

701—11.2(422,423) Statute of limitations. On and after July 1, 1987, the period for the department's examination and determination of the correct amount of tax is unlimited in the following circumstances:

1. When a return has been filed, if the return was false or fraudulent and made with the intent to evade tax, or
2. If there has been a failure to file a return.

11.2(1) Varying periods of limitation. In all circumstances other than those described in the introductory paragraph of this rule, the department has the following limited amounts of time to examine a return, determine sales or use tax due, and give notice of assessment to the taxpayer:

- a. For returns filed for quarterly periods beginning before January 1, 2000, five years.
- b. For returns filed for quarterly periods beginning on or after January 1, 2000, and before January 1, 2001, four years.
- c. For returns filed for quarterly periods beginning on or after January 1, 2001, three years.

For agreements entered into on and after July 1, 1992, the applicable period of limitation can be extended by the taxpayer's signing a waiver on a form provided by the department.

11.2(2) One-year statute of limitations. Whenever books and records are examined by an employee designated by the director of the department of revenue, whether to verify a return or claim for refund or in making an audit, then an assessment must be issued within one year from the date of the completion of the examination. If not, the period for which the books and records were examined becomes closed and no assessment can be made. In no case is the one-year period of limitation an extension of or in addition to the periods of limitation described in subrule 11.2(1) above. *The Maytag Company v. Iowa State Tax Commission*, Equity No. 76-130-26112, Jasper County District Court, March 1, 1966.

EXAMPLE: An employee of the department examines the books and records of the taxpayer for the period of taxpayer's returns filed on April 30, 1973, to April 30, 1977. The examination is completed on February 3, 1978. The notice of assessment must be given on or before April 30, 1978, in order to include the earliest tax return period above. If the notice of assessment is given on February 2, 1979, it is within the one-year period, but it would not be timely for purposes of the periods April 30, 1973, to December 31, 1973, although the subsequent periods beginning January 1, 1974, to April 30, 1977, could be included.

EXAMPLE: An employee of the department examines a taxpayer's books and records located in Davenport for the returns filed on April 30, 1974, to April 30, 1977. The examination is completed on February 2, 1978. However, the taxpayer's books and records for the same period located in Des Moines have not been examined. The one-year limitation period with reference to the Davenport books and records commences on February 2, 1978. However, the one-year period concerning the Des Moines books and records has not commenced.

This rule is intended to implement Iowa Code subsections 422.54(1), 422.54(2), and 422.70(1) as amended by 1999 Iowa Acts, chapter 156.