

701—2507.14(17A) Answer. If the parties are unable to resolve the appeal informally, or if the parties waive informal proceedings as described in rule 701—2507.13(17A,421), the department shall file an answer to the appeal with the clerk. Subject to the limitations in rule 701—2507.13(17A,421), the department will file an answer within 30 days of receipt of written demand for a contested case hearing from the taxpayer. In the case of an appeal of an assessment, failure to answer within the 30-day time period and after a demand for hearing has been made shall result in the suspension of interest from the time that the department was required to answer until the date that the department files its answer. In the case of an appeal of a refund denial, failure to answer within the 30-day time period after a demand for hearing has been made shall result in the accrual of interest payable to the taxpayer at double the rate in effect under Iowa Code section 421.7 from the time the department was required to answer until the date that the department files its answer. Failure to file an answer within 30 days after the demand for a contested case will not result in a default judgment for the taxpayer.

2507.14(1) The answer of the department shall be drawn in a manner as provided by the Iowa Rules of Civil Procedure for answers filed in Iowa district courts.

2507.14(2) Each paragraph contained in the answer shall be numbered or lettered to correspond, where possible, with the paragraphs of the appeal. The answer shall be signed by the department's counsel or representative.

2507.14(3) The department shall promptly serve a copy of the answer upon the representative of record or, if there is no representative of record, upon the taxpayer. The department may amend its answer at any time prior to the commencement of the evidentiary hearing in response to the filing of an amended appeal or to assert a new matter or an affirmative defense. The presiding officer has discretion to grant a continuance to avoid prejudice to the taxpayer or the department.

2507.14(4) The provisions of this rule shall be considered as a part of the informal procedures since a contested case proceeding, at the time of the filing of the answer, has not yet commenced. However, an answer shall be filed pursuant to this rule whether or not informal procedures have been waived by the taxpayer or the department.

2507.14(5) The department's answer may contain a statement setting forth whether the case should be transferred to the division of administrative hearings or the director should retain the case for hearing.

2507.14(6) The department's answer should set forth the basis for retention of the case by the director. If the answer fails to allege that the case should be retained by the director, the case should be transferred to the division of administrative hearings for contested case proceedings unless the director determines on the director's own motion that the case should be retained by the director.

2507.14(7) Upon the filing of an answer, the clerk will transfer the appeal file to the division of administrative hearings within 30 days of the date of the filing of the answer unless the director determines not to transfer the case. If a party objects to a determination, the transfer, if any, would be made after the director makes a ruling on the objection.

This rule is intended to implement Iowa Code chapter 17A and section 421.60.

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