

CHAPTER 50
APPORTIONMENT OF INCOME FOR RESIDENT
SHAREHOLDERS OF S CORPORATIONS

701—50.1(422) Apportionment of income for resident shareholders of S corporations. For tax years beginning on or after January 1, 1996, and before January 1, 1998, resident shareholders of S corporations which are value-added corporations and which carry on business within and without Iowa may, at their election, determine the S corporation income allocable to sources within Iowa by allocation and apportionment of the S corporation income. For tax years beginning on or after January 1, 1998, resident shareholders of all S corporations which carry on business within and without Iowa may, at their election, determine the S corporation income allocable to sources within Iowa by allocation and apportionment of the S corporation income. For tax years beginning on or after January 1, 1996, and before January 1, 1997, in order to take advantage of this provision, the taxpayers must first file their return reporting all income to Iowa and then file a refund claim based on allocation and apportionment. Estates and trusts which are shareholders in S corporations cannot take advantage of these apportionment provisions.

For tax years beginning on or after January 1, 1997, a shareholder in an S corporation which carries on business within and without Iowa which has elected to apportion income and then elects not to apportion income shall not reelect to apportion income for three tax years immediately following the first tax year in which the shareholder elected not to apportion income, unless the director of revenue consents to the election.

This rule is intended to implement Iowa Code section 422.5, subsection 1, paragraph “j.”

701—50.2(422) Definitions. For purposes of this chapter the following definitions apply:

“*Carrying on business within and without the state.*” See subrule 54.1(4) for a definition of this term.

“*Value-added corporation*” means a corporation that purchases, receives, or holds personal property of any description, and which adds to its value by a process of manufacturing, construction, processing, or combining of different materials, and shall specifically include the economic activity identified in the major groups of standard industrial classifications below, with a view to selling the finished product for gain or profit.

DIVISION C—CONSTRUCTION

Major Group 15—Building construction—General contractors and operative builders.

Major Group 16—Heavy construction other than building construction—Contractors.

Major Group 17—Construction special trade contractors.

DIVISION D—MANUFACTURING

Major Group 20—Food and kindred products.

Major Group 21—Tobacco products.

Major Group 22—Textile.

Major Group 23—Apparel and other finished products made from fabrics and similar materials.

Major Group 24—Lumber and wood products except furniture.

Major Group 25—Furniture and fixtures.

Major Group 26—Paper and allied products.

Major Group 27—Printing, publishing, and allied industries.

Major Group 28—Chemicals and allied products.

Major Group 29—Petroleum refining and related industries.

Major Group 30—Rubber and miscellaneous plastics products.

Major Group 31—Leather and leather products.

Major Group 32—Stone, clay, glass, and concrete products.

Major Group 33—Primary metal industries.

Major Group 34—Fabricated metal products, except machinery and transportation equipment.

Major Group 35—Industrial and commercial machinery and computer equipment.

Major Group 36—Electronic and other electrical equipment and components, except computer equipment.

Major Group 37—Transportation equipment.

Major Group 38—Measuring, analyzing, and controlling instruments: photographic, medical, optical goods, watches and clocks.

Major Group 39—Miscellaneous manufacturing industries.

A corporation engaged in more than one business activity is a value-added corporation if more than 50 percent of its gross receipts, figured on a three-year average, or such shorter period as the corporation shall have been in existence, are from manufacturing, construction, processing, or combining of different materials and include the processes identified above.

This rule is intended to implement Iowa Code section 422.4.

701—50.3(422) Distributions. Distributions from income not previously taxed by Iowa include the amount of all cash distributions and the fair market value of all property distributions made during the year, except as follows:

1. Distributions from income not subject to Iowa tax due to exclusion under Iowa Code section 422.7 (i.e., interest from federal securities or certain securities issued by Iowa). For purposes hereof, all distributions for a year shall be deemed to be made proportionally from income subject to Iowa tax and from income not subject to Iowa tax. Distributions from income apportioned outside of Iowa shall not be deemed to be made from income not subject to Iowa tax.

2. Distributions from income previously taxed by Iowa for a year in which the S corporation was a C corporation and which is taxed as a dividend or capital gain for federal income tax purposes.

3. Distributions from income previously taxed by Iowa for a year prior to the first tax year the resident shareholder elected to apportion income within and without Iowa.

4. Distributions treated as a return of capital for federal income tax purposes for tax years beginning prior to January 1, 2004.

5. For tax years beginning on or after January 1, 2004, any distributions paid from income for which the taxpayer can prove that Iowa tax has been previously paid. Any distributions paid from income apportioned outside of Iowa for tax years in which the resident shareholder elected to apportion income within and without Iowa will be considered distributions for which Iowa tax has not been previously paid, and cannot be excluded for purposes of this rule.

For purposes of this rule, a distribution is taken into account on the date the corporation makes the distribution, regardless of when the distribution is treated as received by the shareholder. Distributions shall first be deemed made from current year income of the S corporation to the extent thereof. If distributions during a year exceed the current income of the S corporation, any excess distributions shall be considered made first from the immediately preceding year income of the S corporation, and then to each preceding year income of the S corporation in reverse chronological order, and then in accordance with the ordering rules set forth in Section 1368 of the Internal Revenue Code and the regulations thereunder.

EXAMPLE: An S corporation earned income of \$20,000 in 2002, income of \$30,000 in 2003 and income of \$40,000 in 2004. The S corporation made no distributions during 2002 and 2003 and made distributions of \$75,000 during 2004. The distributions will come first from the \$40,000 income earned in 2004. The excess distributions of \$35,000 will come first from the \$30,000 income earned during 2003, and the remaining \$5,000 will come from the income earned during 2002.

This rule is intended to implement Iowa Code section 422.8, subsection 2.

701—50.4(422) Computation of net S corporation income. After making the adjustments in Iowa Code section 422.35, net S corporation income is computed by adding to or subtracting from the S corporation's ordinary income (loss) from a trade or business those items of income, losses, and expenses that flow directly to the shareholder whose separate treatment could affect the tax liability of the shareholder. In computing the amounts of income, losses, and expenses that flow directly to the shareholder, these items of income, losses, and expenses, except for interest exempt from federal

income tax and itemized deductions for high-income individuals, must be reduced proportionately to the amount that the sum of all like amounts of income, losses, and expenses are reduced for federal income tax computations.

This rule is intended to implement Iowa Code section 422.8, subsection 2, as amended by 1996 Iowa Acts, chapter 1197.

701—50.5(422) Computation of federal tax on S corporation income. The amount of federal income tax related to the items of income, losses, and expenses from an S corporation is to be computed by dividing the sum of the items of income, losses, and expenses by federal adjusted gross income, and the result multiplied by the sum of the federal income tax and the federal alternative minimum tax. This resulting tax figure is to be reduced by the nonrefundable federal tax credits relating to the S corporation income which are a reduction in tax rather than a payment of tax. Credits that are deemed to be a payment of tax include, but are not limited to, backup withholding on interest, dividends and other types of income, and credit for motor vehicle fuel taxes.

For tax periods beginning prior to January 1, 2002, the distribution received from the S corporation is reduced by 50 percent of the federal tax paid by the shareholder on the S corporation income. For tax periods beginning on or after January 1, 2002, the distribution received from the S corporation is reduced by 100 percent of the federal tax paid by the shareholder on the S corporation income.

This rule is intended to implement Iowa Code section 422.8, subsection 2, as amended by 2002 Iowa Acts, House File 2078.

701—50.6(422) Income allocable to Iowa. In order to determine the amount of income allocable to Iowa from an electing S corporation, apply the allocation and apportionment rules in 701—Chapter 54.

This rule is intended to implement Iowa Code section 422.8, subsection 2, as amended by 1996 Iowa Acts, chapter 1197.

701—50.7(422) Credit for taxes paid to another state. If a taxpayer elects to take advantage of the apportionment provisions for a resident shareholder of an S corporation, then the taxpayer may not take a credit against Iowa income tax for income taxes or taxes measured by income paid to another state or foreign country on the S corporation income.

This rule is intended to implement Iowa Code section 422.8.

701—50.8(422) Refunds. For tax years beginning on or after January 1, 1997, and before January 1, 1998, in order to elect to take advantage of the apportionment provisions for resident shareholders in an S corporation, the shareholder must file an individual income tax return reporting income and pay the tax including the alternative minimum tax as though the apportionment provision is not available and then file a claim for refund on Form 41-134, "IA 134 S Corporation Apportionment Refund." The claim for refund must be attached to the resident shareholder's individual income tax return and must be filed within ten months after the end of the resident shareholder's tax year. If the refund claim is not filed with the department within ten months of the end of the resident shareholder's tax year, no refund will be made.

Total refunds for a tax year may not exceed \$5 million.

In the case the refund claims are not paid in full, the amount of the refund to which the taxpayer is entitled is the pro-rata amount. The taxpayer is not entitled to a refund of the unpaid portion and the unpaid amount may not be carried forward or backward to another tax year.

The taxpayer may not use the refund as estimated tax payments for the succeeding tax year.

This rule is intended to implement Iowa Code section 422.5, subsection 1, paragraph "j," as amended by 1997 Iowa Acts, House File 306.

701—50.9(422) Examples for tax periods beginning prior to January 1, 2002.

EXAMPLE 1. The following example is based on the following facts. The taxpayers are a husband and wife who have two dependent children. Their income consists of husband's wages of \$50,000; rental loss (\$5,000); wife's S corporation income of \$500,000; joint interest income of \$35,000. They

have Iowa itemized deductions of \$20,000, and an out-of-state tax credit of \$1,150 on the S corporation income. The actual cash distribution from the S corporation was \$289,840, none of which has been previously taxed by Iowa. Federal income tax paid during the year totals \$191,214. The S corporation is a value-added corporation which carries on business within and without Iowa with 10 percent of its sales in Iowa.

a. Computation of tax on a joint return basis.

| | |
|--|------------------|
| Wages | \$50,000 |
| S corporation income | 500,000 |
| Interest | 35,000 |
| Rent | <u>(5,000)</u> |
| Total income | \$580,000 |
| Less federal tax deduction | <u>(191,214)</u> |
| Subtotal | \$388,786 |
| Less itemized deductions | <u>(20,000)</u> |
| Taxable income | \$368,786 |
| Tax | \$35,378 |
| Less personal credits husband & wife & two dependents | <u>(120)</u> |
| Subtotal | \$35,258 |
| Less out-of-state tax credit | <u>(1,150)</u> |
| Iowa individual tax | <u>\$34,108</u> |

| | |
|--|------------------|
| Computation of refund | |
| Total income | \$580,000 |
| Less S corporation income | <u>(500,000)</u> |
| Subtotal | \$80,000 |
| Add the greater of cash distributions not previously taxed, \$289,840 less 50% federal taxes on S corporation income of \$82,420 = \$207,420, or income attributable to Iowa sources \$50,000 | <u>207,420</u> |
| Income attributable to Iowa sources | \$287,420 |
| Total income | \$580,000 |
| Taxable percentage | 49.5552% |
| Iowa individual tax before credit | \$35,258 |
| Credit percentage | 50.4448% |
| Subtotal | \$17,786 |
| Less out-of-state tax credit | <u>(1,150)</u> |
| S corporation tax credit | \$16,636 |
| Amount of refund | <u>\$16,636</u> |

Computation of 50 percent of federal income tax attributable to S corporation income: $50\% \times \$191,214 \times \$500,000 / \$580,000 = 50\% \times \$164,840 = \$82,420$.

Computation of percent of income attributable to Iowa sources: $100 \times \$287,420 / \$580,000 = 49.5552\%$.

Computation of percent income attributable to non-Iowa sources: $100 - 49.5552\% = 50.4448\%$.

b. Computation on a separate filing on a combined return basis.

| | Spouse | Taxpayer |
|---|-----------------|------------------|
| Wages | \$50,000 | -0- |
| S corporation income | -0- | \$500,000 |
| Interest | 17,500 | 17,500 |
| Rent | <u>(5,000)</u> | <u>-0-</u> |
| Total income | \$62,500 | \$517,500 |
| Less federal tax deduction | <u>(20,613)</u> | <u>(170,601)</u> |
| Subtotal | \$41,887 | \$346,899 |
| Less itemized deductions | <u>(2,156)</u> | <u>(17,844)</u> |
| Taxable income | \$39,731 | \$329,055 |
| Tax | \$2,638 | \$31,410 |
| Less personal credits taxpayer & spouse & two dependents | <u>(100)</u> | <u>(20)</u> |
| Subtotal | \$2,538 | \$31,390 |
| Less out-of-state tax credit | <u>(-0-)</u> | <u>(1,150)</u> |
| Iowa individual tax | <u>\$2,538</u> | <u>\$30,240</u> |
| Computation of refund | | |
| Total income | | \$517,500 |
| Less S corporation income | | <u>(500,000)</u> |
| Subtotal | | \$17,500 |
| Add the greater of cash distributions not previously taxed \$289,840 less 50% of federal taxes on S corporation income of \$82,420 = \$207,420, or income attributable to Iowa sources \$50,000 | | <u>207,420</u> |
| Income attributable to Iowa sources | | \$224,920 |
| Total income | | \$517,500 |
| Taxable percentage | | 43.4628% |
| Iowa individual tax before credit | | \$31,390 |
| Credit percentage | | <u>56.5372%</u> |
| Subtotal | | \$17,747 |
| Less out-of-state tax credit | | <u>(1,150)</u> |
| S corporation tax credit | | \$16,597 |
| Amount of refund | | <u>\$16,597</u> |

Taxpayer's computation of 50 percent of federal income tax attributable to S corporation income: $50\% \times \$170,601 \times \$500,000 / \$517,500 = 50\% \times \$164,832 = \$82,416$.

Taxpayer's computation of percent of income attributable to Iowa sources: $100 \times \$224,920 / \$517,500 = 43.4628\%$.

Taxpayer's computation of percent income attributable to non-Iowa sources: $100 - 43.4628\% = 56.5372\%$.

EXAMPLE 2. The following example is based on the following facts. The taxpayers are a husband and wife who have three dependent children. Their income consists of husband's wages of \$100,000; wife's wages of \$30,000; husband's S corporation income of \$400,000; wife's S corporation income of \$200,000; joint interest income of \$82,000; joint dividends of \$5,000. They have Iowa itemized deductions of \$40,000 and an out-of-state tax credit of \$1,700 on the S corporation income. The actual cash distribution from the S corporation was \$210,000, none of which has been previously taxed by Iowa. Federal income tax paid during the year totals \$263,722. The S corporation is a value-added corporation which carries on business within and without Iowa with 60 percent of its sales in Iowa.

a. Computation of tax on a joint return basis.

| | |
|---|------------------|
| Wages | \$130,000 |
| S corporation income | 600,000 |
| Interest | 82,000 |
| Dividends | <u>5,000</u> |
| Total income | \$817,000 |
| Less federal tax deduction | <u>(263,722)</u> |
| Subtotal | \$553,278 |
| Less itemized deductions | <u>(40,000)</u> |
| Taxable income | \$513,278 |
| Tax | \$49,796 |
| Less personal credits husband & wife & three dependents | <u>(160)</u> |
| Subtotal | \$49,636 |
| Less out-of-state tax credit | <u>(1,700)</u> |
| Iowa individual tax | <u>\$47,936</u> |
| Computation of refund | |
| Total income | \$817,000 |
| Less S corporation income | <u>(600,000)</u> |
| Subtotal | \$217,000 |
| Add the greater of cash distributions not previously taxed \$210,000 less 50% federal taxes on S corporation income of \$96,838 = \$126,043, or income attributable to Iowa sources \$360,000 | <u>360,000</u> |
| Income attributable to Iowa sources | \$577,000 |
| Total income | \$817,000 |
| Taxable percentage | 70.6243% |
| Iowa individual tax before credit | \$49,636 |
| Credit percentage | 29.3757% |
| Subtotal | \$14,581 |
| Less out-of-state tax credit | <u>(1,700)</u> |
| S corporation tax credit | \$12,881 |
| Amount of refund | <u>\$12,881</u> |

Computation of 50 percent of federal income tax attributable to S corporation income not to exceed cash distribution not previously taxed: $50\% \times \$263,722 \times \$600,000 / \$817,000 = 50\% \times \$193,676 = \$96,838$.

Computation of percent of income attributable to Iowa sources: $100 \times \$577,000 / \$817,000 = 70.6243\%$.

Computation of percent income attributable to non-Iowa sources: $100 - 70.6243\% = 29.3757\%$.

b. Computation on a separate filing on a combined return basis.

| | Spouse | Taxpayer |
|----------------------|--------------|--------------|
| Wages | \$30,000 | \$100,000 |
| S corporation income | 200,000 | 400,000 |
| Interest | 41,000 | 41,000 |
| Dividends | <u>2,500</u> | <u>2,500</u> |

| | | |
|--|------------------|------------------|
| Total income | \$273,500 | \$543,500 |
| Less federal tax deduction | <u>(88,294)</u> | <u>(175,428)</u> |
| Subtotal | \$185,206 | \$368,072 |
| Less itemized deductions | <u>(13,392)</u> | <u>(26,608)</u> |
| Taxable income | \$171,814 | \$341,464 |
| Tax | \$15,718 | \$32,649 |
| Less personal credits taxpayer & spouse & three dependents | <u>(60)</u> | <u>(100)</u> |
| Subtotal | \$15,658 | \$32,549 |
| Less out-of-state tax credit | <u>(567)</u> | <u>(1,133)</u> |
| Iowa individual tax | <u>\$15,091</u> | <u>\$31,416</u> |
| Computation of refund | | |
| Total income | \$273,500 | \$543,500 |
| Less S corporation income | <u>(200,000)</u> | <u>(400,000)</u> |
| Subtotal | \$73,500 | \$143,500 |
| Add the greater of cash distributions not previously taxed, \$210,000 less 50% of federal taxes on S corporation income of \$96,838 = \$126,043, or income attributable to Iowa sources, \$360,000. Attributable 66.6667% to husband and 33.3333% to wife | <u>120,000</u> | <u>240,000</u> |
| Income attributable to Iowa sources | \$193,500 | \$383,500 |
| Total income | \$273,500 | \$543,500 |
| Taxable percentage | 70.7495% | 70.5612% |
| Iowa individual tax before out-of-state tax credit | \$15,658 | \$32,549 |
| Credit percentage | <u>29.2505%</u> | <u>29.4388%</u> |
| Subtotal | \$4,580 | \$9,582 |
| Less out-of-state tax credit | <u>(567)</u> | <u>(1,133)</u> |
| S corporation tax credit | \$4,013 | \$8,449 |
| Amount of refund | <u>\$4,013</u> | <u>\$8,449</u> |

Computation of 50 percent of federal income tax attributable to S corporation income not to exceed cash distribution not previously taxed:

Husband: $50\% \times \$175,428 \times \$400,000 / \$543,500 = 50\% \times \$129,109 = \$64,555$.

Wife: $50\% \times \$88,294 \times \$200,000 / \$273,500 = 50\% \times \$64,566 = \$32,283$.

Husband's computation of percent of income attributable to Iowa sources: $100 \times \$383,500 / \$543,500 = 70.5612\%$.

Husband's computation of percent income attributable to non-Iowa sources: $100 - 70.5612\% = 29.4388\%$.

Wife's computation of percent of income attributable to Iowa sources: $100 \times \$193,500 / \$273,500 = 70.7495\%$.

Wife's computation of percent of income attributable to non-Iowa sources: $100 - 70.7495\% = 29.2505\%$.

This rule is intended to implement Iowa Code section 422.5, subsection 1, paragraph "j."

701—50.10(422) Example for tax periods beginning on or after January 1, 2002.

EXAMPLE. The following example is based on the following facts. The taxpayers are a husband and wife who have two dependent children. Their income consists of husband's wages of \$50,000; rental loss (\$5,000); wife's S corporation income of \$500,000; joint interest income of \$35,000. They have Iowa

itemized deductions of \$20,000, and an out-of-state tax credit of \$1,150 on the S corporation income. The actual cash distribution from the S corporation was \$289,840, none of which has been previously taxed by Iowa. Federal income tax paid during the year totals \$191,214. The S corporation is a value-added corporation which carries on business within and without Iowa with 10 percent of its sales in Iowa.

a. Computation of tax on a joint return basis.

| | |
|--|------------------|
| Wages | \$50,000 |
| S corporation income | 500,000 |
| Interest | 35,000 |
| Rent | <u>(5,000)</u> |
| Total income | \$580,000 |
| Less federal tax deduction | <u>(191,214)</u> |
| Subtotal | \$388,786 |
| Less itemized deductions | <u>(20,000)</u> |
| Taxable income | \$368,786 |
| Tax | \$31,696 |
| Less personal credits husband & wife & two dependents | <u>(160)</u> |
| Subtotal | \$31,536 |
| Less out-of-state tax credit | <u>(1,150)</u> |
| Iowa individual tax | \$30,386 |
| <u>Computation of refund</u> | |
| Total income | \$580,000 |
| Less S corporation income | <u>(500,000)</u> |
| Subtotal | \$80,000 |
| Add the greater of cash distributions not previously taxed, \$289,840 less 100% of federal taxes on S corporation income of \$164,840 = \$125,000, or income attributable to Iowa sources \$50,000 | <u>125,000</u> |
| Income attributable to Iowa sources | \$205,000 |
| Total income | \$580,000 |
| Taxable percentage | 35.3449% |
| Iowa individual tax before credit | \$31,696 |
| Credit percentage | <u>64.6551%</u> |
| Subtotal | \$20,493 |
| Less out-of-state tax credit | <u>(1,150)</u> |
| S corporation tax credit | \$19,343 |
| Amount of refund | <u>\$19,343</u> |

Computation of 100 percent of federal income tax attributable to S corporation income: $\$191,214 \times \$500,000 / \$580,000 = \$164,840$.

Computation of percent of income attributable to Iowa sources: $100 \times \$205,000 / \$580,000 = 35.3449\%$.

Computation of percent of income attributable to non-Iowa sources: $100 - 35.3449\% = 64.6551\%$.

b. Computation on a separate filing on a combined return basis.

| | Spouse | Taxpayer |
|---|------------------|------------------|
| Wages | \$50,000 | -0- |
| S corporation income | -0- | \$500,000 |
| Interest | 17,500 | 17,500 |
| Rent | <u>(5,000)</u> | <u>-0-</u> |
| Total income | \$62,500 | \$517,500 |
| Less federal tax deduction | <u>(20,613)</u> | <u>(170,601)</u> |
| Subtotal | \$41,887 | \$346,899 |
| Less itemized deductions | <u>(2,156)</u> | <u>(17,844)</u> |
| Taxable income | \$39,731 | \$329,055 |
| Tax | \$2,293 | \$28,128 |
| Less personal credits taxpayer & spouse & two dependents | <u>(120)</u> | <u>(40)</u> |
| Subtotal | \$2,173 | \$28,088 |
| Less out-of-state tax credit | <u>(-0-)</u> | <u>(1,150)</u> |
| Iowa individual tax | \$2,173 | \$26,938 |
| <hr/> Computation of refund <hr/> | | |
| Total income | \$517,500 | |
| Less S corporation income | <u>(500,000)</u> | |
| Subtotal | \$17,500 | |
| Add the greater of cash distributions not previously taxed \$289,840 less 100% of federal taxes on S corporation income of \$164,840 = \$125,000, or income attributable to Iowa sources \$50,000 | <u>125,000</u> | |
| Income attributable to Iowa sources | \$142,500 | |
| Total income | \$517,500 | |
| Taxable percentage | 27.5362% | |
| Iowa individual tax before credit | \$28,128 | |
| Credit percentage | <u>72.4638%</u> | |
| Subtotal | \$20,383 | |
| Less out-of-state tax credit | <u>(1,150)</u> | |
| S corporation tax credit | \$19,233 | |
| Amount of refund | <u>\$19,233</u> | |

Taxpayer's computation of 100 percent of federal income tax attributable to S corporation income:
 $\$170,601 \times \$500,000 / \$517,500 = \$164,832$.

Taxpayer's computation of percent of income attributable to Iowa sources: $100 \times \$142,500 / \$517,500 = 27.5362\%$.

Taxpayer's computation of percent of income attributable to non-Iowa sources: $100 - 27.5362\% = 72.4638\%$.

This rule is intended to implement Iowa Code section 422.8, subsection 2, paragraph "b," as amended by 2002 Iowa Acts, House File 2078.

[Filed 11/15/96, Notice 10/9/96—published 12/4/96, effective 1/8/97]
[Filed 10/17/97, Notice 9/10/97—published 11/5/97, effective 12/10/97]
[Filed 2/6/98, Notice 12/31/97—published 2/25/98, effective 4/1/98]
[Filed 8/20/98, Notice 7/15/98—published 9/9/98, effective 10/14/98]
[Filed 8/30/02, Notice 7/24/02—published 9/18/02, effective 10/23/02]
[Filed 1/30/04, Notice 12/24/03—published 2/18/04, effective 3/24/04]
[Filed 7/28/06, Notice 6/21/06—published 8/16/06, effective 9/20/06]