CHAPTER 43
ASSESSMENTS AND REFUNDS
[Prior to 12/17/86, Revenue Department[730]]

701—43.1(422) Notice of discrepancies.

43.1(1) *Notice of adjustments.* A department employee designated by the director to examine returns and make audits who discovers discrepancies in returns or learns that the income of the taxpayer may not have been listed, 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. The notice shall not be termed an assessment, and it may inform the taxpayer what amount would be due if the information discovered is correct.

43.1(2) *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. If payment is made, and the taxpayer wishes to contest the matter, the taxpayer should then file a claim for refund. However, payment will not be required until assessment has been made (although interest will continue to accrue if payment is not made). If no payment is 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 the taxpayer considers relevant to the situation. Documents and records supporting the taxpayer's position may be required.

43.1(3) Rescinded, effective 7/24/85.

This rule is intended to implement Iowa Code sections 422.25 and 422.30.

701—43.2(422) Notice of assessment, supplemental assessments and refund adjustments. If after following the procedure outlined in 43.1(2) no agreement is reached, and the taxpayer does not pay the amount determined to be correct, a notice of assessment shall be sent to the taxpayer by mail. If the period in which the correct amount of tax can be determined is nearly at an end, either a notice of assessment without compliance with 43.1(2) or a jeopardy assessment may be issued. All notices of assessment shall bear the signature of the director.

The department 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—7.41(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in the appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation. Nothing in this rule shall prevent the making of an assessment or refund adjustment for the purpose of taking into account the impact upon Iowa net income of federal audit adjustments.

This rule is intended to implement Iowa Code sections 422.25 and 422.30.

701—43.3(422) Overpayments of tax. The following are provisions for refunding or crediting to the taxpayer's deposits or payments for tax in excess of amounts legally due.

43.3(1) *Claims for refund.* A claim for refund is a formal request made by the taxpayer or the taxpayer's personal representative to the department of revenue for repayment of state income tax that was paid with the taxpayer's previously filed individual income tax return. In order for a claim for refund to be considered to be a valid document, the taxpayer or the taxpayer's personal representative must file the claim on an IA 1040X Amended Return Form or on an IA 1040 Income Tax Return Form for the appropriate tax year, with the notation "Amended for Refund" clearly shown on the face of the return form. The taxpayer or the taxpayer's personal representative must file the claim for refund with the department under separate cover so the claim is not filed with another tax return or with other documents or forms submitted to the department.

In addition, the claim for refund must be filed within one of the time periods specified in Iowa Code section 422.73(2) in order for the refund claim to be timely so that the claim may be considered on its merits by the department.

If the department determines that the taxpayer's claim is without merit and the claim for refund should be rejected, the department will notify the taxpayer or the taxpayer's personal representative by mail that the claim for refund has been rejected and of the reason for rejection. In addition, the rejection letter will advise the taxpayer that the taxpayer has 60 days from the date of the letter to file a protest of the department's rejection of the claim for refund. The taxpayer's appeal of the rejection of the claim for refund must be filed in accordance with rule 701—7.41(17A).

43.3(2) *Offsetting refunds.* A taxpayer shall not offset a refund or overpayment of tax for one year as a prior payment of tax of a subsequent year on the return of a subsequent year without authorization in writing by the department. The department, may, however, apply an overpayment, or a refund otherwise due the taxpayer, to any tax due or to become due from the taxpayer.

43.3(3) *Setoffs of qualifying debts administered by the department of administrative services.* Before any refund or rebate from a taxpayer's individual income tax return is considered for purposes of setoff, the refund or rebate must be applied first to any outstanding tax liability of that taxpayer with the department of revenue. After all outstanding tax liabilities are satisfied, any remaining balance of refund or rebate will be set off against any debt of the taxpayer, setoff of which is overseen by the department of administrative services pursuant to 2003 Iowa Acts, House File 534, section 86.

43.3(4) *College loan setoff.* Rescinded IAB 11/12/03, effective 12/17/03.

43.3(5) *District court debts setoff.* Rescinded IAB 11/12/03, effective 12/17/03.

43.3(6) *Overpayment credited to estimated tax.* Any remaining balance of overpayment, at the election of the taxpayer, will be refunded to the taxpayer or credited as a first payment of the taxpayer's estimated tax for the following year. However, a taxpayer may elect to credit an overpayment from a return to the estimated tax for the following tax year only in cases when the return is filed in the same calendar year that the return is due. For example, a taxpayer's 1994 return is due on April 30, 1995. If the taxpayer files that return on or before December 31, 1995, the taxpayer can elect to credit an overpayment on that return to estimated tax for 1995, and this election will be honored by the department. See also rule 701—49.7(422).

If an overpayment of income tax is shown as a credit to estimated tax for the succeeding taxable year, the amount shall be considered as a payment of the income tax for the succeeding taxable year and no claim for credit or refund of the overpayment shall be allowed on the return where the overpayment arose.

When a taxpayer elects to have an overpayment credited to estimated tax for the succeeding year, interest may properly be assessed on a deficiency of income tax for the year in which the overpayment arose. If a taxpayer elects to have all or part of an overpayment shown on the return applied to the estimated income tax for the succeeding taxable year, the election is binding to the taxpayer.

An overpayment of tax may be used to offset any outstanding tax liability owed by the taxpayer, but once an elected amount is credited as a payment of estimated tax for the succeeding year, it loses its character as an overpayment for the year in which it arose and thereafter cannot offset any subsequently determined tax liability.

43.3(7) *Refunds—statute of limitations for years ending before January 1, 1979.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(8) *Refunds—statute of limitations for tax years ending on or after January 1, 1979.* The statute of limitations with respect to which refunds or credit may be claimed are:

a. The later of

(1) Three years after due date of payment upon which refund or credit is claimed; or

(2) One year after which such payment was actually made.

b. Six months from the date of final disposition of any federal income tax matter with respect to the particular tax year. The taxpayer, however, must have notified the department of the matter within six months after the specified three-year period, contained in paragraph *"a,"* subparagraph (1), above. The term "matter" includes, but is not limited to, the execution of waivers and commencement of audits. The

refund is limited to those matters between the taxpayer and the Internal Revenue Service which affect Iowa taxable income. *Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review*, 414 N.W.2d 113 (Iowa 1987).

c. For federal audits finalized on or after July 1, 1991, the taxpayer must claim a refund or credit within six months of final disposition of any federal income tax matter with respect to the particular tax year regardless when the tax year ended. It is not necessary for the taxpayer to have previously notified the department within the period of limitations specified in 43.3(8)*"a"*(1) above of a matter between the taxpayer and the Internal Revenue Service in order to receive a refund or credit. The term "matter" includes, but is not limited to, the execution of waivers and commencement of audits. The refund or credit is limited to those matters between the taxpayer and the Internal Revenue Service which affect Iowa taxable income. *Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review*, 414 N.W. 2d 113 (Iowa 1987).

d. Three years after the date of the return for the year in which a net operating loss or capital loss occurs, which if carried back results in a reduction of tax in a prior period and an overpayment results.

43.3(9) *Refunds—statute of limitations for individuals who died as a result of hostile action.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(10) *Refunds—statute of limitations for MIAs and spouses of MIAs.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(11) *Refunds—statute of limitations for insolvent farmers who received capital gains from farmland sold in 1982 and 1983.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(12) *Refunds—statute of limitations for individuals with certain charitable contributions.* Rescinded IAB 10/12/94, effective 11/16/94.

43.3(13) *Refunds—statute of limitations for taxpayers who paid state income tax on 1988 returns on certain supplemental assistance payments.* Rescinded IAB 11/24/04, effective 12/29/04.

43.3(14) *Refunds—statute of limitations for taxpayers who paid state income tax on returns for tax years where federal income tax was refunded due to a provision of the Taxpayer Relief Act of 1997.* Notwithstanding the three-year statute of limitations in Iowa Code section 422.73, claims for refund filed with the department on or before June 30, 1999, will be considered timely if the taxpayer's federal income tax was refunded due to a provision in the Taxpayer Relief Act of 1997 which affected the federal adjusted gross income of an individual or an estate or a trust. This particular provision may affect Iowa returns for a tax year beginning on or after January 1, 1977, to the extent the federal adjusted gross incomes on federal returns for the tax year were affected by the Taxpayer Relief Act of 1997.

43.3(15) *Refunds—statute of limitations for taxpayers who paid 90 percent of the tax by the due date and filed the original return in the six-month extended period.* If a taxpayer has paid 90 percent of the income tax required to be shown due by the original due date of the return and has filed the original income tax return sometime in the six-month extended period after the original due date, the taxpayer may file an amended return by October 31 of the third year following the year the original return was due and shall be within the statute of limitations for refund. This position is supported by the Iowa Supreme Court in *Conoco, Inc. v. Iowa Department of Revenue and Finance*, 477 N.W.2d 377 (Iowa 1991). See also 701—subrule 39.2(4) which pertains to the extended period for filing the Iowa income tax return when 90 percent of the tax is paid by the original due date of the Iowa income tax return.

EXAMPLE 1. Joe Barnes had paid at least 90 percent of the tax shown due on his 1999 Iowa income tax return by the April 30 original due date and filed his original 1999 Iowa return on May 15, 2000. Mr. Barnes determined that he had failed to claim several deductions on the original 1999 Iowa return, so he filed an amended 1999 return on October 31, 2003. The amended return was filed within the three-year statute of limitations for refund since it was filed within three years of the extended due date of the return, October 31, 2000. The six-month extended due date applied in this case because the original return was filed within the six-month extended period.

EXAMPLE 2. Fred Jones paid 90 percent of the tax shown due on his 1999 return by the April 30 original due date and filed the original return on or before the April 30, 2000, original due date for this return. Mr. Jones determined that when he filed the original 1999 Iowa return, he failed to claim the Iowa income tax withheld from a part-time job he held in 1999. Mr. Jones filed an amended 1999 Iowa

return on May 15, 2003, to claim the Iowa tax withheld that he had failed to claim on the original return. This amended return was rejected by the department because it was not filed within three years of the due date of the return. Although Mr. Jones had paid 90 percent of the tax by the due date, the due date was not extended because the original return had been filed by the due date of April 30, 2000.

This rule is intended to implement Iowa Code section 421.17 as amended by 2003 Iowa Acts, House File 534, and sections 422.2, 422.16, and 422.73.

701—43.4(68A,422,456A) Optional designations of funds by taxpayer.

43.4(1) *Iowa fish and game protection fund.* The taxpayer may designate an amount to be donated to the Iowa fish and game protection fund. The donation must be $1 or more, and the designation must be made on the original return for the current year. The donation is allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, and the Iowa election campaign checkoff have been satisfied. The designation to the fund is irrevocable and cannot be made on an amended return. If the amount of refund claimed on the original return or the payment remitted with the return is adjusted by the department, the amount of the designation to the fund may be adjusted accordingly.

EXAMPLE A: Overpayment as shown on the original return is $50. $25 is designated to the fund. Due to an error on the return, only $20 is an overpayment. The taxpayer would not receive any refund and all $20 of the overpayment would be credited to the fund.

EXAMPLE B: Overpayment as shown on the original return is $50. $25 is designated to the fund. Due to an error on the return, no overpayment occurred, but instead the taxpayer owes $20. No money would be credited to the fund in this instance.

EXAMPLE C: Amount shown due on return is $30. $20 is designated to the fund. A $50 payment was made with the return. Due to an error on the return, the taxpayer owes $40. Only $10 would be credited to the fund in this situation.

43.4(2) *Iowa election campaign fund.* A person with a tax liability of $1.50 or more on the Iowa individual income tax return may direct or designate that a $1.50 contribution be made to a specific political party or that the contribution be made to the Iowa election campaign fund to be shared by all political parties as clarified further in this paragraph. In the case of married taxpayers filing a joint Iowa individual return with a tax liability of $3.00 or more, each spouse may direct or designate that a $1.50 contribution be made to a specific political party or that a $1.50 contribution be made to the Iowa election campaign fund as a contribution to be shared by all political parties. The designation or direction of a contribution to a political party or to the election campaign fund is irrevocable and cannot be changed on an amended return. The designation to a political party or the election campaign fund is allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts and other state agencies are satisfied. Note that for purposes of this subrule, "political party" means a party as defined in Iowa Code section 43.2.

In a tax year when there are two political parties for purposes of the Iowa election campaign fund, all undesignated contributions to the fund made on individual income tax returns for that tax year are to be divided equally between the two parties. In a tax year where there are more than two political parties for purposes of the Iowa election campaign fund, all undesignated contributions to the fund made on income tax returns for that tax year are to be divided among the political parties on the basis of the number of registered voters for a particular political party on December 31 of that tax year to the total number of registered voters on December 31 of that tax year that have declared an affiliation with any of the recognized political parties.

Thus, if there were 400,000 registered voters for "x" political party, 500,000 registered voters for "y" political party, and 100,000 registered voters for "z" political party on December 31 of a tax year where there were three recognized political parties, 40 percent of the undesignated political contributions

on 1997 returns would be paid to "x" political party since 40 percent of the registered voters with an affiliation to a political party on December 31 had an affiliation with party "x" on that day.

43.4(3) *Domestic abuse services checkoff.* For tax years beginning on or after January 1, 1991, but before January 1, 1996, and for tax years beginning on or after January 1, 1997, but before January 1, 2000, a taxpayer filing a state individual income tax return can designate a checkoff of $1 or more to the general fund of the state to be used for the purposes of providing services to victims of domestic abuse or sexual assault. If the overpayment on the return or the payment made with the filing of the return is not sufficient to cover the amount designated to the domestic abuse services checkoff, the amount credited to the domestic abuse services checkoff will be reduced accordingly. The designation to the domestic abuse services checkoff is irrevocable and cannot be revised on an amended return.

A designation to the domestic abuse services checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff, and the state fair foundation checkoff are satisfied.

On or before January 31 of the year following the year in which returns with domestic abuse services checkoff are due, the department of revenue is to certify the total amount designated to the domestic abuse services checkoff to the state treasurer.

43.4(4) *State fair foundation checkoff.* For tax years beginning on or after January 1, 1993, a taxpayer filing a state individual income tax return can designate a checkoff of $1 or more to the Iowa state fair foundation. If the overpayment on the return or the payment made with the filing of the return is not sufficient to cover the amount designated to the state fair foundation checkoff, the amount credited to the state fair foundation checkoff will be reduced accordingly. The designation to the state fair foundation checkoff is irrevocable.

A designation to the state fair foundation checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff and the domestic abuse services checkoff are satisfied.

On or before January 31 of the year following the year in which returns with the state fair foundation checkoff are due, the department of revenue shall transfer the total amount designated to the state fair foundation to the state fair foundation fund.

43.4(5) *Limitation of checkoffs on the individual income tax return.* For tax years beginning on or after January 1, 1995, but before January 1, 2004, no more than three checkoffs are allowed on the individual income tax return. The election campaign fund checkoff is not considered for purposes of limiting the number of checkoffs on the income tax return. When the same three checkoffs have been provided on the income tax return for three consecutive years, the checkoff for which the least amount has been contributed in the aggregate for the first two years and through March 15 of the third tax year will be repealed.

For example, the 1999 Iowa individual income tax return due in 2000 includes checkoffs A, B and C which also were shown on the Iowa returns for 1997, 1998 and 1999. Through March 15, 2000, $90,000 was contributed on the 1997, 1998 and 1999 returns for checkoff A, $60,000 was contributed for checkoff B and $120,000 for checkoff C. Since the least amount contributed in the aggregate was for checkoff B, that checkoff is repealed and will not appear on the 2000 Iowa income tax return to be filed in 2001.

For tax years beginning on or after January 1, 2004, no more than four checkoffs are allowed on the individual income tax return. The election campaign fund checkoff is not considered for purposes of limiting the number of checkoffs on the income tax return. When the same four checkoffs have been provided on the income tax return for two consecutive years, the two checkoffs for which the least amount

has been contributed in the aggregate for the first year and through March 15 of the second tax year will be repealed.

If more checkoffs are enacted in the same session of the general assembly than there is space for inclusion on the individual income tax return form, the earliest enacted checkoffs for which there is space will be included on the income tax return form, and all other checkoffs enacted during that session of the general assembly are repealed. If the same session of the general assembly enacts more checkoffs on the same day than there is space for inclusion on the individual income tax form, the director of revenue shall determine which checkoffs shall be included on the individual income tax form.

43.4(6) *Keep Iowa beautiful fund checkoff.* For tax years beginning on or after January 1, 2001, but before January 1, 2006, a taxpayer filing an individual income tax return can designate a checkoff of $1 or more to the keep Iowa beautiful fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the keep Iowa beautiful fund, the amount credited to the keep Iowa beautiful fund will be reduced accordingly. Once the taxpayer has designated a contribution to the keep Iowa beautiful fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend the designation.

A designation to the keep Iowa beautiful checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff and the state fair foundation checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the keep Iowa beautiful fund are due, the department of revenue shall transfer the total amount designated to the keep Iowa beautiful fund.

43.4(7) *Volunteer firefighter preparedness fund checkoff.* For tax years beginning on or after January 1, 2004, but before January 1, 2006, a taxpayer filing an individual income tax return can designate a checkoff of $1 or more to the volunteer firefighter preparedness fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the volunteer firefighter preparedness fund, the amount credited to the volunteer firefighter preparedness fund will be reduced accordingly. Once the taxpayer has designated a contribution to the volunteer firefighter preparedness fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

A designation to the volunteer firefighter preparedness fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff, the state fair foundation checkoff and the keep Iowa beautiful fund checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the volunteer firefighter preparedness fund are due, the department of revenue is to certify to the state treasurer the amount designated to the volunteer firefighter preparedness fund on those returns.

43.4(8) *Veterans trust fund checkoff.* For tax years beginning on or after January 1, 2006, a taxpayer filing an individual income tax return can designate a checkoff of $1 or more to the veterans trust fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the veterans trust fund, the amount credited to the veterans trust fund will be reduced accordingly. Once the taxpayer has designated a contribution to the veterans trust fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

A designation to the veterans trust fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid

commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff and the state fair foundation checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the veterans trust fund are due, the department of revenue shall transfer the total amount designated to the veterans trust fund.

43.4(9) *Joint keep Iowa beautiful fund and volunteer firefighter preparedness fund checkoff.* For tax years beginning on or after January 1, 2006, a taxpayer filing an individual income tax return can designate a checkoff of $1 or more to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund, the amount credited to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund will be reduced accordingly. Once the taxpayer has designated a contribution to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

A designation to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff, the state fair foundation checkoff and the veterans trust fund checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund are due, the department of revenue shall transfer one-half of the total amount designated to the keep Iowa beautiful fund, and the remaining one-half will be transferred to the volunteer firefighter preparedness fund.

This rule is intended to implement Iowa Code section 422.12D and section 422.12E as amended by 2007 Iowa Acts, House File 923.

701—43.5(422) Abatement of tax. For notices of assessment issued on or after January 1, 1995, if the statutory period for appeal has expired, the director may abate any portion of unpaid tax, penalties or interest which the director determines to be erroneous, illegal, or excessive. See rule 701—7.31(421) for procedures on reqeuesting abatement of tax.

This rule is intended to implement Iowa Code section 421.60.

701—43.6(422) 1978 Income tax rebate. Rescinded IAB 11/24/04, effective 12/29/04.

701—43.7(422) Special refund for taxpayers with net long-term capital gains in the tax year. Rescinded IAB 11/24/04, effective 12/29/04.

701—43.8(422) Livestock production credit refunds for corporate taxpayers and individual taxpayers. For tax years beginning on or after January 1, 1996, corporate and individual taxpayers who own certain livestock, have livestock production operations in Iowa in the tax year, and who meet certain qualifications are eligible for a livestock production credit refund. The amount of a livestock production credit refund is determined by adding together for each head of livestock in the taxpayer's operation the product of 10 cents for each corn equivalent deemed to have been consumed by that animal in the taxpayer's operation in the tax year. However, for tax years beginning in the 1996 and the 1997 calendar years, only qualified taxpayers that have cow-calf livestock production operations described in paragraph *"i"* of subrule 43.8(2) will be eligible for the livestock production credit refunds and for tax years beginning on or after January 1, 1998, only qualified taxpayers that have cow-calf livestock operations described in paragraph *"o"* of subrule 43.8(2) will be eligible for the livestock

production refunds, notwithstanding the other types of livestock operations mentioned in this rule. Note that the livestock production credit refund is also available to taxpayers who meet the qualifications described in subrule 43.8(1) and operate certain types of poultry operations in this state and own the poultry in the operations. The amounts of the livestock production credit refunds for these taxpayers are determined on the basis of 10 cents for each corn equivalent deemed to have been consumed by the chickens or the turkeys in the taxpayers' poultry operations in the tax year. However, the amount of livestock production credit refund may not exceed $3,000 per livestock or poultry operation for a tax year. In addition, the amount of livestock production credit refund per taxpayer for a tax year may not exceed $3,000. Therefore, if a particular taxpayer is involved in a cow-calf beef operation, a sheep-ewe flock operation, and a farrow-to-finish hog operation, the maximum livestock production credit refund for this taxpayer may not exceed $3,000.

General references in this rule to livestock, livestock production, and livestock production operations also apply to poultry, poultry production, and poultry production operations.

In the case of married taxpayers, each of the spouses may be eligible for a livestock production refund of up to $3,000 if each of the spouses was involved in a livestock production operation independently from the other spouse and independently from other taxpayers in the tax year. If both spouses are involved in the same livestock operation, the maximum refund from that operation is $3,000 which may be allocated between the individuals in the ratio of each spouse's ownership interest in the operation. If a livestock production operation is conducted by a partnership, limited liability company, subchapter S corporation, estate, or a trust, the livestock production credit refund from the entity is to be allocated to the owners of the entity in the same ratio as earnings are allocated to the owners. In situations where a livestock production operation is conducted partly within and partly without Iowa, only the livestock production activity in Iowa during the tax year will be considered for purposes of the livestock credit refund. The livestock production refund amounts for these taxpayers is to be allocated on the basis of sales of Iowa livestock which qualify taxpayers for the livestock production refund to total sales of livestock which qualify taxpayers for the refund. However, the refunds from any operations may not exceed $3,000. The following subrules outline how the livestock production credit refund program is to be administered by the department of revenue:

43.8(1) *Qualifications for the livestock production credit refunds.* Taxpayers that own livestock located in Iowa in a tax year must meet the qualifications in paragraphs *"a"* and *"b"* in order to be eligible for the livestock production credit refunds for tax years beginning in the 1996 calendar year. Taxpayers that own livestock located in Iowa in tax years beginning on or after January 1, 1997, must meet the qualification in paragraph *"c"* for a tax year in order to be eligible for the livestock product refund for that tax year:

a. The taxpayer's net worth at the end of the tax year for the refund must be less than $1 million. A taxpayer filing a claim for the livestock production credit refund is to complete a balance sheet to establish the taxpayer's net worth on the last day of the tax year for which the refund is claimed. The balance sheet is to be completed on the basis of the accounting method used by the taxpayer for federal and Iowa income tax purposes. The taxpayer does not have to file the balance sheet with the taxpayer's return as part of the taxpayer's claim for the livestock production credit refund. However, the balance sheet must be retained with the taxpayer's other tax records for a minimum of three years after the return was filed so the balance sheet is available for audit by the department of revenue. The balance sheet must include all assets owned by the taxpayer and must show the fair market value of those assets as well as the liabilities or debts that are attributable to that taxpayer. In the case of married taxpayers where only one of the spouses is materially participating in the livestock operation, only the fair market values of the assets owned by that individual are to be entered on the balance sheet, including half of the value of farmland owned by the spouses, other real estate, and items of personal property which are owned together by both taxpayers. In these situations, the taxpayer must list as liabilities on the balance sheet only those debts for which the taxpayer is personally liable. In the case of liabilities for property that is jointly owned by the taxpayer and the taxpayer's spouse, including property owned as tenants in common, only the debt on these properties that is the taxpayer's share of the debt is to be shown on the balance sheet.

b. More than one-half of the taxpayer's gross income received or accrued in the tax year must be from farming or ranching activities. A taxpayer's gross income from farming or ranching includes amounts the individual has received in the tax year from cultivating the soil or raising or harvesting any agricultural commodities. This includes, but is not limited to, income from the operation of a stock, dairy, poultry, fish, bee, fruit, or truck farm, plantation, ranch, nursery, range, orchard, or oyster bed, as well as income in the form of crop shares received from the use of the taxpayer's land. It also includes total gains from sales of draft, breeding, dairy, or sporting livestock. In the case of individual income tax returns for the 1995 tax year, gross income from farming or ranching includes the total of the amounts from line 11 or line 51 of Schedule F and line 7 of Form 4835 ("Farm Rental Income and Expenses"), plus the share of partnership income from farming, the share of net taxable income from farming in an estate or trust, and total gains from the sale of livestock held for draft, breeding, sport, or dairy purposes, as shown on Form 4797 ("Sale of Business Property"). In the case of individual returns for tax years beginning in 1996 and thereafter, equivalent lines from returns and supplementary forms would be used to determine a taxpayer's gross income from farming or ranching for those years.

To make a calculation as to whether more than half of the taxpayer's gross income in the tax year is from farming or ranching operations, the gross income from farming or ranching as determined in the previous paragraph is divided by the taxpayer's total gross income. If the resulting percentage is greater than 50 percent, the taxpayer will be eligible for the livestock production credit refund (assuming all other qualifications are met).

For example, a taxpayer had $25,000 in wages, $75,000 in gross income from farming, and $10,000 in net income from farming. In this case 75 percent of the taxpayer's gross income was from farming even though the taxpayer had only $10,000 in net income from farming activities.

In the case of married individuals, the taxpayer's gross income includes the income of the other spouse only if that spouse is materially participating in the livestock or poultry operation. If the other spouse is not materially participating in the livestock operation, the taxpayer's gross income from farming would be determined as if the taxpayer was filing a separate Iowa return so that the taxpayer's income and deductions are reported separately from the income and deductions of the taxpayer's spouse.

For example, a taxpayer's gross income from a cow-calf beef production operation was $100,000 and the taxpayer's spouse had $60,000 in gross income which was wages from employment. Since the taxpayer's spouse had no material participation in the taxpayer's cow-calf beef production operation, the spouse's income was not considered for purposes of determining if more than 50 percent of the taxpayer's gross income was from farming or ranching.

Taxpayers do not have to submit (with their claims for the livestock production credit refunds) proof that more than half of the taxpayer's gross income is from farming or ranching. However, they should be able to provide such proof if such proof is requested by the department.

c. Individual and corporate taxpayers will be eligible for the livestock production credit refund if the taxpayer's federal taxable income for tax years beginning in the 1997 calendar year is $99,600 or less. In the case of married taxpayers, their combined federal taxable income must be considered to determine if they are eligible for the credit.

For each tax year beginning after 1997, the federal taxable income specified previously in this paragraph is to be multiplied by the "cumulative index factor" for that tax year to calculate the federal taxable income that will be used to determine whether a taxpayer is eligible for the livestock production refund that is authorized for that tax year. "Cumulative index factor" means the product of the annual index factor for the 1997 calendar year and all annual index factors for subsequent calendar years. The annual index factor equals the annual inflation factor for that calendar year as computed in Iowa Code section 422.4 for purposes of indexation of the tax rates for individual income tax.

43.8(2) *Definitions related to the livestock production credit refunds.* The following definitions explain livestock and poultry for purposes of this rule. The definitions also describe the various types of livestock operations of taxpayers which may qualify the taxpayers for the livestock production credit refunds and specify how the refunds are to be computed for the various types of livestock operations:

a. For the purposes of this rule, the term "livestock" means domestic bovine animals which will be referred to as bulls, heifers, cattle, calves, or cows in this rule, domestic ovine animals which will be

referred to as sheep, lambs, rams, or ewes, or domestic swine which will be referred to as hogs or pigs. That is, for purposes of this rule, "livestock" includes only those farm animals which may qualify their owners for the livestock production credit refund. "Livestock" does not include horses, goats, donkeys, mules, oxen, furbearing mammals, other mammals, or other classes of animals, although some of these animals or species may be considered to be "livestock" in other contexts or situations.

b. For purposes of this rule the term "poultry" means only domestic chickens and domestic turkeys as only these types of birds may qualify their owners for the livestock production credit refunds. "Poultry" does not include ducks, geese, wild turkeys, emus, ostriches, or other fowl or birds, although some of these species may be considered to be poultry in other contexts or situations.

c. For purposes of this rule, the term "farrow-to-finish" hog operations comprises those hog production operations where the majority of the hogs sold from the operation are from animals farrowed and raised in the operation which are sold at a prime market weight of 200 pounds or more.

In order to compute the livestock production credit refund amounts for the "farrow-to-finish" hog production operations, the corn equivalent factor of 13 per animal sold, or $1.30, is multiplied by the number of hogs sold at prime market weight in the tax year which were farrowed and raised in the operation. No corn equivalent credits are given for hogs sold at the prime market weight which have been in the operation less than three months on the date of sale. In the "farrow-to-finish" operations, hogs sold at a weight that is less than the prime market weight also are considered for purposes of computing the livestock production credit refund for the operation, but only at the corn equivalent factor of 2.6 or $.26 per pig sold.

In "farrow-to-finish" hog operations, if any pigs are purchased at the feeder pig weight of less than 60 pounds and are sold at prime market weight (200 pounds or more), see paragraph *"e"* in this subrule for the corn equivalent factor which applies to these transactions.

d. For purposes of this rule, the term "farrow-to-feeder-pig" hog operations includes those operations where essentially all the pigs farrowed in the operation are sold at an average weight of less than 60 pounds per pig, or at "feeder pig" weight.

The potential livestock production credit refunds for these operations are computed by multiplying the corn equivalent factor of 2.6 or $.26 times the number of pigs sold at the "feeder pig" weight from these operations in the tax year. However, the corn equivalent factor of 13 or $1.30 per animal sold can be used for hogs sold at the prime market weight (200 pounds or more) from these operations for those animals where there is documentation that the hogs were born and raised in the operation or that the hogs were in the operation for a minimum of three months at the time the hogs were sold.

e. The term "finishing feeder pigs" hog operations comprises those operations where the majority of the hogs in this operation are purchased when these animals weighed less than 60 pounds or at the "feeder pig" weight and the animals are sold at the time the animals are at the prime market weight of 200 pounds or more per hog. The potential livestock production credit refunds for these operations are computed by multiplying the corn equivalent factor of 10.4 or $1.04 times the number of animals sold in the year at the prime market weight. However, only those animals that were in the operation for a minimum of three months at the time the hogs were sold at prime market weight can be considered for purposes of the livestock production credit refund. Corn equivalent factor credits of 2.6 or $.26 are given for animals which are purchased at the "feeder pig" weight of less than 60 pounds and were in the operation for a minimum of three months when the hogs were sold at a weight which is less than the prime market weight of 200 pounds or more per hog.

f. For purposes of this rule, the term "layer poultry operations" includes operations where the eggs produced by the chickens in the operation are sold for human consumption. The livestock production credit refunds for these operations are computed on the basis of the average number of chickens in the operation in the tax year multiplied by the corn equivalent factor of .88 or $.088. The average number of chickens in the operation in the tax year is the aggregate of the number of chickens in the operation on the first day in the tax year that the operation was in production and the number of chickens in the operation on the last day of the tax year in which the operation was in production divided by 2.

However, in a situation where the operation was started or was shut down sometime during the tax year, the livestock refund amount otherwise computed must be reduced by 8.33 percent for each month

in the tax year in which the operation was not in production. Thus, in the case where the computed livestock refund amount was $2,000 and the operation was in production for only nine months of the tax year, the adjusted refund amount would be $1,500 ($2,000 x .0833 x (3) = $500). ($2,000 - 500 = $1,500)

g. For purposes of this rule, the term "turkey production operations" means operations involved in raising domestic turkeys for sale for human consumption and where the turkeys are sold at a prime market weight. The prime market weight for male or tom turkeys is between 30 and 35 pounds. The prime market weight for hen turkeys is between 22 and 25 pounds. The livestock production credit refund for this type of operation is computed by multiplying the number of turkeys sold in the tax year at the prime market weight times the corn equivalent factor of 1.5 or $.15. However, only those turkeys that were in the operation for a minimum of three months on the date the turkeys were sold may be considered for purposes of computing the livestock production credit for the turkey operation.

h. For purposes of this rule, the term "broiler poultry operations" means poultry production operations whereby the chickens raised in the operations are sold for human consumption at a prime market weight or broiler weight between 3 pounds and 6 pounds depending on the breed or breeds of chickens. The livestock production credit refund for this type of operation is computed by multiplying the number of chickens sold in the tax year at broiler weight by the corn equivalent factor of .15 or $.015. However, only chickens that are in the broiler operation for a minimum of six weeks before the chickens are sold at broiler weight may be considered for purposes of computing the livestock production credit for these operations.

i. For purposes of this rule and only for tax years beginning in the 1996 and 1997 calendar years, "cow-calf beef operations" means those beef cattle production operations whereby the majority of the cattle in the operations were born and raised in the operations and many of the cattle in the operations were sold at a prime market weight of 700 pounds or more.

The livestock production credit refunds for cow-calf operations include the number of cattle raised in the operation, which are sold in the tax year at the stocker weight under the criteria described in paragraph *"j"* of this subrule and which are sold in the tax year at the feedlot weight under the criteria described in paragraph *"k"* of this subrule. However, those cattle in the operation that were sold at the feedlot weight in the tax year qualify for a combined stocker and feedlot production credit refund of $11.65 per head of cattle sold, to the extent the cattle sold had been in the operation at least 300 days after the cattle were weaned. Cattle in the operation that were sold at a weight below 700 pounds may not be counted for purposes of computing the livestock production credit refund for the operation. However, unbred replacement heifers in inventory on December 31 of the tax year would qualify for a production credit refund of $4.15 per head if these cattle had been born, raised and weaned in the operation and had been in the herd for at least two months after weaning on December 31.

Finally, the livestock production credit refunds for cow-calf operations include refund amounts determined on the number of bred cows, bred yearling heifers, and breeding bulls in inventory on December 31 of the tax year times the corn equivalent factor of 111.5 or $11.15. However, any bred cows, bred yearling heifers, and breeding bulls in inventory on December 31 which were not in the operation on July 1 of that calendar year may not be considered for purposes of computation of the livestock production credit refund.

j. For purposes of this rule, "stocker cattle operations" are beef cattle operations where essentially all cattle in the operations are purchased as calves, raised in the operation at least two months, and the cattle are sold in a range from 700 to 900 pounds per head which is deemed to be the "stocker weight." Cattle in the operation that were sold at a weight of less than 700 pounds may not be counted for purposes of computing the livestock production credit refund for the operation. The livestock production credit refunds for these operations is computed on the basis of the number of cattle sold in the year at the stocker weight times the corn equivalent factor of 41.5 or $4.15 per head. Cattle sold in the tax year must be reported on a first-in, first-out basis unless records of the taxpayer can support a different order of sale of the animals. If this operation includes calves that were raised on the farm where they were born, these calves qualify for the corn equivalent factor of 41.5 or $4.15 per head if the calves were unsold at the

end of the tax year and the calves were in the operation for a minimum of two months after the calves were weaned.

k. For purposes of this rule, "beef feedlot operations" include those beef cattle operations whereby the cattle are purchased as calves approximately 60 days from the time the calves were weaned or at a "stocker weight" and are sold at a feedlot weight of 900 pounds or more after a three-month period when the animals were on a high concentrate diet. Note that any animals which are purchased for the operation and are maintained in the herd for less than four months at the time of sale do not qualify the taxpayer for the livestock production credit refund of $7.50 per head of cattle sold. The livestock production credit refund for these operations is computed by multiplying the number of cattle sold in the year at the feedlot weight times the corn equivalent amount of 75 or $7.50 per animal. However, if any cattle in the operation are sold at the "stocker" weight of at least 700 pounds but less than 900 pounds, these animals may be counted for the livestock production credit refund at a corn equivalent amount of 41.5 or $4.15 per head of cattle sold to the extent the cattle were in the operation for two months or more at the time of sale. If any cattle in the operation in the tax year were sold at a weight of less than 700 pounds, the sales of these cattle may not be counted for the livestock production credit refund. Cattle sold in the tax year must be reported on a first-in, first-out basis unless records of the taxpayer can support a different order of sale of the cattle.

l. For purposes of this rule, "dairy cattle operations" includes those cattle operations where the primary purpose of the operations is the production of milk and milk products for human consumption. The livestock production credit refund is computed by multiplying the aggregate of the number of milking cows in lactation on December 31 of the tax year and the number of cows bred to calve within 60 days of December 31 and the number of breeding bulls in inventory on December 31 times the corn equivalent number of 350 or $35 per cow. However, cattle that were purchased in the period between July 1 and December 31 of the calendar year may not be considered for purposes of computation of the livestock production credit for the dairy operation. In the case of a "dairy cattle operation" which started or ceased production in the tax year, the livestock production credit refund otherwise computed must be reduced by 8.33 percent for each month in the tax year in which the livestock operation was not in production. Heifers in the operation are not counted for purposes of the credit until the animals are bred to calve.

m. For purposes of this rule, "ewe flock sheep operations" are sheep operations whereby the majority of the sheep and lambs sold from the operation were born and raised in the operation. The livestock production credit refunds for these operations are computed by multiplying the number of ewes and rams in inventory on December 31 of the tax year times the corn equivalent factor of 20.5 or $2.05 per ewe or ram. Any ewes or rams purchased within three months before December 31 of the tax year may not be considered for purposes of computing the livestock production credit for the operation. In addition, lambs sold in the tax year from the operation may be counted for the production credit refund at 4.1 corn equivalents or $.41 for each lamb sold to the extent the lambs were in the operation for a minimum of three months prior to the date of sale.

n. For purposes of this rule, "sheep feedlot operations" are sheep production operations where lambs born and raised in the operation are sold after the lambs have been in the operation for a minimum of three months prior to the date of sale. The livestock production credit refunds are computed by multiplying the number of lambs sold in the tax year times the corn equivalent factor of 4.1 or $.41.

o. For the purposes of this rule and for tax years beginning on or after January 1, 1998, "cow-calf operations" means those livestock cattle production operations that include bred cows, bred heifers, and breeding bulls. The livestock production credit refunds for cow-calf operations are determined only on the number of bred cows, bred heifers, and breeding bulls in inventory of the operations on December 31 of the tax year times the corn equivalent factor of 111.5 or $11.15. However, only those bred cows, bred heifers, and breeding bulls in inventory on December 31 which were also in inventory on July 1 of the same calendar year may be counted for purposes of computing the livestock production refunds.

43.8(3) *Filing claims for the livestock production credit refunds.* Taxpayers who are eligible for the livestock production credit refunds must file refund requests on claim forms provided by the department that must be attached to their income tax returns for the tax year in which the livestock production

occurred. The claim forms must be filed with the income tax returns within ten months after the end of the tax year of the return in order for the refund claims to be timely. Thus, in the case of a taxpayer filing a livestock production refund claim form with the 1996 Iowa income tax return for calendar year 1996, the claim forms must be filed by October 31, 1997, in order for the claims to be timely. Taxpayers may not request extensions for filing claims for the livestock production refunds.

The department will determine by February 28 of the year after the year in which the livestock production credit refund claims are to be filed if the total amount requested on the refund claims exceeds the amount appropriated for the refunds for that tax year. If a taxpayer's refund claim is not payable on February 28 because the taxpayer is a fiscal year filer, that taxpayer's claim will be considered to be a claim for the following tax year. However, in order for this claim to be considered to be a valid refund claim for the following tax year, the refund claim must have been filed within ten months after the end of the fiscal year of the taxpayer. However, in the case of livestock production credit refund claims for fiscal year periods beginning in 1996 which are not received soon enough to be considered for the refunds to be issued in February 1998, only claims for cow-calf livestock production operations will be considered with the livestock production refund claims for the 1997 tax year.

If a taxpayer files a fraudulent claim for a livestock production credit refund for a tax year, the taxpayer will be considered to have forfeited any right or interest to a livestock production refund for any subsequent tax year after the year of the fraudulent claim.

43.8(4) *Records needed to establish livestock production credit refunds.* The burden is on the taxpayer to maintain those records and documents which support the livestock production credit refund that was claimed by the taxpayer. Necessary records and documents must include, but are not limited to, the ones mentioned in this subrule. Some of the necessary records are inventory schedules showing the number of livestock or poultry in the livestock operation on certain dates in the tax year. Sales of livestock or poultry in the tax year must be supported by scale tickets, packing house invoices, sales receipts, sales barn invoices, and similar documents. Dairy herd improvement association records and similar inventory forms can be used to establish the number of animals or the number of birds on hand in the operation on a certain day in the tax year. These documents are not to be submitted with the taxpayer's income tax return with the livestock production credit refund claim form. Instead, the documents are to be retained with other tax records for at least three years in case of possible audit by the department of revenue.

This rule is intended to implement Iowa Code sections 422.120, 422.121, and 422.122.

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◊ Two or more ARCs