

**701—38.13 (422) Reciprocal tax agreements.** Effective for tax years beginning on or after January 1, 2002, the department of revenue may, when the action has been approved by the general assembly and the governor, and when it is cost-efficient, administratively feasible, and of mutual benefit to Iowa and another state, enter into a reciprocal tax agreement with a tax administration agency of the other state. Under this agreement, income earned from personal services in Iowa by residents of the other state will be exempt from Iowa income tax if the other state provides an identical exemption from its state income tax for income earned in the other state from personal services by Iowa residents. For purposes of this rule, “income earned from personal services” includes wages, salaries, commissions, tips, deferred compensation, pensions, and annuities which were earned from personal services in Iowa by a resident of another state that had a reciprocal tax agreement with Iowa at the time the wages, salaries, commissions, tips, deferred compensation, pensions, or annuities were earned. See rule 701—40.45(422) for the treatment of deferred compensation, pensions, or annuities received by a nonresident of Iowa related to the documented retirement of a participant in a deferred compensation plan, a pensioner or an annuitant. The provisions of rule 701—40.45(422) supersede the definition of “income earned from personal services” under any reciprocal agreement as it relates to deferred compensation, pensions, or annuities.

**38.13(1) Reciprocal tax agreement with Illinois.** Pursuant to the authority of Iowa Code subsection 422.8(5), the department of revenue entered into a reciprocal tax agreement with tax administration officials of Illinois in November 1972 which went into effect for taxable years which began after December 31, 1972. The Iowa-Illinois reciprocal tax agreement cannot be terminated by the Iowa department of revenue unless the termination is authorized by a constitutional majority of each house of the general assembly and is approved by the governor. The Iowa-Illinois reciprocal tax agreement includes the following terms:

- a.* No Illinois or Iowa employer is required to withhold Illinois income tax from compensation paid to an Iowa resident for personal services in Illinois.
- b.* No Illinois or Iowa employer is required to withhold Iowa income tax from compensation paid to an Illinois resident for personal services in Iowa.
- c.* Every Iowa employer who is subject to the jurisdiction of Illinois is liable to the state of Illinois for withholding of Illinois income tax from compensation paid to Illinois residents.
- d.* Every Illinois employer who is subject to the jurisdiction of Iowa is liable to the state of Iowa for the withholding of Iowa income tax from compensation paid to Iowa residents.
- e.* The Illinois department of revenue will encourage Illinois employers who are not subject to the jurisdiction of Iowa to withhold and remit Iowa income tax from wages paid to Iowa residents employed in Illinois.
- f.* The Iowa department of revenue will encourage Iowa employers who are not subject to the jurisdiction of Illinois to withhold and remit Illinois income tax from compensation paid to Illinois residents from employment in Iowa.
- g.* For purposes of the agreement, “compensation” means wages, salaries, commissions, tips, deferred compensation, pensions, and annuities and any other remuneration paid for personal services. In the case of deferred compensation, pensions, and annuities, those incomes are deemed to have been earned at the time of employment. Therefore, if an Illinois resident receives a pension or annuity from employment in Iowa at the time the reciprocal agreement was in effect, the pension or annuity income is not taxable to Iowa since it is “compensation” covered by the reciprocal agreement. See rule 701—40.45(422) for the treatment of deferred compensation, pensions, or annuities received by an Illinois resident related to the documented retirement of a participant in a deferred compensation plan, a pensioner or an annuitant. The provisions of rule 701—40.45(422) supersede the definition of “compensation” under the reciprocal agreement with Illinois. “Compensation” does not include unemployment compensation benefits which an Illinois resident receives due to employment in Iowa.
- h.* No Iowa resident is required to pay Illinois income tax or file an Illinois return from compensation paid from personal services in Illinois.

*i.* No Illinois resident is required to pay Iowa income tax or to file an Iowa return on compensation for personal services in Iowa.

*j.* For purposes of the agreement, the term “Iowa resident” means an individual who is a resident under the laws of the state of Iowa, and the term “Illinois resident” means an individual who is a resident as defined in the Illinois Income Tax Act.

**38.13(2)** *Reciprocal tax agreements with states other than Illinois.* The Iowa department of revenue has not entered into reciprocal tax agreements with any state except the state of Illinois. See subrule 38.13(1).

This rule is intended to implement Iowa Code section 422.8 as amended by 2002 Iowa Acts, House File 2116, and section 422.15.

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