is greater than the number of withholding allowances claimed by the employee on an Iowa withholding allowance certificate in effect on such day, the employee may furnish the employee's employer with a new withholding allowance certificate reflecting the increase.

e. Duration of allowance certificate. An Iowa withholding allowance certificate which is in effect pursuant to these regulations shall continue in effect until another withholding allowance certificate takes effect. Employers should retain copies of the IA W-4 forms for at least four years.

307.3(4) Reports and payments of income tax withheld.

a. Returns of income tax withheld from wages.

(1) Quarterly returns. Every payer required to withhold tax on compensation paid for personal services in Iowa shall make a return for the first calendar quarter in which tax is withheld and for each subsequent calendar quarter, whether or not compensation is paid therein, until a final return is filed. The payer's Iowa Withholding Tax Quarterly Return is the form prescribed for making the return required under this paragraph. Monthly tax deposits or semimonthly tax deposits may be required in addition to quarterly returns. Subparagraphs 307.3(4) "a"(2) and 307.3(4) "a"(3) contain more information about monthly and semimonthly tax deposits. In some circumstances, only an annual return and payment of withheld taxes will be required. Paragraph 307.3(4) "c" contains more information on annual reporting.

Payments shall be based upon the tax required to be withheld and must be remitted in full.

A payer is not required to list the name(s) of the payee(s) when filing quarterly returns.

If a payer's payroll is not constant, and the payer finds that no income was paid during the current quarter, the payer shall enter the numeral "zero" on the return and submit the return as usual.

(2) Monthly deposits. Every payer required to file a quarterly withholding return shall also file a monthly deposit if the amount of tax withheld during any calendar month exceeds \$500 but is less than \$10,000. No monthly deposit is required for the third month in any calendar quarter. The information otherwise required to be reported on the monthly deposit for the third month in a calendar quarter shall be reported on the quarterly return filed for that quarter, and no monthly deposit need be filed for such month.

(3) Semimonthly deposits. Every payer who withholds more than \$5,000 in a semimonthly period must file a semimonthly tax deposit. A semimonthly period is defined as the period from the first day of a calendar month through the fifteenth day of a calendar month, or the period from the sixteenth day of a calendar month through the last day of a calendar month. When semimonthly deposits are required, a payer must still file a quarterly return.

(4) Final returns. A payer who in any return period permanently ceases doing business shall file the returns required by subparagraphs 307.3(4) "a"(1), 307.3(4) "a"(2), and 307.3(4) "a"(3) as final returns for such period. The payer shall cancel the withholding registration by submitting the Iowa Business Tax Cancellation Form or through GovConnectIowa.

b. Time for filing returns.

(1) Quarterly returns. Each return required by subparagraph 307.3(4) "a"(1) shall be filed on or before the last day of the first calendar month following the calendar quarter for which such return is made.

(2) Monthly tax deposits. Monthly deposits required by subparagraph 307.3(4) “a”(2) shall be filed on or before the fifteenth day of the second and third months of each calendar quarter for the first and second months of each calendar quarter, respectively.

(3) Semimonthly tax deposits. Semimonthly deposits required by subparagraph 307.3(4) “a”(3) for the semimonthly period from the first day of the month through the fifteenth day of the month shall be filed with payment of the tax on or before the twenty-fifth day of the same month. The semimonthly deposits required by subparagraph 307.3(4) “a”(3) for the semimonthly period from the sixteenth day of the month through the last day of the month shall be filed with payment of the tax on or before the tenth day of the month following the month in which the tax is withheld.

Quarterly returns, amended returns, monthly deposits and semimonthly deposits shall be made electronically in a format and by means specified by the department of revenue. Tax payments are considered to have been made on the date that the tax is transmitted and released to the department. For withholding that occurs on or after January 1, 2022, tax payments shall be made using GovConnectIowa.

(4) Determination of payment frequency. The department and the department of management have the authority to change payment thresholds by department rule. This paragraph sets forth the payment thresholds and frequencies for each payer based on the amount withheld.

The following criteria will be used to determine if a change in payment frequency is warranted.

<u>Payment Frequency</u>	<u>Threshold</u>
Semimonthly	Greater than \$120,000 in annual withholding (more than \$5,000 in a semimonthly period).
Monthly	Between \$6,000 and \$120,000 in annual withholding (more than \$500 in a monthly period).
Quarterly	Less than \$6,000 in annual withholding.
Annual	Less than 3 employees.

1. To request to pay on a less frequent basis than required, the request must be in writing and submitted to the department. A payer’s written request to be allowed to pay less frequently will be reviewed by the department, and a written determination will be issued to the payer who made the request. A change in payment frequency to pay on a less frequent basis will be granted in only two instances:

- Incorrect historical data is used in the conversion. A business may meet the criteria based on the original filing data, but, upon investigation, the filing history may prove that the business does not meet the dollar criteria because of adjustments, amended returns, or requests for refunds.
- Data available may have been distorted by the fact that the data reflected an unusual pattern in tax collection. The factors causing such a distortion must be documented and approved by the department.

If a payer is permitted to pay on a less frequent basis, the payer must begin to pay on the less frequent basis at the start of the next quarter unless the payer is permitted to pay annually, in which case the payer must submit future payments in accordance with paragraph 307.3(4) “c.”

2. A payer may also pay more frequently than required. No request is required to be made to pay on a more frequent basis.

3. The department and the department of management may perform a review of payment frequency thresholds every five years or as needed based on department discretion. Factors the departments will consider in determining if the payment frequency thresholds need to be changed

include but are not limited to tax rate changes, inflation, the need to maintain consistency with required multistate compacts, changes in law, and migration between filing brackets.

(5) Amended return. If the amount of Iowa income tax withheld and remitted to the department of revenue for the year is different than the withheld tax and withholding credits claimed, the payer must report the difference on an amended return and, if the return shows less tax withheld and remitted than shown due, the payer must submit payment to the department.

c. Reporting annual withholding.

(1) Any payer who does not have employee withholding but who is required to withhold state income tax from other distributions is exempted from the provisions of subparagraphs (2) and (3) of paragraph 307.3(4) "a," if these distributions are made annually in one calendar quarter. These payers need only comply with the reporting requirements of the one calendar quarter in which the tax is withheld.

(2) Every payer employing not more than two individuals and who expects to employ either or both for the full calendar year may pay with the Iowa Withholding Tax Quarterly Return due for the first calendar quarter of the year the full amount of income taxes which would be required to be withheld from the wages for the full calendar year. The payer shall advise the department of revenue that annual reporting is contemplated and shall also state the number of persons employed. The payer shall compute the annual withholding from wages by determining the normal withholding for one pay period and multiply this amount by the total number of pay periods within the calendar year. The payer shall be entitled to recover from the employee(s) any part of such lump-sum payment that represents an advance to the employee(s). If a payer pays a lump sum with the first quarterly return, the payer shall be excused from filing further quarterly returns for the calendar year involved unless the payer hires other or additional employees.

d. Furnishing income statements to payee.

(1) General rule. Every payer required to deduct and withhold income tax of a payee must furnish to each payee with respect to the income paid in Iowa by such payer during the calendar year an income statement containing the following information: the name, address, and taxpayer identification number of the payer; the name, address, and taxpayer identification number of the payee; the total amount of taxable income paid in Iowa; the total amount deducted and withheld as tax under subrule 307.1(1); and the total amount of federal income tax withheld.

(2) Form of income statement. The information required to be furnished to a payee under the preceding paragraph shall be furnished on the appropriate IRS form including but not limited to IRS Form W-2 and IRS Form 1099. Any reproduction, modification, or substitution for an IRS form by the payer must be approved by the department. Payers should keep copies of income statements for four years from the end of the year for which the income statements apply.

(3) Time for furnishing an income statement. Each income statement required by paragraph 307.3(4) "d" to be furnished for a calendar year and each corrected income statement required for any prior year shall be furnished to the payee on or before January 31 of the year succeeding such calendar year, or if an employee's employment is terminated before the close of a calendar year without expectation that it will resume during the same calendar year, within 30 days from the day on which the last payment of compensation is made, if requested by such employee, but not later than January 31 of the following year. Paragraph 307.3(4) "e" contains provisions relating to the filing of copies of certain income statements with the department of revenue.

(4) Corrections. A payer must furnish a corrected income statement to a payee if, after the original statement has been furnished, an error is discovered in either the amount of income shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. The corrected statement shall be marked "corrected."

(5) Undelivered income statements. Any payee's copy of the income statement which, after reasonable effort, cannot be delivered to a payee shall be transmitted to the department with a letter of explanation.

(6) Lost or destroyed. If the income statement is lost or destroyed, the payer shall furnish a substitute copy to the payee. The copy shall be clearly marked "Reissued."

(7) Penalty. A willful failure to meet the furnishing requirements set out in this paragraph will subject payers to the penalty under Iowa Code section 422.16(10) "a." Rule 701—307.5(422) contains more information about this penalty.

e. Filing income statements with the department.

(1) For tax year 2019 and all subsequent tax years, all payers are required to electronically file all W-2 forms, W-2G forms, and 1099 forms for payees from whom Iowa income tax was withheld with the department of revenue on or before February 15 following the tax year. Income statements for tax years beginning on or after January 1, 2022, must be filed using GovConnectIowa.

(2) Corrections. A payer must file a corrected income statement with the department if, after the original statement has been filed, an error is discovered in either the amount of income shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. The corrected statement shall be marked "corrected."

(3) Penalty. A willful failure to meet the filing requirements set out in Iowa Code section 422.16 and this paragraph will subject payers to the penalties under Iowa Code section 422.16(10). Rule 701—307.5(422) contains more information about this penalty.

(4) Other income statements. Any income statement not listed in this paragraph that cannot be submitted electronically must be filed with the department by mail on or before February 15 following the tax year.

(5) Extension. The director or the department employee designated by the director may allow a 30-day extension of time for filing income statements with the department in the case of illness, disability, or absence, or if good cause is shown. To apply for an extension, a payer shall use the form available on the department website.

f. Withholding deemed to be held in trust. Funds withheld from income for Iowa income tax purposes are deemed to be held in trust for payment to the department of revenue. The state and the department shall have a lien upon all the assets of the payer and all the property used in the conduct of the payer's business to secure the payment of the tax as withheld under the provisions of this rule. An owner, conditional vendor, or mortgagee of property subject to such lien may exempt the property from the lien granted to Iowa by requiring the payer to obtain a certificate from the department, certifying that such payer has posted with the department security for the payment of the amounts withheld under this rule.

g. Payment of tax deducted and withheld. The amount of tax shown to be due on each deposit or return required to be filed under subrule 307.3(4) shall be due on or before the date on which such deposit or return is required to be filed.

h. Correction of underpayment or overpayment of taxes withheld.

(1) Underpayment. If a return is filed for a return period under rule 701—307.3(422) and less than the correct amount of tax is reported on the return and paid to the department, the payer shall report and pay the additional amount due by filing an amended Iowa Withholding Tax Quarterly Return.

(2) Overpayment. If a payer remits more than the correct amount of tax for a return period, the payer may file an amended Iowa Withholding Tax Quarterly Return and request a refund of the withholding tax paid which was not due.

307.3(5) Iowa W-4P—withholding certificate for pension or annuity payments.

a. For payments made from pension plans, annuity plans, individual retirement accounts, or deferred compensation plans to residents of Iowa, payers of these retirement benefits are to use Form IA W-4P for withholding of state income tax from the benefits. Iowa income tax withholding is not required on payments of distributions from qualifying retirement plans if the payee is eligible for the retirement income exclusion described in rule 701—302.47(422). However, withholding at a rate of 5 percent is required if the payee is not eligible for the retirement income exclusion or if the distribution is from a plan that does not qualify for the retirement income exclusion.

b. Payers of retirement benefits taxable in Iowa that want to use withholding formulas or tables to withhold state income tax instead of at the 5 percent rate may design their own IA W-4P withholding certificate form without approval of the department.

This rule is intended to implement Iowa Code sections 422.7, 422.12C, and 422.16.
[ARC 8589B, IAB 3/10/10, effective 4/14/10; ARC 2739C, IAB 9/28/16, effective 11/2/16; ARC 3429C, IAB 10/25/17, effective 11/29/17; ARC 4678C, IAB 9/25/19, effective 10/30/19; ARC 5518C, IAB 3/10/21, effective 4/14/21; Editorial change: IAC Supplement 11/2/22; ARC 6904C, IAB 2/22/23, effective 3/29/23; ARC 7502C, IAB 1/10/24, effective 2/14/24]

701—307.4(422) Withholding on nonresidents.

307.4(1) General rules. Payers of Iowa income to nonresidents are required to withhold Iowa income tax and to remit the tax to the department on all payments of Iowa income to nonresidents except as otherwise described in this rule. Withholding agents should use the following methods and rates in withholding for nonresidents:

a. *Wages or salaries.* Use the same withholding procedures, tables, formulas, and rates as are used for residents. See rule 701—307.2(422). Subrule 307.4(5) is an exception to the general rule. In addition, in accordance with the reciprocal tax agreement between Iowa and Illinois described in 701—subrule 300.13(1), Iowa withholding tax is not withheld on wages of Illinois residents who perform personal services in Iowa.

b. *Payments other than wages, salaries, and other compensation for personal services.* In lieu of using withholding tables or computer formulas to determine the amount of Iowa income tax to be withheld from payments made to nonresidents other than for salaries, wages, or other compensation for personal services, or income payments to nonresidents for agricultural commodities or products, Iowa income tax should be withheld at a rate of 5 percent of the amount of the payment. Subrule 307.4(6) describes the optional exemption from withholding of income payments made to nonresidents for the sale of agricultural commodities or products.

Nonresidents who prefer to make Iowa estimate payments instead of having Iowa income tax withheld from income payments from Iowa sources should refer to subrule 307.4(3) and rule 701—308.3(422).

307.4(2) Income of nonresidents subject to withholding. Listed below are various types of income paid to nonresidents which are subject to withholding. The list is for illustrative purposes only and is not deemed to be all-inclusive.

a. Personal service, including salaries, wages, commissions and fees for personal service wholly performed within this state and such portions of similar income of nonresident traveling salespersons or agents as may be derived from services rendered in this state.

b. Rents and royalties from real or personal property located within this state.

c. Interest or dividends derived from securities or investments within this state, when such interests or dividends constitute income of any business, trade, profession or occupation carried on within this state and subject to taxation.

d. Income derived from any business of a temporary nature carried on within this state by a nonresident, such as contracts for construction and similar contracts.

e. Income derived from sources within this state by attorneys, physicians, engineers, accountants, and similar sources as compensation for services rendered to clients in this state.

f. Compensation received by nonresident actors, singers, performers, entertainers, and wrestlers for performances in this state. See subrule 307.4(5) for an exception to this rule.

g. The Iowa gross income of a nonresident who is employed and receiving compensation for services shall include compensation for personal services which are rendered within this state. Compensation for personal services rendered by a nonresident wholly without the state is excluded from gross income of the nonresident even though the payment of such compensation may be made by a resident individual, partnership or corporation.

h. The gross income from commissions earned by a nonresident traveling salesperson, agent or other employee for services performed or sales made whose compensation depends directly on volume of business transacted by the nonresident, includes that proportion of the total compensation received

which the volume of business or sales by the employee within this state bears to the total volume of business or sales within and without the state.

i. Payments made to landlords by agents, including elevator operators, for grain or other commodities which have been received by the landlord as rent constitute taxable income of the landlord when sold by the landlord. Subrule 307.5(6) contains information about the exemption from withholding on incomes paid to nonresidents for the sale of agricultural commodities or products.

j. Wages paid to nonresidents of Iowa who earn the compensation from regularly assigned duties in Iowa and one or more other states for a railway company or for a motor carrier are not taxable to Iowa. Pursuant to 49 U.S.C. Section 11502, the nonresidents in this situation are subject only to the income tax laws of their states of residence. Thus, when an Iowa resident performs regularly assigned duties in two or more states for a railroad or a motor carrier, the only state income tax that should be withheld from the wages paid for these duties is Iowa income tax.

k. Wages paid to nonresidents of Iowa who earn compensation from regularly assigned duties in Iowa and one or more states for an airline company. In accordance with 49 U.S.C. Section 40116, airline employees who are nonresidents of Iowa are subject only to the income tax laws of their states of residence or the state in which they perform 50 percent or more of their duties.

l. Wages paid to nonresidents of Iowa who earn compensation from regularly assigned duties in Iowa for a merchant marine company. In accordance with 46 U.S.C. Section 11108, interstate waterway workers who are nonresidents of Iowa are subject only to the income tax laws of their states of residence.

307.4(3) *Nonresident certificate of release.* Where a nonresident payee makes the option to pay estimated Iowa income tax, a certificate of release from withholding will be issued by the Iowa department of revenue to the designated payers. The certificate of release will be forwarded to the specified withholding agent(s) and payer(s), and will state the amount of income covered by the estimated tax payment. Any income paid in excess of the amount so stated will be subject to withholding tax at the current rate. See 701—Chapter 308 for information on making estimate payments.

307.4(4) *Recovering excess tax withheld.* A nonresident payee may recover any excess Iowa income tax withheld from income of the payee by filing an Iowa income tax return after the close of the tax year and reporting income from Iowa sources in accordance with the income tax return instructions.

307.4(5) *Exemption from withholding of nonresidents engaged in film production or television production in this state.* Nonresidents engaged in film production or television production in this state are not subject to state withholding on wages earned from this activity if the nonresidents' employer has applied to the department for exemption from withholding of state income tax and the employer's application includes the following information about the nonresident employees:

- a.* The employees' names.
- b.* The employees' permanent mailing addresses.
- c.* The employees' social security numbers.
- d.* The estimated amounts the employees are to be paid for services provided by the employees in this state.

The employer's application for exemption from withholding for the nonresident employees will not be approved by the department if the employer fails to provide all the required information.

Only those nonresident employees described in the application for exemption from withholding will be covered when the application is approved by the department. If additional nonresident employees are hired after the initial application for exemption is filed, those employees should be described in an amendment to the application for exemption which must be filed with the department of revenue.

Applications for exemption from withholding for nonresident employees engaged in film production or television production should be directed to the Iowa Department of Revenue, Compliance Division, Examination Section, Hoover State Office Building, P.O. Box 10456, Des Moines, Iowa 50306.

307.4(6) *Exemption from withholding for the sale of agricultural commodities or products.* Withholding agents are not required to withhold state income tax from income payments made to nonresidents or representatives of the nonresidents for the sales of agricultural commodities or products, if the withholding agents provide certain information to the department of revenue about the sales. The following paragraphs describe the agricultural commodities and products that are included

in the exemption from withholding, specify the information needed on the sales and clarify other issues related to the exemption from withholding. 701—subrule 308.3(4) describes an election for withholding agents to make estimate payments on behalf of nonresident taxpayers for net incomes of the nonresidents from agricultural commodities or products.

a. Agricultural commodities or products included in the exemption from withholding. Withholding agents are not required to withhold state income tax from income payments they make to nonresidents or representatives of the nonresidents for the sale of commodity credit certificates, grain (corn, soybeans, wheat, oats, etc.), livestock (cattle, hogs, sheep, horses, etc.), domestic fowl (chickens, ducks, turkeys, geese, etc.), or any other agricultural commodities or products, if the withholding agents provide the department of revenue with the information specified in paragraph “*b*” of this subrule.

b. Information to be provided to the department by withholding agents claiming exemption from withholding on income payments made to nonresidents for the sales of agricultural items. The following information is to be provided on a listing to the department of revenue by withholding agents electing exemption from withholding of state income tax on income payments made in the calendar year to nonresidents or representatives of the nonresidents on the sales of agricultural commodities or products made in the year:

- (1) Name of the nonresident (last name, first name and middle initial).
- (2) Home address of the nonresident.
- (3) Social security number of the nonresident.
- (4) Aggregate payments made in the calendar year for the nonresident (includes payments made to a representative of the nonresident on behalf of the nonresident).
- (5) Two-digit Iowa county code number of the first one of the following that applies to the nonresident:
 1. County in which the nonresident owns real property or personal property.
 2. County in which the nonresident leases real property or personal property.
 3. County in which the nonresident has agricultural products stored or in which livestock is located.
 4. County where the nonresident has performed custom farming activities in the year.
 5. County where the nonresident has other business activities in Iowa other than merely sales activities.

If a nonresident does not own or lease property in Iowa or have other connection with Iowa as described in subparagraph 307.4(6) “*b*”(5), items “3,” “4,” and “5,” the nonresident is not subject to Iowa income tax on the income payments for agricultural commodities or products and the nonresident’s income payments should not be included on the listing.

In a situation where a withholding agent is unable to get all the information that is to be provided to the department on income payments on sales of agricultural items, the agent is relieved of the requirement to withhold if the agent can provide written evidence showing an attempt was made to acquire all the information.

The listing of aggregate income payments to nonresidents with an Iowa connection for sales of agricultural commodities and products in the calendar year should be sent to the department by the withholding agent on or before April 1 of the year following the year in which the income payments were made. In lieu of the listing, the withholding agent may compile the information on aggregate income payments to nonresidents on a magnetic tape, diskette or other electronic reporting, provided the submission meets departmental guidelines described in 701—paragraph 8.3(1) “*e*.”

The listing, magnetic tape or other electronic submission should be sent to the following address: Iowa Department of Revenue, Compliance Division, Examination Section, Hoover State Office Building, P.O. Box 10456, Des Moines, Iowa 50306; idr@iowa.gov.

A withholding agent is not exempt from withholding of state income tax on income payments to nonresidents on sales of agricultural commodities or products if the withholding agent does not provide the department of revenue with information on income payments made during the year by April 1 of the subsequent year.

307.4(7) *Exemption from withholding of payments made to nonresidents for deferred compensation, pensions, and annuities.* Iowa income tax withholding is not required from payments of deferred compensation, pensions, and annuities made to nonresidents which are attributable to personal services of the nonresidents in Iowa since these payments are not subject to Iowa income tax. See rule 701—302.45(422) for the exclusion from Iowa income tax for these payments received by nonresidents.

307.4(8) *Exemption from withholding of a nonresident's distributive share of income from a pass-through entity.* For tax years beginning on or after January 1, 2022, a partnership, S corporation, estate, or trust is not required to withhold state income tax on a nonresident member's distributive share of Iowa-source income from the pass-through entity. Instead, pass-through entities are subject to the composite return requirements in 701—Chapter 405.

307.4(9) *Exemption from withholding of payments made to an out-of-state business or out-of-state employee due to state-declared disaster.* On or after January 1, 2016, see 701—Chapter 276 for withholding requirements of an out-of-state business or out-of-state employee who enters Iowa to perform disaster and emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

This rule is intended to implement Iowa Code section 422.15, Iowa Code section 422.16 as amended by 2007 Iowa Acts, House File 923, section 16, and Iowa Code sections 422.17 and 422.73.

[ARC 7761B, IAB 5/6/09, effective 6/10/09; ARC 3085C, IAB 5/24/17, effective 6/28/17; Editorial change: IAC Supplement 11/2/22; ARC 6900C, IAB 2/22/23, effective 3/29/23]

701—307.5(422) Penalty and interest.

307.5(1) *Definitions.* For the purposes of this rule, the following definitions apply:

"Income statement" means a statement that conforms to the requirements of Iowa Code section 422.16(7) "a." An income statement includes, but is not limited to, Internal Revenue Service (IRS) Form W-2, IRS Form 1099, and IRS Form W-2G.

"Payee" means an employee or other person who had Iowa income tax withheld pursuant to Iowa Code section 422.16.

"Payer" means an employer or other person required to withhold and remit Iowa income tax pursuant to Iowa Code section 422.16.

307.5(2) *Penalties for willful failure to file or furnish an income statement or for willfully filing or furnishing a false or fraudulent income statement.*

a. Payers responsible for furnishing an income statement to a payee as described in paragraph 307.3(4) "d" and for filing an income statement with the department as described in paragraph 307.3(4) "e" shall be subject to a \$500 penalty for each instance of any of the following:

(1) Willful failure to furnish an income statement to a payee by January 31 of the year following the year in which income tax is withheld.

(2) Willful failure to file an income statement with the department by February 15 of the year following the year in which income tax is withheld.

(3) Willfully furnishing a false or fraudulent income statement to a payee.

(4) Willfully filing a false or fraudulent income statement with the department.

b. Penalties assessed under this subrule may not be waived.

c. Penalties assessed under this subrule are in addition to any other penalty allowed under law.

307.5(3) *Penalties for failure to file a return or failure to pay.*

a. Payers are subject to the penalties provided in Iowa Code section 421.27 for failure to file a quarterly return and failure to remit any withholding due. A penalty assessed under Iowa Code section 421.27 is in addition to any penalty assessed under law. Rule 701—10.6(421) contains a further explanation and examples applying the penalties under Iowa Code section 421.27. The penalties imposed under Iowa Code sections 421.27(1), 421.27(2), and 421.27(3) may be subject to waiver. Rule 701—10.7(421) contains details on penalty waivers.

b. Pursuant to Iowa Code section 421.27(4), if the department determines that the payer willfully failed to file or pay with the intent to evade tax or a filing requirement, the penalty shall be 75 percent of the unpaid tax. In this case, the penalty is not subject to waiver.

307.5(4) Computation of interest on unpaid tax. Interest shall accrue on tax due from the original due date of the return. Interest on refunds of any portion of the tax imposed by statute which has been erroneously refunded and which is recoverable by the department shall bear interest as provided by law from the date of payment of the refund, with each fraction of a month considered to be an entire month. Rule 701—10.2(421) contains more information about the statutory interest rate.

All payments shall be first applied to the penalty and then to the interest, and the balance, if any, to the amount of tax due.

307.5(5) Computation of interest on overpayments. If the amount of tax determined to be due by the department is less than the amount paid, the excess to be refunded will accrue interest from the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is later.

307.5(6) Examples.

EXAMPLE 1: Employer has ten employees, all residing in Iowa. After the close of the tax year, Employer fails to furnish two of its employees with W-2s by January 31 of the following year. Additionally, Employer fails to file any W-2s with the department by February 15 of the following year and does not request an extension. If the department determines that Employer's failures to furnish two W-2s to its employees and file ten W-2s with the department were willful, the department shall assess a penalty in the amount of \$6,000 (12 instances x \$500).

EXAMPLE 2: The same facts as Example 1, but the department determines Employer underpaid its withholding obligations by \$2,000 for the tax year. Employer timely filed its required quarterly returns. In addition to the penalties assessed in Example 1, Employer shall be assessed a penalty of \$100 (5% x \$2,000) for failure to pay, plus interest calculated pursuant to subrule 307.5(5). If the department determines Employer willfully underpaid and filed a false return in order to avoid paying Iowa withholding, the department shall assess a penalty of \$1,500 (75% x \$2,000).

This rule is intended to implement Iowa Code sections 421.27, 422.16, and 422.25.

[Editorial change: IAC Supplement 11/2/22; ARC 6904C, IAB 2/22/23, effective 3/29/23]

701—307.6(422) Withholding tax credit to workforce development fund. Upon payment in full of a certificate of participation or other obligation issued to fund a job training program under Iowa Code chapter 260E, the community college which provided the training is to notify the economic development authority of the amount paid by the employer or business to the community college during the previous 12 months. The economic development authority is to notify the department of revenue of this amount. The department is to credit 25 percent of this amount to the workforce development fund in each quarter for the next ten years from the withholding tax paid by the employer or business. If the withholding tax paid by the employer or business for a quarter is not sufficient to cover the sum to be credited to the workforce development fund, the sum to be credited is to be reduced accordingly. The aggregate amount from all employers to be transferred to the workforce development fund in a year is not to exceed \$4 million for fiscal years beginning on or after July 1, 2001, but before July 1, 2014. The aggregate amount is not to exceed \$5,750,000 for the fiscal year beginning July 1, 2014, and the aggregate amount is not to exceed \$6,000,000 for fiscal years beginning on or after July 1, 2015.

This rule is intended to implement Iowa Code section 422.16A as amended by 2014 Iowa Acts, House File 2460.

[ARC 1665C, IAB 10/15/14, effective 11/19/14; Editorial change: IAC Supplement 11/2/22]

701—307.7(422) ACE training program credits from withholding. The accelerated career education (ACE) program is a training program administered by the Iowa department of economic development to provide technical training in state community colleges for employees in highly skilled jobs in the state to the extent that the training is authorized in an agreement between an employer or group of employers and a community college for the training of certain employees of the employer or group of employers. If a community college and an employer or group of employers enter into a program agreement for ACE

training, a copy of the agreement is to be sent to the department of revenue. No costs incurred prior to the date of the signing between a community college and an employer or group of employers may be reimbursed or are eligible for program job credits, including job credits from withholding unless the costs are incurred on or after July 1, 2000.

307.7(1) The costs of the ACE training program may be paid from the following sources:

- a.* Program job credits which the employer receives on the basis of the number of program job positions agreed to by the employer for the training program;
- b.* Cash or in-kind contributions by the employer toward the costs of the program which must be at least 20 percent of the total cost of the program;
- c.* Tuition, student fees, or special charges fixed by the board of directors of the community college to defray costs of the program;
- d.* Guarantee by the employer of payments to be received under paragraphs “*a*” and “*b*” of this subrule.

This rule pertains only to the program job credits from withholding described in paragraph “*a*.”

307.7(2) ACE training programs financed by job credits from withholding. In situations when an employer or group of employers and a community college have entered into an agreement for training under the ACE program and the agreement provides that the training will be financed by credits from withholding, the amount of funding will be determined by the program job credits identified in the agreement. Eligibility for the program job credits is based on certification of program job positions and program job wages by the employer at the time established in the agreement with the community college. An amount of up to 10 percent of the gross program job wage as certified by the employer in the agreement shall be credited from the total amount of Iowa income tax withheld by the employer. For example, if there were 20 employees designated to be trained in the agreement and their gross wages were \$600,000, the gross program job wage would be \$600,000. Therefore, 10 percent of the gross program job wage in this case would be \$60,000, and this amount would be credited against Iowa income tax which would ordinarily be withheld from the wages of all employees of the employer and remitted to the department of revenue on a quarterly basis. The amount credited against the withholding tax liability of the employer would be paid to the community college training the employer’s employees under the ACE program. The employer may take the credits against withholding tax on returns filed with the department of revenue until such time as the program costs of the ACE program are considered to be satisfied.

This rule is intended to implement Iowa Code sections 260G.4A and 422.16.

[Editorial change: IAC Supplement 11/2/22]

701—307.8(260E) New job tax credit from withholding. The Iowa industrial new jobs training program is a program administered by the economic development authority for projects established by a community college for the creation of jobs by providing education and training of workers for new jobs for new or expanding industries. For employers that have entered into an agreement with a community college under Iowa Code chapter 260E, a credit equal to 1.5 percent of the wages paid by the employer to each employee covered by the agreement can be taken on the Iowa withholding tax return. If the amount of withholding by the employer is less than 1.5 percent of the wages paid to the employees covered by the agreement, the employer can take the remaining credit against Iowa tax withheld for other employees. An employee does not include a resident of Illinois who earns wages in Iowa since these employees are not subject to Iowa withholding tax in accordance with the Iowa-Illinois reciprocal tax agreement discussed in 701—subrule 300.13(1). The administrative rules for the Iowa industrial new jobs training program administered by the economic development authority may be found in 261—Chapter 5.

This rule is intended to implement Iowa Code section 260E.2 as amended by 2012 Iowa Acts, Senate File 2212, and section 260E.5.

[ARC 0337C, IAB 9/19/12, effective 10/24/12; Editorial change: IAC Supplement 11/2/22]

701—307.9(15) Supplemental new jobs credit from withholding and alternative credit for housing assistance programs.

307.9(1) Supplemental new jobs credit from withholding. For eligible businesses approved by the economic development authority under Iowa Code section 15A.7, a credit equal to an additional 1.5 percent of the wages paid to employees in new jobs for these eligible businesses can be taken on the Iowa withholding tax return. This supplemental new jobs credit is in addition to the credit described in rule 701—307.8(260E). The administrative rules for the supplemental new jobs credit from withholding may be found in 261—paragraph 59.6(3)“a.”

307.9(2) Alternative credit for housing assistance programs. As an alternative to the credit described in subrule 307.9(1) for eligible businesses in an enterprise zone, a business may provide a housing assistance program in the form of down payment assistance or rental assistance for employees in new jobs. A credit equal to 1.5 percent of the wages paid to employees participating in a housing assistance program may be claimed on the Iowa withholding tax return for wages paid prior to July 1, 2009. Effective July 1, 2009, the alternative credit for housing assistance programs was repealed. The administrative rules for the enterprise zone program administered by the Iowa department of economic development may be found in 261—Chapter 59.

This rule is intended to implement Iowa Code section 15A.7 and 2014 Iowa Code sections 15E.196 and 15E.197.

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701—307.10(403) Targeted jobs withholding tax credit. For employers that enter into a withholding agreement with pilot project cities approved by the economic development authority and create or retain targeted jobs in a pilot project city, a credit equal to 3 percent of the gross wages paid to employees under the withholding agreement can be taken on the Iowa withholding tax return. The employer shall remit the amount of the credit to the pilot project city. The administrative rules for the targeted jobs withholding tax credit program administered by the economic development authority may be found in 261—Chapter 71.

If the amount of withholding by the employer is less than 3 percent of the wages paid to the employees covered under the withholding agreement, the employer can take the remaining credit against Iowa tax withheld for other employees or may carry the credit forward for up to ten years or until depleted, whichever is the earlier.

If an employer also has a new job credit from withholding provided in rule 701—307.8(260E) or the supplemental new jobs credit from withholding provided in subrule 307.9(1), these credits shall be collected and disbursed prior to the collection and disbursement of the targeted jobs withholding tax credit.

The following nonexclusive examples illustrate how this rule applies:

EXAMPLE 1: Company A does not have a withholding credit under Iowa Code chapter 260E or a supplemental new jobs credit under Iowa Code chapter 15E. Company A enters into a withholding agreement, and the withholding rate for employees covered under the agreement is 4 percent of the wages paid. Company A will be allowed a credit on the Iowa withholding return equal to 3 percent of the wages paid to each employee covered under the withholding agreement, since the targeted jobs withholding tax credit cannot exceed 3 percent.

EXAMPLE 2: Company B does not have a withholding credit under Iowa Code chapter 260E or a supplemental new jobs credit under Iowa Code chapter 15E. Company B enters into a withholding agreement, and the withholding rate for employees covered under the agreement is 2.5 percent of the wages paid. Company B will be allowed a credit on the Iowa withholding return equal to 3 percent of the wages paid to each employee covered under the withholding agreement. The extra withholding credit equal to 0.5 percent may be used to offset withholding tax for Company B’s employees not covered under the withholding agreement.

EXAMPLE 3: Company C has a withholding credit under Iowa Code chapter 260E of 1.5 percent of the wages paid to new employees and a supplemental new jobs credit under Iowa Code chapter 15E of 1.5 percent of the wages paid to new employees. Company C also enters into a withholding agreement for the same employees covered under the 260E agreement and supplemental new jobs credit agreement,

and the withholding rate for employees covered under these agreements is 5 percent of the wages paid. Company C will be allowed a credit on the Iowa withholding return equal to 5 percent of the wages paid to each employee covered under these agreements. Since the community college receives disbursement of the credit before the pilot project city, the community college will receive 3 percent of the wages paid to each employee covered under the agreements, and the pilot project city will receive the remaining 2 percent of the wages paid to each employee covered under the agreements.

EXAMPLE 4: Company D has a withholding credit under Iowa Code chapter 260E of 1.5 percent of the wages paid to new employees and a supplemental new jobs credit under Iowa Code chapter 15E of 1.5 percent of the wages paid to new employees. Company D also enters into a withholding agreement for the same employees covered under the 260E agreement and supplemental new jobs credit agreement, and the withholding rate for employees covered under the agreement is 2.5 percent of the wages paid. Company D will be allowed a credit on the Iowa withholding tax return equal to 6 percent of the wages paid to each employee covered under these agreements. The extra withholding credit equal to 3.5 percent may be used to offset withholding tax for Company D's employees not covered under these agreements.

307.10(1) Notification by the employer. Once a withholding agreement is entered into with a pilot project city, the employer shall notify the department of revenue that an agreement has been executed. With this notification, the employer must also provide its address, tax identification number and the number of new jobs created under the agreement. In addition, for each year that the withholding agreement is in place, the employer must notify the department of revenue by January 31 of the number of new jobs created as of December 31 of the preceding year.

307.10(2) Notification by the pilot project city. The pilot project city must notify the department of revenue on a quarterly basis of the amount of the targeted jobs withholding credit that each employer covered by a withholding agreement remitted to the city. This notification must occur within 45 days after the end of each calendar quarter. In addition, the pilot project city must notify the department of revenue immediately when a withholding agreement with an employer is terminated.

This rule is intended to implement Iowa Code section 403.19A as amended by 2013 Iowa Acts, Senate File 433.

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