

CHAPTER 22
EMPLOYER RECORDS AND REPORTS

[Prior to 9/24/86, Employment Security [370] Ch 2]

[Prior to 3/12/97, Job Service Division [345] Ch 2]

871—22.1(96) Records to be kept by the employer.

22.1(1) Each employing unit having employment performed for it shall maintain records to show the information hereinafter indicated. Such records shall be kept in such form and manner that it will be possible from an inspection thereof to obtain the facts necessary to determine what remuneration was made by the employing unit and what remuneration is reportable to the department. Such records shall be open to inspection and be subject to be copied by the department and its authorized representatives at any reasonable time. Such records shall be kept for a period of five years after the calendar year in which the remuneration to which they relate was paid or, if not paid, was due.

22.1(2) Such records shall show with respect to each employee, unless the department has ruled that the particular service does not constitute employment:

- a.* Name of worker.
- b.* Social security account number.
- c.* Date on which employee was hired, rehired, or returned to work after a temporary layoff, and the date separated from work and the reason therefor.
- d.* Scheduled hours except for workers without a fixed schedule of hours, such as those working outside of the employer's establishment in such a manner that the employer has no definite knowledge of their working hours.
- e.* Total wages paid for employment in each period and the date of payment. For all pay periods ending in each quarter show separately: money wages, the cash value of other remuneration such as any special payment for services such as wages in lieu of notice, bonuses, gifts, prizes, and the nature of payments such as accounts paid to employees as allowance or reimbursement for traveling and other business expenses, and the amounts of such expenditures actually incurred and accounted for by the employees.
- f.* The state or states in which the services are performed; and if any of such services are performed outside of this state and are not incidental to the service within the state, the base of operations (or if there is no base of operations then the place from which such services are directed or controlled) and the residence (by state), and the name of the county in Iowa in which services were performed.
- g.* When the pay period covers services performed both in covered employment and in excluded work, show the hours and wages for covered employment under the Iowa employment security law, hereinafter referred to as the "Act," and also show hours and wages for excluded work.
- h.* The physical work site at which each employee worked during each pay period which includes the twelfth of each month. If an employee worked at more than one work site, the work site at which the majority of the work was performed should be the one of record.

22.1(3) Such payroll records may be preserved by the employer in microfilm form, provided the employer:

- a.* Keeps a microfilm viewer available, and
- b.* Is willing to transcribe any information that may be required by the department.

22.1(4) Maintenance of records by out-of-state employing units. Any employing unit having its principal place of business outside of Iowa shall maintain payroll records in this state with respect to wages paid to employees who perform some service in this state; provided, however, that an out-of-state employing unit may, with the approval of the department, maintain such payroll records outside the state upon its understanding that it will, when requested so to do, furnish the department with a true and correct copy of such payroll records. Failure to maintain said records in Iowa as required may result in estimated reports and payroll listings being made by the department. See 871—subrule 23.59(2).

This rule is intended to implement Iowa Code section 96.11(6) "a."

871—22.2(96) Reports. Each employing unit shall make such reports at such times as the department may require, and shall comply with the instructions printed upon any report form issued by the department pertaining to the preparation and return of such report.

This rule is intended to implement Iowa Code section 96.11(1).

871—22.3(96) Filing of Employer's Contribution and Payroll Report, 65-5300 and Employer's Payroll Continuation Sheet, 60-0103.

22.3(1) Each employer shall, not later than the due date required for the payment of quarterly contributions, file a 65-5300, Employer's Contribution and Payroll Report, for such quarter on a form prescribed by the department based upon wages paid with respect to all the employer's business maintained within this state and computed in accordance with the Code and these rules. The 60-0103, Employer Payroll Continuation Sheet, shall be used for the additional payroll information which cannot be entered on the 65-5300.

22.3(2) Failure to receive report forms shall not relieve the employer from responsibility for filing required forms on or before the due date or to pay any contribution due.

22.3(3) A copy of each such report shall be preserved by each such employer for a period of at least five years from the end of the calendar year in which the report was due.

22.3(4) Employer to file report even when no payroll. Every qualified or subject employer is required to send in an Employer's Contribution and Payroll Report, Form 65-5300, each quarter. Even though an employer finds that for some particular quarter no contributions are due, or they have no employees during the period covered, a report must be filed with the department.

22.3(5) Combined reports, leased employees, and concurrently employed individuals.

a. Consolidated or combined reports of parent and subsidiary corporations or other employing units, whether or not the employing units are related, shall not be allowed.

b. Employees of parent and subsidiary corporations or other employing units, whether or not they are related, shall be reported on the quarterly reports of the employing unit for which the services are performed regardless of which employing unit actually issues the employees' paychecks.

c. Leased employees:

(1) Except as described in subparagraphs (2), (3), (4), and (5) below, individuals leased from an employee leasing company, by the client of the employee leasing company, shall be considered to be employed by the client and shall be reported on the quarterly reports of the client, at the contribution rate of the client, unless and until it is shown to the satisfaction of the department that the individuals are and will continue to be under the exclusive direction and control of the employee leasing company, both under a written contract and in fact.

In order for a contract to be considered evidence that individuals are the employees of the employee leasing company it shall:

1. Specify the service to be performed by the individuals, on behalf of the employee leasing company, for the client.

2. Specify the fee the client must pay for this service. The fee must be large enough to cover the actual cost of the individuals' wages and fringe benefits plus provide a reasonable profit on the service performed for the client.

3. Specify that the employee leasing company has the exclusive right to determine the number of individuals needed to provide the service for the client and to direct and control the individuals in the performance of the service.

4. Specify that the employee leasing company has the exclusive right to hire, fire, discipline, and reassign any of the individuals to another position or to another client without the consent of the client.

(2) If an individual is leased to fill a temporary need from a company whose business is primarily to provide workers to fill temporary needs, the individual shall be considered to be the employee of the leasing company as long as a written contract is in place.

(3) If an individual is a truck driver leased from a company that leases truck tractors with drivers to trucking companies, the individual shall be considered to be the employee of the leasing company unless and until it is shown to the satisfaction of the department that the trucking company has the exclusive

right to hire, fire, discipline, reassign, and direct and control the services performed by the individual, both under a written contract and in fact.

(4) If an individual leased from an employee leasing company is a corporate officer of the client, the individual shall always be considered the employee of the client and not the employee of the leasing company.

(5) If an individual leased from an employee leasing company holds an exempt relationship, as defined in Iowa Code section 96.19(18)“g”(5), with the client, the individual shall not be considered to be an employee of either the client or the leasing company unless an election to cover the individual has been filed and approved in accordance with Iowa Code section 96.8(3)“b.”

d. Concurrently employed individuals.

(1) Except as described in subparagraph (2) below, individuals who perform services concurrently for more than one employing unit, whether or not the employing units are related, shall be considered as working for each of the employing units and shall be reported on the quarterly reports of each of the employing units. Each of the employing units shall be required to pay contributions on the wages attributable to that employing unit up to the taxable wage base limit for each calendar year.

(2) An individual who concurrently performs services as a corporate officer for two or more related corporations and who is paid through a common paymaster that is one of the related corporations may be treated as working for only the common paymaster at the discretion of the related corporations.

22.3(6) Each Form 65-5300, Employer’s Contribution and Payroll Report, shall include:

a. The social security number, name (last name first), total wages paid and taxable wages paid to each employee during the calendar quarter. All corrections to previous reports submitted to the department must be listed and submitted on Form 68-0061, Employer’s Wage Adjustment Report. See rules 871—23.3(96) through 871—23.6(96).

b. The sum of the total and taxable wages paid to all employees during the calendar quarter.

c. The amount of contribution due for the calendar quarter.

d. The amount of interest due, if any, for the calendar quarter.

e. The amount of penalty due, if any, for the calendar quarter.

f. The total amount of contribution, interest and penalty due for the calendar quarter.

g. The number and amount of the credit memo, if any, used to reduce the net remittance due.

h. The amount of net remittance due for the calendar quarter; however, if the amount of net remittance due is less than \$1, the employer may show “.00” as the net remittance due and need not submit a payment with the report.

i. The total number of employees listed on the report.

j. The amount of extraordinary pay which was paid to the employees during the calendar quarter.

k. The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter.

l. The number of the county in which the worksite is located if only one business activity is conducted at only one worksite during the calendar quarter; however, if the same business activity is conducted at more than one worksite or if different business activities are conducted at one or more worksites, the employer shall also be required to complete and return the Form 65-5519, Multiple Worksite Report, which shall include for each worksite, the total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter and the total wages paid during the calendar quarter.

(1) The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter for all worksites as reported on the Form 65-5519, Multiple Worksite Report, should equal the total number of employees reported for that month in item 11 on the Form 65-5300, Employer’s Contribution and Payroll Report.

(2) The total wages paid to all employees at all worksites as reported on the Form 65-5519, Multiple Worksite Report, should equal the total wages reported in item 1 on the Form 65-5300, Employer’s Contribution and Payroll Report.

(3) It could be possible for wages to be reported for a worksite without corresponding employment being reported in any of the months during the quarter because wages paid are reportable for the full

13-week period in the calendar quarter, while employment is reportable in item 11 on the Form 65-5300, Employer's Contribution and Payroll Report, when such employment occurs during the pay periods which include the twelfth day of any month in the calendar quarter.

m. The reason (seasonal change, labor dispute, layoff, recall, worksite opening, or worksite closing) for the increase or decrease in total employment during the calendar quarter.

n. Rescinded IAB 3/5/03, effective 4/9/03.

o. The signature of the owner, responsible officer, or authorized agent of the employer certifying that the information given is true and correct to the best of the signer's knowledge and belief, the date the report was submitted and the telephone number.

p. Such other schedules or reports as may be required, duly completed in all substantial respects on such forms and in accordance with such instructions as the department may provide or approve.

This rule is intended to implement Iowa Code sections 96.7, 96.11(6), 96.11(11) and 96.19(17).

871—22.4(96) Reporting of earnings data on magnetic media.

22.4(1) Employers may, in lieu of the individual wage item listing on Form 65-5300, Employer's Contribution and Payroll Report, submit a magnetic media listing. Authorization for this reporting method will be given if the employer meets the specification requirements so as to be compatible with the department's computer capabilities. Such specifications will be furnished upon request.

22.4(2) A magnetic media listing does not relieve the employer's responsibility to timely file Form 65-5300. If all wages are reported on magnetic media, designate this on Form 65-5300 and enter the grand total of all wages on the 65-5300 grand total all pages line. If some wages are on magnetic media and the balance individually listed on Form 65-5300, designate the total for each group on the form and enter the grand total of both groups on the 65-5300 grand total all pages line. All corrections to previous reports submitted to the department must be listed and submitted on Form 68-0061, Employer's Wage Adjustment Report. Negative wage amounts must not be reported on magnetic media. All reporting forms and contributions must be packaged and submitted separately from the magnetic media.

This rule is intended to implement Iowa Code section 96.11.

871—22.5(96) Filing of quarterly report forms by newly subject or covered employers. Any employing unit which becomes an employer subject to this chapter within any calendar quarter other than by a voluntary election of the employing unit shall file reports for each calendar quarter on Form 65-5300, Employer's Contribution and Payroll Report. Reports shall include all wages paid during the current quarter as well as separate quarterly reports for wages paid in prior quarters of the same calendar year. The first quarterly reports of that employer shall be due on the last day of the calendar month following the close of the calendar quarter in which the employing unit becomes subject to the Code and shall be considered delinquent if not submitted and paid by that date. Any employer filing a voluntary election for coverage must begin filing reports in the quarter the employer's election is effective.

This rule is intended to implement Iowa Code sections 96.7(1), 96.14(1), 96.14(2) and 96.8(3).

871—22.6(96) Employer changing status, address or name required to file report. Any employer who terminates business for any reason whatsoever, or transfers or sells all or a substantial part of the assets of the organization, trade or business to another, or changes the trade name of such business or address thereof shall, within ten days after such termination, transfer, or change of name or address, give notice in writing to the department of that fact. The employer shall set forth in such notice the former name, address of the business, the new name, telephone number and address, the name of any new owner, and the employer's own name, telephone number and present address. Such notification shall be on Form 60-0111, Employer's Notice of Change, or on Form 65-5313, Employer's Delinquency Notice.

This rule is intended to implement Iowa Code sections 96.11 and 96.8(4).

871—22.7(96) Exempt employing units and exempt employment.

22.7(1) Any employing unit having workers performing services for it which it considers exempt from this Act shall file a Form 68-0192, Questionnaire for Determining Status of Workers, along with

supporting exhibits and documents (i.e., contract, statements from employer and claimant) so that a decision can be made as to whether or not such service is in fact exempt from the provisions of this Act.

22.7(2) Any employing unit which has established its status as an organization exempt under this Act or that certain employment performed for it is not subject to contributions shall immediately notify the department of any changes in the character of its organization, the purposes and manner of its operation or the changed manner in which employment theretofore determined to be exempt by the department is performed.

22.7(3) Whenever an employing unit claims that any employment is not employment under this Act, the burden shall be on the employer to prove the exemption claimed.

This rule is intended to implement Iowa Code section 96.19(18) "f."

871—22.8(96) Subject employers.

22.8(1) Requesting determination of status. Whenever an employing unit is in doubt as to whether or not an individual is an employee, or is engaged in employment subject to the Act, the employing unit shall submit a statement of all relevant facts to the department for a determination as to the status under the Act of such individual or employment on Form 68-0192, Questionnaire for Determining Status of Workers, information for use in obtaining a ruling from the department as to whether or not a worker is an employee for the purposes of the Act.

22.8(2) Notification of status. The department shall maintain a separate account for each employer and shall notify the employer by mailing a Form 65-5308, Notice of Employer Status and Liability, to the last-known address. This notice will advise the employer of:

- a. The effective subjectivity date.
- b. The date of the determination (last day of quarter in which subjectivity occurred). See rule 22.5(96).
- c. The assigned industry code.
- d. The section of the law under which the employer was found liable.
- e. The federal identification number (if available).
- f. The workforce development unemployment insurance account number.
- g. The contribution rate for that year and preceding four years, if applicable.
- h. Whether the account was established new, reestablished or placed on an inactive status.

22.8(3) For the specific procedure and requirements for perfecting an appeal of an employer liability determination see rules 871—23.52(96) to 23.56(96).

This rule is intended to implement Iowa Code section 96.7(4).

871—22.9(96) Employing units required to file report to determine liability.

22.9(1) Each employing unit engaged in doing business in the state of Iowa January 1, 1936, or after, shall file a report to determine liability with the department on a form supplied by the department, Form 60-0126, Report to Determine Liability, setting forth the names and addresses of the owners of the business, or if a corporation, association, or joint stock company or limited liability company, the names and addresses of its officers or members. Each employing unit must show its principal place of business, the nature of its business, the number of individuals whom it customarily hires to perform services for it, the place or places where such services are performed, the time when such business was begun, the number of weeks in the year for which it is customary to operate such business and such other information as may be required by such form.

22.9(2) Each employing unit which shall hereafter begin business in the state of Iowa in any manner whatsoever whether by succession to a business already being operated, by starting a new business, or otherwise, shall, within 30 days after beginning such business, inform the department of that fact, request the forms referred to in 22.9(1) and make and file the report required of all employing units by said rule.

This rule is intended to implement Iowa Code section 96.11(1).

871—22.10(96) Report of a Partnership on Change in Partners.

22.10(1) *Change in partnership.* In any case in which a partnership consisting of two or more partners adds to or deletes a partner or partners and is not required by the Internal Revenue Service to obtain a new federal identification number after such addition or deletion of partner or partners, the partnership shall notify the department of such change by filing a Form 68-0234, Report of a Partnership on Change in Partners, within ten days from the date the change occurred. The department will subsequently correct the partnership account to reflect this change.

22.10(2) *Reporting requirement.* If, after the change in partners, the partnership is required to obtain a new federal identification number by the Internal Revenue Service, or if there has been a change of ownership as described in Iowa Code section 96.19(18) “b” or a change of ownership as described in rule 871—23.28(96), then the old partnership shall notify the department by filing Form 60-0111, Employer’s Notice of Change, within ten days from the date the change occurred. The new partnership shall notify the department by filing Form 60-0126, Report to Determine Liability, within ten days from the date the change occurred.

This rule is intended to implement Iowa Code section 96.11(6).

871—22.11(96) Employer account.

22.11(1) *Separate accounts.* The department shall maintain one account for each employer (or single legal entity). An employer who has more than one establishment or business shall be considered to be one employing unit entitled to one account and a single experience rate. However, the employer may request that the department assign a separate reporting number (account number) to each establishment or business in accordance with rule 22.12(96). If the department issues a separate reporting number to the various establishments or businesses, each establishment or business that has a reporting number must submit a quarterly contribution and payroll report showing all wages paid by the establishment or business during each quarter. The experience of all the establishments or businesses of the employer shall be combined on the rate computation date for the purpose of computing one experience rate which shall be applicable to all of the employer’s establishments or businesses.

If an establishment or business owned by an employer is a separate legal entity in its own right (i.e., a subsidiary corporation), it will be considered to be a separate employer and must have an experience rate based on its own experience.

When an already covered employer acquires another establishment or business, the employer will have a separate account number with a separate experience rate for the acquired business only if that business retains its character as a separate legal entity. If the acquired business is merged with that of the employer so that they become a single legal entity under the law, the successor is not entitled to separate rates although the employer may request a separate reporting number in accordance with rule 22.12(96).

22.11(2) Each employer shall report all wages for employment paid by the employer in all employing enterprises and pay all contributions thereon into the active account or accounts maintained by the department. The title of the employer’s account shall be the name of the individual, partnership, corporation, association or other organization constituting the employing unit, and may contain the trade name used by the employing unit. Where the employing unit is a fiduciary agent or legal representative, the title of the account shall be the name of the fiduciary or legal representative and the official title.

22.11(3) Each employer’s account shall be assigned a number and except as the system of numbering accounts may be changed, the number identifying an employer’s account shall not be changed unless the employer’s account is legally terminated and the employer is again determined to be a covered employer.

22.11(4) *Establishment defined.* As used in this rule, “establishment” means an economic unit, generally at a single physical location, where business is conducted, or where services or industrial operations are performed, or from which employees are dispatched.

This rule is intended to implement Iowa Code sections 96.7(2) “a”(1) and 96.19(17).

871—22.12(96) Employer’s request to maintain separate accounts.

22.12(1) Any employer having two or more separate establishments within this state may file a written request with the department that a separate account number be assigned to each separate

establishment. The department at its discretion may grant the employer a separate account number for each separate establishment; however, the separate accounts shall be considered to be one account for all purposes of Iowa Code chapter 96 and shall all carry the same contribution rate.

22.12(2) If an employer which has two or more separate establishments with separate account numbers sells or conveys one of the separate establishments to another employer, it shall be considered a partial sale of a business and shall be subject to laws and rules governing partial transfers of experience.

22.12(3) When a covered employer acquires a separate enterprise or business, the employer may file a written request with the department that a separate account number be assigned to the newly acquired enterprise or business. The department at its discretion may grant the employer a separate account number for the newly acquired establishment; however, the separate accounts shall be considered to be one account for all purposes of Iowa Code chapter 96 and shall both carry the same contribution rate.

22.12(4) An employer's request to have separate account numbers for separate establishments shall not be granted unless it is shown to the satisfaction of the department that allowing the separate account numbers will not add significantly to the administrative costs of the department.

This rule is intended to implement Iowa Code sections 96.7(2) "a" and 96.19(6).

871—22.13(96) Procedure to be followed by an employer wishing to have an active account location coded for notice of claim for unemployment benefit mailing.

22.13(1) Any employing unit reporting under an assigned account and having one or more separate and distinct employing locations in the state of Iowa may request in writing the assignment of a location code for each of the various separate and distinct establishments. The location code, which is limited to three digits, will be assigned for the specific purpose of mailing Form 65-5317, Notice of Claim Filing, to the location coded account so that responsible personnel at that location can make a timely protest on Form 65-5317 if the employment separation was for a disqualifiable reason. Those accounts so wishing may request in writing that all unemployment insurance material other than Form 65-5317, Notice of Claim Filing, be sent to the home office or regional accounting office. All such requests must be from a responsible financial or operating officer of the firm and shall indicate:

- a. Full trade name and address of each location to be coded.
- b. The full trade name and address of the home office or financial office that all unemployment insurance material other than Form 65-5317 is to be sent.

22.13(2) It will be permissible to accept this information over the telephone by qualified personnel of the field audit section providing the employer makes known all of the above requested information and the person receiving this information notes the date it was received, the time it was received, who telephoned the information to the department, and the name and telephone number of a responsible party that can be contacted if further verification is needed with respect to the location coding procedure. Field audit section personnel receiving this classified information by telephone will accordingly note this and make it a matter of permanent record.

22.13(3) Once an account becomes location coded it will become the responsibility of the employer to complete Form 65-5305, Summary of Quarterly Payroll by Location. The employer will record the following information on the Form 65-5305, if it has not been preprinted on the form by the computer:

- a. Employer account number.
- b. The location code.
- c. Firm name and mailing address for Form 65-5317.
- d. Industrial classification code.
- e. The payroll page numbers for the location code payroll attributable to that location.
- f. The total wages attributable to the location code.
- g. The taxable wages attributable to that location.

22.13(4) Once the employer's account is properly location coded, the following information will be preprinted by the computer on Form 65-5305.

- a. The employer's account number.
- b. Location code(s).
- c. The firm name(s) and mailing address(es) for Form 65-5317.

d. The industrial classification code(s).

22.13(5) It will then become the employer's responsibility to complete the following column headings on the Form 65-5305.

a. Page numbers.

b. Total wages attributable to each coded location.

c. Taxable wages attributable to each coded location.

22.13(6) It will be the employing unit's responsibility to complete this information in the proper sequence in order for the location code procedure to be maintained in a workable manner. If any locations are deleted or added, the department shall be notified within ten working days from the date of change.

22.13(7) Until such time as the first calendar quarter that is entered into the department's data processing system by location code becomes a quarter in a base period, the location coding procedure cannot be considered as fully implemented. Form 65-5317 will continue to be mailed to the employer's last recorded address until the location coded procedure is fully implemented.

This rule is intended to implement Iowa Code section 96.6(2).

871—22.14(96) Notification by employer of employee's rights. Each employer shall post and maintain in places readily accessible to individuals in its employ printed notices or posters, Form 60-0160, informing employees of their potential rights to benefits under the employment security law and providing general instructions as to what the employees shall do and where the employees shall go to obtain these benefits. Copies of these printed notices or posters may be obtained from the department, upon request, without cost to the employer.

This rule is intended to implement Iowa Code section 96.11(2).

871—22.15(96) 940 certification.

22.15(1) Upon request, the department shall furnish to the Internal Revenue Service a certification of an employer's account for a particular year. Certification requests may be on an individual basis or may be part of a bulk yearly certification. Such certification will include the employer's state account number, yearly taxable payroll, contribution rate, contributions paid prior to January 31 of the next succeeding year, and the date and amount of contributions after January 31 of the next succeeding year.

22.15(2) In addition to the information certified in subrule 22.15(1), yearly certification shall include:

a. Employers who filed a federal unemployment tax return (Form 940) that did not file with the department.

b. Employers who filed returns with the department but not with the Internal Revenue Service except governmental employers and employers that department records indicate to be 501(c)(3) nonprofit organizations.

This rule is intended to implement Iowa Code sections 96.11(1) and 96.11(6) "c"(2).

871—22.16(96) Transmittal.

22.16(1) *Effect of postmark date.*

a. When the due date for filing reports and paying contributions falls on Saturday, Sunday or a legal holiday it is sufficient compliance with the law if reports and contributions are postmarked on or before midnight of the next succeeding business day following such Saturday, Sunday or legal holiday.

b. Contributions, if mailed, shall be deemed to have been paid on the date of mailing as indicated by the postmark on the cover thereof. If no postmark date on the cover, the date received by the department shall be deemed date of payment.

22.16(2) Reserved.

This rule is intended to implement Iowa Code sections 96.7(1) and 96.14(2).

871—22.17(96) Procedures of field auditors.

22.17(1) Field auditors are to provide a cost-effective method of promoting employers' understanding of employer rights and responsibilities under Iowa unemployment insurance laws.

22.17(2) The department, through duly appointed field auditors, may examine an employer's records at any time, subject to the limitations of 22.1(96), to determine compliance with Iowa Code chapter 96.

22.17(3) The department has enforcement authority. An employer, when requested to produce records by an auditor, must make the records available within and at a reasonable time to the auditor. If an employer does not comply with the auditor's request to produce records, a subpoena duces tecum may be served on the employer to appear before the auditor with the records in accordance with Iowa Code section 96.11, subsections 8 and 9.

22.17(4) The department, through duly appointed field auditors, may perform a systematic audit of an employer's records as authorized by Iowa Code section 96.11, subsection 7, and as mandated by the United States Department of Labor. In addition to the provisions of subrules 22.17(1) to 22.17(3), the following provisions apply to systematic audits:

a. The employer is to be given reasonable notice of the intent to audit, and a preaudit interview is to be conducted with the employer or a designated representative.

b. The records required, if maintained, may include individual pay records, Internal Revenue Service Forms W-2 and 1099, cash disbursement journal, check register, chart of accounts, general ledger, balance sheet, profit and loss statement, federal and state tax returns and other records to the extent they relate to possible hidden or misclassified wages.

c. To verify the existence of the business, the auditor may require a visit to the business premises or to see other evidence of legitimate business activity.

d. To verify the correct business entity is listed on department files, the auditor may examine various employer business licenses, legal documents or other tax returns.

e. To verify the reporting of all workers reportable to the department under Iowa Code chapter 96, questionable entries will be investigated and documented. Under rule 22.7(96) if the employer disagrees with the audit decision on coverage of a worker, the auditor may require the employer to complete Form 68-0192, Job Service Questionnaire For Determining Status of Workers. In any disputed case, the auditor is to be granted access to records as necessary to determine the remuneration paid for any given calendar quarter.

f. To verify proper employer posting to department reports, a detailed audit of check stubs, weekly time cards, or other maintained source documents will be made and documented for at least one worker for at least one quarter. The detailed audit may be more comprehensive at the discretion of the auditor or if discrepancies are found.

g. Employer records will be compared and reconciled to amounts reported to the department on contribution and payroll reports and audit findings documented.

h. Discrepancies will be resolved or explained, and report adjustments prepared as necessary.

i. Generally the audit will cover a minimum of four calendar quarters; however, if the initial audit discloses material errors as defined by the department, the audit may be expanded to cover prior or subsequent periods subject to limitations of subrule 22.1(1), except that no period covered by a prior audit may be included in the expansion. The auditor will review and correct similar errors in a minimum of a year prior to and after the audited year.

j. Additional amounts due will be calculated and collected, including applicable interest and penalties, or an explanation will be given. The employer may be required to submit a payment plan.

k. When the audit is completed, the audit will be discussed with the employer or a representative designated by the employer. The employer will be furnished copies of any wage adjustments, supplemental reports or delinquent reports prepared by the auditor. An audit report with all worksheets, adjustments and reports will be submitted by the auditor to the Iowa workforce development administrative office.

22.17(5) There are several other reasons department representatives may make employer contacts and demands under authority of this rule. Any of these activities may be expanded into a systematic compliance audit as described in subrule 22.17(4) upon approval of the duly authorized representative of the department.

a. An auditor may request to examine business records to determine the date employment began and the date the employing unit became subject to Iowa Code chapter 96.

(1) To determine if an employing unit is to be a covered employer and if an individual, or class of individuals, are employees whose remuneration would be subject to contributions, the auditor will examine employment contracts and related documents.

(2) If it is determined that the employing unit is to be a covered employer, the auditor will examine legal documents such as leases, purchase contracts, partnership agreements, articles of incorporation, limited liability operating agreements and stock records to determine ownership of the business, to establish responsibility for filing reports and paying contributions, and to assist in the determination of the unemployment insurance tax rate.

(3) If liability is determined, the payroll/remuneration records may be examined to establish the correct amount of covered wages and the period to which they belong. Reports will be completed and the correct amount of contribution, penalty and interest due will be computed and collection action will be initiated.

b. When an unemployment insurance claim is filed, an auditor may request to examine the records of an employer to establish the claimant's rights to benefits under Iowa Code chapter 96. Form 68-0192, Job Insurance Questionnaire For Determining Status of Workers, and supporting documents may be required in contested cases. If the department determines that the claimant is an employee, the records will be examined to determine the correct amount of wages paid to the claimant and the period to which the wages apply.

c. When an employer fails or refuses to file a report, the auditor may examine the records to determine the correct amount of wages that should be reported, prepare the report, compute and collect contributions, penalty, and interest due. Should records not be made available, the auditor may estimate the wages paid and amounts due pursuant to 871—subrule 23.59(2).

d. When an employer is delinquent in paying contributions due, the auditor may examine records including cash accounts, accounts receivable, real and personal property accounts, accounts payable, notes payable, installment contracts and mortgages payable to determine the employer's equity in the assets on which a lien may be filed and judgment obtained.

22.17(6) When a temporary writ of injunction has been filed by the department, pursuant to Iowa Code section 96.16, against an employer because of the employer's failure or refusal to file a required report or to pay assessed contributions, penalty, and interest, a field auditor shall have the right to inspect the enjoined business premises during reasonable hours and interview any interested parties having knowledge of or being involved with the enjoined employer to ensure that such enjoined employer and all of the employer's agents, servants, employees, and assigns are observing the conditions of the temporary writ of injunction.

This rule is intended to implement Iowa Code sections 96.7(1), 96.7(3), 96.8(1), 96.11(1), 96.11(6) "a," 96.11(7), 96.14, 96.16 and 96.20(3).

871—22.18(96) Agents and other practitioners or firms representing employers in unemployment insurance matters.

22.18(1) An agent, tax practitioner, accounting firm, attorney or any other firm or individual that represents or intervenes on behalf of an employer in any unemployment insurance matter shall have on file with the department:

- a.* A power of attorney, or
- b.* A letter of authorization from the employer.

22.18(2) The foregoing documents shall contain the following information:

- a.* The employer's full trade name, address and account number.
- b.* The name, address and telephone number of the agent or firm representing the employer.
- c.* The signature of the employer.
- d.* A statement that such agent or firm is duly authorized to represent the employer.

22.18(3) Rescinded IAB 3/5/03, effective 4/9/03.

This rule is intended to implement Iowa Code section 96.11(7).

[Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]
[Filed 12/9/76, Notice 11/3/76—published 12/29/76, effective 2/2/77]
[Filed 9/30/77, Notice 8/24/77—published 10/19/77, effective 11/23/77]
[Filed 5/24/78, Notice 4/5/78—published 6/14/78, effective 7/19/78]
[Filed 8/17/78, Notice 6/28/78—published 9/6/78, effective 10/11/78]
[Filed 12/22/78, Notice 11/15/78—published 1/10/79, effective 2/14/79]
[Filed 2/12/80, Notice 10/31/79—published 3/5/80, effective 4/9/80]
[Filed 12/28/81, Notice 11/11/81—published 1/20/82, effective 2/25/82]
[Filed 2/10/84, Notice 8/31/83—published 2/29/84, effective 4/5/84]
[Filed 7/11/86, Notice 5/7/86—published 7/30/86, effective 9/3/86]
[Filed emergency 9/5/86—published 9/24/86, effective 9/5/86]
[Filed emergency 6/12/87—published 7/1/87, effective 7/1/87]
[Filed 7/24/87, Notice 6/3/87—published 8/12/87, effective 9/16/87]
[Filed 9/4/87, Notice 7/11/87—published 9/23/87, effective 10/28/87]
[Filed 2/3/89, Notice 12/28/88—published 2/22/89, effective 3/29/89]
[Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 11/22/89]
[Filed 6/22/90, Notice 5/16/90—published 7/11/90, effective 8/15/90]
[Filed 10/23/92, Notice 9/16/92—published 11/11/92, effective 12/16/92]
[Filed 11/16/94, Notice 9/14/94—published 12/7/94, effective 1/11/95]
[Filed 8/22/96, Notice 7/17/96—published 9/11/96, effective 10/16/96]
[Transferred from 345—Ch 2 to 871—Ch 22 IAC Supplement 3/12/97]
[Filed 1/20/99, Notice 12/16/98—published 2/10/99, effective 3/17/99]
[Filed 2/12/03, Notice 1/8/03—published 3/5/03, effective 4/9/03]