

CHAPTER 78
REPLACEMENT TAX AND STATEWIDE PROPERTY
TAX ON RATE-REGULATED WATER UTILITIES

REPLACEMENT TAX

701—78.1(85GA,SF451) Who must file return. Beginning with property tax years and replacement tax years beginning on or after January 1, 2013, each taxpayer, as defined in 2013 Iowa Acts, Senate File 451, section 11(13), shall file a true and accurate return with the director. The return shall include all of the information prescribed in 2013 Iowa Acts, Senate File 451, section 13(1) “a” and “b,” and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity subject to the replacement tax during the tax year, the return must contain a statement to that effect.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.2(85GA,SF451) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

A taxpayer whose replacement tax liability before credits is \$300 or less is not required to file a return. A taxpayer should not file a replacement tax return under such circumstances.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after the due date for filing. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319. [ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.3(85GA,SF451) Form for filing. Returns must be made by taxpayers on forms supplied by the department. Taxpayers not supplied with the proper forms shall make application for proper forms to the department in ample time to have the taxpayers’ returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare the taxpayer’s return so as to fully and clearly set forth the data required. All information shall be supplied and each direction complied with in the same manner as if the forms were embodied in these rules.

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making the replacement tax return.

Returns received which are not completed, but merely state “see schedule attached,” “no tax due,” or some other conclusionary statement are not considered to be properly filed returns and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return’s being filed after the due date.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.4(85GA,SF451) Payment of tax. Payment of tax shall not accompany the filing of the replacement tax return with the director. Payment of tax shall not be made to the director or the state of Iowa. Payment of the proper amount of tax due shall be made to the appropriate county treasurer upon notification by the county treasurer to the taxpayer of the taxpayer’s replacement tax obligation.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.5(85GA,SF451) Statute of limitations.

78.5(1) The director has three years after a return is filed to determine the tax due if the return is found to be incorrect and to give notice to the taxpayer of the determination. This three-year statute of limitations does not apply in the instances specified in subrule 78.5(2).

78.5(2) If a taxpayer files a false or fraudulent return with the intent to evade any tax, the correct amount of tax due may be determined by the director at any time after the return has been filed.

78.5(3) If a taxpayer fails to file a return, the three-year statute of limitations does not begin until the return is filed with the director.

78.5(4) Waiver of statute of limitations. The department and the taxpayer may extend the three-year period of limitations provided in subrule 78.5(1) above by signing a waiver agreement form provided by the department. The agreement shall designate the period of extension and the tax year for which the extension applies. The agreement shall provide that the taxpayer may file a claim for refund of replacement tax at any time prior to the expiration of the agreement.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.6(85GA,SF451) Billings.**78.6(1) Notice of adjustments.**

a. Authorization to send notice of adjustments. An agent, auditor, clerk, or employee of the department, designated by the director to examine returns and make audits, who discovers discrepancies in returns or learns that items subject to tax may not have been listed or included as taxable, in whole or in part, or that no return was filed when one was due is authorized to notify the taxpayer of this discovery by ordinary mail. This notice is not an assessment. It informs the taxpayer what amount would be due if the information discovered is correct. A copy of such notice shall also be sent to the appropriate county treasurer.

b. Right of taxpayer upon receipt of notice of adjustment. A taxpayer who has received notice of an adjustment in connection with a return may pay the additional amount stated to be due to the appropriate county treasurer. If payment is made, and the taxpayer wishes to contest the matter, the taxpayer should file a timely claim for refund. However, payment will not be required until an assessment has been made, although interest will continue to accrue if timely payment is not made. If no payment has been made, the taxpayer may discuss with the agent, auditor, clerk, or employee who notified the taxpayer of the discrepancy, either in person or through correspondence, all matters of fact and law which may be relevant to the situation. The taxpayer may also ask for a conference with the Department of Revenue, Property Tax Division, Hoover State Office Building, Des Moines, Iowa. Documents and records supporting the taxpayer's position may be required.

c. Power of agent, auditor, or employee to compromise tax claim. No employee of the department has the power to compromise any tax claims. The power of the agent, auditor, clerk, or employee who notified the taxpayer of the discrepancy is limited to the determination of the correct amount of tax.

78.6(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1) "b," no agreement is reached and the taxpayer does not pay the amount determined to be correct to the appropriate county treasurer, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer with a copy sent to the appropriate county treasurer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.8(17A) or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the appropriate county treasurer and file a refund claim with the director within the applicable period provided in 2013 Iowa Acts, Senate File 451, section 19(1) "b," for filing such claims.

78.6(3) Supplemental assessments and refund adjustments. The director may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—7.8(17A)) and is resolved whether by informal proceedings or by adjudication, the director shall notify the appropriate county treasurer. Such resolution shall preclude the director and the taxpayer from making a supplemental assessment or refund adjustment concerning the same issue involved in the appeal for the same tax year unless there is a showing of mathematical or clerical error or showing of fraud or misrepresentation.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.7(85GA,SF451) Refunds.

78.7(1) A claim for refund of replacement tax may be made on a form obtainable from the department. All claims for refund should be filed with the director and not with the county treasurer. In the case of a refund claim filed by an agent or representative of the taxpayer, a power of attorney must accompany the claim. All claims for refund must be in writing.

78.7(2) A taxpayer shall not offset a refund or overpayment of tax for one tax year as a prior payment of tax of a subsequent tax year on the tax return of a subsequent year unless the provisions of 2013 Iowa Acts, Senate File 451, section 13(5), are applicable.

78.7(3) Refunds—statute of limitations. The statute of limitations with respect to which refunds or credits may be claimed are:

a. The later of three years after the due date of the tax payment upon which the refund or credit is claimed or one year after which such payment was actually made.

b. Ninety days after the due date of the tax payment upon which refund or credit is claimed if the tax is alleged to be unconstitutional.

78.7(4) No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid to the appropriate county treasurer under written protest which specifies the particulars of the alleged unconstitutionality.

78.7(5) The taxpayer responsible for paying the tax, or the taxpayer's successors, are the only persons eligible to file claims for refund or credit of the tax with the director and are the only persons eligible to receive such refunds or credits.

78.7(6) The director will promptly notify the appropriate county treasurer of the acceptance or denial of any refund claim or credit. The county treasurer shall pay the refund claim or portion thereof accepted by the director.

78.7(7) A taxpayer has 60 days from the date of the notice of denial of a refund or credit, in whole or in part, to file a protest according to the provisions of rule 701—7.8(17A).

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.8(85GA,SF451) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to replacement tax. In the event that the taxpayer files a request for abatement with the director, the appropriate county treasurer shall be notified. The director's decision on the abatement request shall be sent to the taxpayer and the appropriate county treasurer.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.9(85GA,SF451) Taxpayers required to keep records.

78.9(1) Records required by taxpayers taxed under 2013 Iowa Acts, Senate File 451, sections 10 to 30. The records required in this rule must be made available for examination upon request by the director or the director's authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. Records associated with the total number of gallons of water carried through the taxpayer's distribution system during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of water carried through the taxpayer's distribution system is calculated as though 2013 Iowa Acts, Senate File 451, sections 10 to 30, was in effect for such calendar year.

b. Records associated with the total amount of nonrevenue water, as that term is defined in 2013 Iowa Acts, Senate File 451, section 11(9), carried through the taxpayer's distribution system during the

tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of nonrevenue water carried through the taxpayer's distribution system is calculated as though 2013 Iowa Acts, Senate File 451, sections 10 to 30, was in effect for such calendar year.

c. Records associated with the total taxable gallons of water delivered by the taxpayer to consumers, as that term is defined in 2013 Iowa Acts, Senate File 451, section 11(2), within the service area during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total taxable gallons delivered by the taxpayer to consumers by the water utility is the difference between the gallons of water calculated in paragraphs 78.9(1) "a" and "b."

d. For tax years 2013, 2014, and 2015, records associated with property tax amounts due and payable as the result of assessment years 2010 and 2011.

e. Records associated with the taxpayer's calculation of the tentative replacement taxes due for the tax year and required to be shown on the tax return.

f. Records associated with increases or decreases in the tentative replacement tax required to be shown to be due where the replacement delivery tax rates are subject to recalculation under the provisions of 2013 Iowa Acts, Senate File 451, section 13(5).

g. All work papers associated with any of the records described in this subrule.

h. Records pertaining to any additions or deletions of property described as exempt from local property tax in 2013 Iowa Acts, Senate File 451, section 21.

i. Records associated with allocation of property described in paragraph 78.9(1) "h" above among local taxing districts.

78.9(2) The records required to be maintained by this rule shall be maintained by taxpayers for a period of ten years following the later of the original due date for the filing of a tax return in which the replacement taxes are reported or the date on which such return is filed. Upon application to the director and for good cause shown, the director may shorten the period for which any records should be maintained by a taxpayer.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.10(85GA,SF451) Credentials. Employees of the department have official credentials, and the taxpayer should require proof of the identity of persons claiming to represent the department. No charges shall be made nor gratuities of any kind accepted by an employee of the department for assistance given in or out of the office of the department.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.11(85GA,SF451) Audit of records. The director or the director's authorized representative shall have the right to examine or cause to be examined the books, papers, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a tax return filed or of information presented or for estimating the tax liability of a taxpayer. When a taxpayer fails or refuses to produce the records for examination upon request, the director shall have authority to require, by a subpoena, the attendance of the taxpayer and any other witness(es) whom the director deems necessary or expedient to examine and compel the taxpayer and witness(es) to produce books, papers, records, memoranda or documents relating in any manner to the replacement tax.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.12(85GA,SF451) Information confidential. 2013 Iowa Acts, Senate File 451, sections 19(2) and 19(3), apply generally to the director, deputies, auditors, and present or former officers and employees of the department. Disclosure of the gallons of water delivered by a taxpayer taxed under 2013 Iowa Acts, Senate File 451, sections 10 to 30, in a service area disclosed on a tax return, return information, or investigative or audit information is prohibited. Other persons having acquired this confidential information will be bound by the same rules of secrecy under these Iowa Code provisions as any member of the department and will be subject to the same penalties for violations as provided by law.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

STATEWIDE PROPERTY TAX

701—78.13(85GA,SF451) Who must file return. Each taxpayer shall file a true and accurate return with the director. The return shall include all of the information prescribed in 2013 Iowa Acts, Senate File 451, section 26, and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity for which the taxpayer's property was subject to the statewide property tax during the tax year, the return must contain a statement to that effect. [ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.14(85GA,SF451) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319. [ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.15(85GA,SF451) Form for filing. Rule 701—78.3(85GA,SF451) is incorporated herein by reference. [ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.16(85GA,SF451) Payment of tax. Payment of the tax required to be shown due on the statewide property tax return shall accompany the filing of the return. All checks shall be made payable to Treasurer, State of Iowa. Failure to pay the tax required to be shown due on the tax return by the due date shall render the tax delinquent. [ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.17(85GA,SF451) Statute of limitations. Rule 701—78.5(85GA,SF451) is incorporated herein by reference. [ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.18(85GA,SF451) Billings.

78.18(1) Notice of adjustments. Subrule 78.6(1) is incorporated herein by reference.

78.18(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1) "b," no agreement is reached and the person does not pay the amount determined to be correct to the director, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—78.8(17A) or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—78.8(17A) to the director and file a refund claim with the director within the applicable period provided in 2013 Iowa Acts, Senate File 451, sections 19 and 27, for filing such claims.

78.18(3) Supplemental assessments. Subrule 78.6(3) is incorporated herein by reference. [ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.19(85GA,SF451) Refunds. Subrules 78.7(1) to 78.7(3), 78.7(5) and 78.7(7) are incorporated herein by reference.

No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid under written protest which specifies the particulars of the alleged unconstitutionality.
[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.20(85GA,SF451) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to the statewide property tax.
[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.21(85GA,SF451) Taxpayers required to keep records.

78.21(1) Records required. The records required in this rule must be made available for examination upon request by the director or the director's authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

- a. Records associated with the assessed value and base year assessed value of property subject to the statewide property tax.
- b. Records associated with the computation of the statewide property tax required to be shown due on the tax return.
- c. Records associated with the book value of the local amount of any major addition by the local taxing district.
- d. Records associated with the book value of the statewide amount of any major addition.
- e. Records associated with the transfer or disposal of all operating property, as that term is defined in 2013 Iowa Acts, Senate File 451, section 11(10), in the preceding calendar year, by local taxing district.
- f. Records associated with the book value of all other taxpayer property subject to the statewide property tax.
- g. Records associated with the book value of any major addition, by situs, eligible for the urban revitalization exemption provided for in Iowa Code chapter 404.
- h. All work papers associated with any of the records described in this rule.
- i. Records associated with allocation of property subject to statewide property tax among local taxing districts.

78.21(2) The records required to be maintained by these rules shall be maintained by taxpayers for a period of ten years following the later of the original due date for the filing of a tax return in which the statewide property tax is reported or the date on which such return is filed. Upon application to the director and for good cause shown, the director may shorten the period for which any records should be maintained by a taxpayer.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.22(85GA,SF451) Credentials. Rule 701—78.10(85GA,SF451) is incorporated herein by reference.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

701—78.23(85GA,SF451) Audit of records. Rule 701—78.11(85GA,SF451) is incorporated herein by reference.

[ARC 0965C, IAB 8/21/13, effective 8/2/13; ARC 1105C, IAB 10/16/13, effective 11/20/13]

These rules are intended to implement 2013 Iowa Acts, Senate File 451.

[Filed Emergency ARC 0965C, IAB 8/21/13, effective 8/2/13]

[Filed ARC 1105C (Notice ARC 0966C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]