

**701—307.5(422) Penalty and interest.**

**307.5(1) Definitions.** For the purposes of this rule, the following definitions apply:

*“Income statement”* means a statement that conforms to the requirements of Iowa Code section 422.16(7)“a.” An income statement includes, but is not limited to, Internal Revenue Service (IRS) Form W-2, IRS Form 1099, and IRS Form W-2G.

*“Payee”* means an employee or other person who had Iowa income tax withheld pursuant to Iowa Code section 422.16.

*“Payer”* means an employer or other person required to withhold and remit Iowa income tax pursuant to Iowa Code section 422.16.

**307.5(2) Penalties for willful failure to file or furnish an income statement or for willfully filing or furnishing a false or fraudulent income statement.**

a. Payers responsible for furnishing an income statement to a payee as described in paragraph 307.3(4)“d” and for filing an income statement with the department as described in paragraph 307.3(4)“e” shall be subject to a \$500 penalty for each instance of any of the following:

(1) Willful failure to furnish an income statement to a payee by January 31 of the year following the year in which income tax is withheld.

(2) Willful failure to file an income statement with the department by February 15 of the year following the year in which income tax is withheld.

(3) Willfully furnishing a false or fraudulent income statement to a payee.

(4) Willfully filing a false or fraudulent income statement with the department.

b. Penalties assessed under this subrule may not be waived.

c. Penalties assessed under this subrule are in addition to any other penalty allowed under law.

**307.5(3) Penalties for failure to file a return or failure to pay.**

a. Payers are subject to the penalties provided in Iowa Code section 421.27 for failure to file a quarterly return and failure to remit any withholding due. A penalty assessed under Iowa Code section 421.27 is in addition to any penalty assessed under law. Rule 701—10.6(421) contains a further explanation and examples applying the penalties under Iowa Code section 421.27. The penalties imposed under Iowa Code sections 421.27(1), 421.27(2), and 421.27(3) may be subject to waiver. Rule 701—10.7(421) contains details on penalty waivers.

b. Pursuant to Iowa Code section 421.27(4), if the department determines that the payer willfully failed to file or pay with the intent to evade tax or a filing requirement, the penalty shall be 75 percent of the unpaid tax. In this case, the penalty is not subject to waiver.

**307.5(4) Computation of interest on unpaid tax.** Interest shall accrue on tax due from the original due date of the return. Interest on refunds of any portion of the tax imposed by statute which has been erroneously refunded and which is recoverable by the department shall bear interest as provided by law from the date of payment of the refund, with each fraction of a month considered to be an entire month. Rule 701—10.2(421) contains more information about the statutory interest rate.

All payments shall be first applied to the penalty and then to the interest, and the balance, if any, to the amount of tax due.

**307.5(5) Computation of interest on overpayments.** If the amount of tax determined to be due by the department is less than the amount paid, the excess to be refunded will accrue interest from the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is later.

**307.5(6) Examples.**

EXAMPLE 1: Employer has ten employees, all residing in Iowa. After the close of the tax year, Employer fails to furnish two of its employees with W-2s by January 31 of the following year. Additionally, Employer fails to file any W-2s with the department by February 15 of the following year and does not request an extension. If the department determines that Employer’s failures to furnish two W-2s to its employees and file ten W-2s with the department were willful, the department shall assess a penalty in the amount of \$6,000 (12 instances x \$500).

EXAMPLE 2: The same facts as Example 1, but the department determines Employer underpaid its withholding obligations by \$2,000 for the tax year. Employer timely filed its required quarterly

returns. In addition to the penalties assessed in Example 1, Employer shall be assessed a penalty of \$100 (5% x \$2,000) for failure to pay, plus interest calculated pursuant to subrule 307.5(5). If the department determines Employer willfully underpaid and filed a false return in order to avoid paying Iowa withholding, the department shall assess a penalty of \$1,500 (75% x \$2,000).

This rule is intended to implement Iowa Code sections 421.27, 422.16, and 422.25.  
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