

701—7.2 (421,17A) Definitions. These definitions apply to this chapter, unless the text otherwise states to the contrary:

“*Act*” means the Iowa administrative procedure Act.

“*Affiliate or subsidiary of an entity dominant in its field of operation*” means an entity which is at least 20 percent owned by an entity that is dominant in its field of operation, or by a partner, officer, director, majority stockholder or the equivalent, of an entity dominant in that field of operation.

“*Agency*” means each board, commission, department, officer, or other administrative office or unit of the state.

“*Clerk of the hearings section*” means the clerk of the hearings section of the department.

“*Contested case*” means a proceeding, including licensing, in which the legal rights, duties or privileges of a party are required by constitution or statute to be determined by an agency after an opportunity for an evidentiary hearing. This term also includes any matter defined as a no factual dispute contested case as provided in Iowa Code section 17A.10A.

“*Declaratory order*” means an order issued pursuant to Iowa Code section 17A.9.

“*Department*” means the Iowa department of revenue.

“*Department of inspections and appeals*” means the state department created by Iowa Code chapter 10A.

“*Director*” means the director of the department or the director’s authorized representative.

“*Division of administrative hearings*” means the division of the department of inspections and appeals responsible for holding contested case proceedings pursuant to Iowa Code chapter 10A.

“*Dominant in its field of operation*” means having more than 20 full-time equivalent positions and more than \$1 million in annual gross revenues.

“*Entity*” means any taxpayer other than an individual or sole proprietorship.

“*Intervene*” means to file with the department a petition requesting that the petitioner be allowed to intervene in the proceedings for a declaratory order currently under the department’s consideration.

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“*Last-known address*” does not necessarily mean the taxpayer’s actual address but instead means the last address that the taxpayer makes known to the department by tax type. Thus, for instance, receipt by the department of a taxpayer’s change of address from a third person not authorized to act on behalf of the taxpayer (e.g., an employer who had filed a Form W-2 showing a new taxpayer address) is not notice to the department of a change of address of the taxpayer. However, the filing by the taxpayer of a tax return for a year subsequent to the year for which a notice is required would be notification to the department of a change of address, provided a reasonable amount of time is allowed to process such information and transfer it to the department’s central computer system. Taxpayers should be aware of their need to update their address with the department in order to receive refunds of tax and notices of

assessments and denial of a claim for refund. When such a notice is sent to a “taxpayer’s last-known address,” the notice is legally effective even if the taxpayer never receives it.

“*License*” means the whole or a part of any permit, certificate, approval, registration, charter, or similar form of permission required by statute.

“*Licensing*” means the department process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

“*Motion*” has the same meaning as the term is defined in Iowa R. Civ. P. 1.431.

“*Party*” means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, including intervenors.

“*Person*” means any individual; estate; trust; fiduciary; partnership, including limited liability partnership; corporation, including limited liability corporation; association; governmental subdivision; or public or private organization of any character or any other person covered by the Act other than an agency.

“*Petition*” means application for declaratory order, request to intervene in a declaratory order under consideration, application for initiation of proceedings to adopt, amend or repeal a rule or document filed in licensing.

“*Pleadings*” means protest, answer, reply or other similar document filed in a contested case proceeding, including contested cases involving no factual dispute.

“*Presiding officer*” means the person designated to preside over a proceeding involving the department. A presiding officer of a contested case involving the department will be either the director or a qualified administrative law judge appointed, pursuant to Iowa Code chapter 17A, by the division of administrative hearings established pursuant to Iowa Code section 10A.801. In cases in which the department is not a party, at the director’s discretion, the presiding officer may be the director or the director’s designee. The presiding officer of an administrative appeal is the director of the department.

“*Proceeding*” means informal, formal and contested case proceedings.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the director did not preside.

“*Protester*” means any person entitled to file a protest which may culminate in a contested case proceeding.

“*Provision of law*” means the whole or part of the Constitution of the United States of America or the Constitution of the State of Iowa, or of any federal or state statute, court rule, executive order of the governor, or rule of the department.

“*Review unit*” means the unit composed of department employees designated by the director and of the attorney general’s staff who have been assigned to review protests filed by taxpayers.

“*Rule*” means a department statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of the department. Notwithstanding any other statute, the term includes an executive order or directive of the governor which creates an agency or establishes a program or which transfers a program between

agencies established by statute or rule. The term includes the amendment or repeal of an existing rule, but does not include the excluded items set forth in Iowa Code section 17A.2(11).

“Small business” means any entity including, but not limited to, an individual, partnership, corporation, joint venture, association, or cooperative. A small business is not an affiliate of an entity dominant in its field of operation. A small business has either 20 or fewer full-time equivalent positions or less than \$1 million in annual gross revenues in the preceding fiscal year.

“Taxpayer interview” means any in-person contact between an employee of the department and a taxpayer or a taxpayer’s representative which has been initiated by a department employee.

“Taxpayer’s representative” or *“authorized taxpayer’s representative”* means an individual authorized to practice before the department under rule 701—7.6(17A); an individual who has been named as an authorized representative on a fiduciary return of income form filed under Iowa Code section 422.14, or a tax return filed under Iowa Code chapter 450, “Inheritance Tax,” or chapter 450B, “Qualified Inheritance Tax”; or for proceedings before the department, any other individual the taxpayer designates who is named on a valid power of attorney if appearing on behalf of another.

Unless otherwise specifically stated, the terms used in these rules promulgated by the department shall have the meanings defined by the Act.

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

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