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STATE HOUSE

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PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Chapter 17A, Code of Iowa as amended by Sixty-seventh General Assembly, H.F. 2099, section 3, and supersedes Part I of the Iowa Administrative Code Supplement.

The Bulletin contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies [continue to refer to General Information for drafting style and form], all proclamations and executive orders of the Governor which are general and permanent in nature, and other "materials deemed fitting and proper by the Administrative Rules Review Committee."

The Bulletin may also contain economic impact statements to proposed rules and filed emergency rules, objections filed by Administrative Rules Review Committee, Governor or the Attorney General, any delay by the Committee of the effective date of filed rules, and agenda for monthly committee meetings.

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

The ARC number which appears before each agency heading is assigned by the Administrative Rules Coordinator for identification purposes and should always be used when referring to this item in correspondence and other communications.

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to section 17A.6 of the Code as amended by 67GA, H.F. 2099 and S.F. 244. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the administrative rules co-ordinator and published in the Bulletin.

SUBSCRIPTION INFORMATION

Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly as follows:

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Single copies may be purchased for \$2.00 plus \$0.06 tax. Back issues may be purchased if the issues are available.

Iowa Administrative Code

The Iowa Administrative Code and Supplements are sold in complete sets and subscription basis only. All subscriptions for the Supplement (replacement pages) must be for the complete year and will expire on June 30 of each year.

Prices for the Iowa Administrative Code and its Supplement are as follows:

Iowa Administrative Code - \$305.00 plus \$9.15 tax

(Price includes Volumes I through IX, four supplement binders and a one-year subscription to the Code Supplement.)

Iowa Administrative Code Supplement (replacement pages) - \$110.00 plus \$3.30 tax

(Subscription expires June 30, 1979.)

All checks should be made payable to the Iowa State Printing Division. Send all inquiries and subscription orders to:

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Des Moines, Iowa 50319
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NOTICE

ADMINISTRATIVE RULES REVIEW COMMITTEE

On May 15, 1979, the Administrative Rules Review Committee met and recessed their meeting to be reconvened May 21, 1979, 8:00 a.m. in Senate Committee Room 24.

The agendum published in the Iowa Administrative Bulletin 5/2/79 will be reviewed at the May 21 meeting.

ARC 0253

EGG COUNCIL, IOWA[345]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in §17A.4(1)"b" of Code.

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of section 196A.12, Code 1979, the Iowa Egg Council intends to amend Iowa Administrative Code Rule 345—4.1(196A) as follows:

Interested persons may submit opinions or arguments in writing on the proposed recommendation on or before July 6, 1979, to the Iowa Egg Council, 535 East Lincoln Way, Ames, Iowa 50010. In addition, interested persons may make oral presentations at a public hearing to be held at the office of the Iowa Egg Council, 535 East Lincoln Way, Ames, Iowa 50010 on July 6, 1979, at 10:00 a.m.

345—4.1(196A) Rate of tax. The excise tax on egg sales authorized by section 196A.15 of the Code and established by referendum as specified in section 196A.4 of the Code is hereby established at the rate of ~~three~~ *five* cents for each thirty dozen eggs (one case) sold by a producer.

This rule is intended to implement section 196A.15 of the Code.

ARC 0244

HEALTH DEPARTMENT[470]

AMENDMENT TO
NOTICE OF INTENDED ACTION

Pursuant to the authority of section 135.11, subsections 1 and 15 of the Code, the State Department of Health proposes to adopt rules to establish minimum standards for the construction of nonpublic water wells and installation of pumping equipment. Notice of intended action was published in the February 21, 1979, Iowa Administrative Bulletin, pages 1002-1006, with a copy of the proposed rules [Chapter 38]. The notice is amended by adding the following provision for a hearing.

Oral presentations concerning the proposed rules may be made on June 20, 1979, at 1:00 p.m. in the Conference Room of the Iowa State Department of Health, Third Floor, Lucas State Office Building, Des Moines, Iowa. Oral presentations should be limited to fifteen minutes.

ARC 0243

REGENTS, BOARD OF[720]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in §17A.4(1)"b" of Code.

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of section 262.69 of the Code, the state board of regents proposes to amend chapter 4 of the board of regents rules appearing in the Iowa Administrative Code, relating to Iowa State University.

Members of the public who wish to express views on this proposed amendment may present them in writing to R. Wayne Richey, Executive Secretary, State Board of Regents, Grimes State Office Building, Des Moines, Iowa 50319. Written comments received on or before June 11, 1979, will receive consideration.

ITEM 1. Subrules 4.25(2), 4.25(4), and 4.25(8) are amended as follows:

4.25(2) Faculty, staff, students, and visitors are expected to know and comply with the state motor vehicle laws, the traffic ordinances of the city of Ames, and the Iowa State University traffic and parking regulations. *Vehicles in violation may be towed away.*

4.25(4) Pedestrians shall be given the right of way at all crosswalks or when in compliance with existing traffic controls. *Motor vehicles and bicycles operating on the roadway shall stop for pedestrians in crosswalks.*

4.25(8) Operators of vehicles and bicycles shall comply with all traffic signs directing the movement of vehicles in parking lots.

ITEM 2. Subrule 4.28(1) is amended as follows:

4.28(1) Certain streets or portions of streets are closed to general motor vehicle *and bicycle* travel ~~during the hours of 7 a.m. to 5:30 p.m. Mondays through Fridays.~~ *They are open at all other hours as posted.*

ITEM 3. Rule 4.29(262), subrules 4.29(1), 4.29(4), and paragraphs "a" and "c" are amended as follows:

720—4.29(262) General parking regulations. *Vehicles in violation may be towed away.*

4.29(1) Parking privileges in university parking lots, on or off campus, are available, upon application, to eligible members of the faculty, staff, student body, or visitors, subject to provisions set forth hereinafter. *Visitors are not exempt from the penalties for parking violations.*

4.29(4) **Illegal parking.** Illegal parking is defined as parking any place on campus other than those areas which have been designated for parking and identified by signs controlling their use. *Vehicles in violation may be towed away.*

a. Parking is prohibited at crosswalks, building entrances, fire hydrants, fire lanes, marked bicycle lanes, loading docks (except when loading and unloading) and other areas posted "No parking at any time" or marked by a yellow line or curb. Vehicles displaying a service vehicle parking permit may park in designated service parking areas. *Vehicles in violation may be towed away.*

c. Vehicles parked in designated parking space on a roadway where there are adjacent curbs are prohibited from parking in any manner other than with the right-hand wheels parallel to and within eighteen inches of the right-hand curb. Parking of vehicles with the left-hand

REGENTS BOARD[720] (*cont'd*)

wheels parallel to and within eighteen inches of the left-hand curb on a one-way roadway is permitted in specifically posted areas. ~~Vehicles in violation may be towed away.~~

Further amend subrule 4.29(4) by adding the following new paragraph "d":

d. *It shall be defined as illegal parking to insert anything other than legal tender or authorized meter tokens into any meter.*

Further amend rule 4.29(262) by amending subrule 4.29(5) and paragraphs "c" and "d" as follows:

4.29(5) Improper parking. Improper parking is defined as parking incorrectly in those areas which have been designated for parking and identified by signs controlling their use. *Vehicles in violation may be towed away.*

c. Use of thirty-minute loading zone areas beyond posted time limitations is subject to penalty. Multiple violation citations may be issued for consecutive time limits exceeded. ~~Vehicles in violation may be towed away.~~

d. Parking without appropriate permit in all lots when restrictions stated in subrule 4.29(2) apply is subject to penalty. ~~and/or having the vehicle towed away.~~

Further amend rule 4.29(262) by amending subrule 4.29(8) as follows:

4.29(8) Parking in the Memorial Union parking ramp and adjacent metered parking lot is subject to regulations, time, and fees established by the Memorial Union.

ITEM 4. Rule 4.37(262) and subrule 4.37(1), paragraph "a", are amended as follows:

720—4.37(262) Visitor parking. *Vehicles in violation may be towed away.*

4.37(1)

a. A limited number of meter parking permits which authorize all-day parking at any parking meter on the campus except one-half hour meters (orange banded) is available from the parking system office for a fee of ~~\$1.00~~ \$2.00 per day. Such permit is not valid in the ~~lot immediately east of the Memorial Union nor in the ramp-parking ramp.~~

ITEM 5. Subrule 4.38(4) is amended as follows:

4.38(4) A limited number of meter parking permits which authorize all-day parking at any parking meter on the campus except one-half hour meters (orange banded) is available from the parking system office for a fee of ~~\$1.00~~ \$2.00 per day. Such permit is not valid in the ~~lot immediately east of the Memorial Union nor in the ramp-parking ramp.~~

Further amend rule 4.38(262) by adding a new subrule 4.38(9) as follows:

4.38(9) *It shall be defined as illegal parking to insert anything other than legal tender or authorized meter tokens into any meter.*

ITEM 6. Subrule 4.45(1) is amended as follows:

4.45(1) It shall be the policy of Iowa state university to co-operate with the city of Ames on the identification of bicycles. The following section of the Ames municipal code is cited for your information: "Section 7-2001. License required. No person shall ride or propel a bicycle on any street, sidewalk or upon any public path set apart for the use of bicycles unless such bicycle is licensed by the city of Ames and there is affixed to said bicycle such tag, sticker, plate, or other device as may be issued by the city of Ames as evidence of such license." City of Ames licenses may be obtained at campus locations designated by the parking system office, the security and traffic control office, or at the city fire stations.

ITEM 7. Amend subrules 4.46(3) and 4.46(5) as follows:

4.46(3) Bicycle paths. ~~Whenever a path or bikeway has been provided in or adjacent to a street or roadway, bicycle riders shall use such path or bikeway and shall not use the street or roadway. Whenever a separate bicycle path intersects a roadway, persons riding bicycles upon such bicycle path shall yield the right of way to all vehicles approaching on said roadway.~~

4.46(5) Sidewalks. Bicycle riders shall not use campus sidewalks except those specifically designated as bicycle paths during the hours of 7:30 a.m. to 6:30 p.m. Mondays through Fridays when school is in session as posted. Attention is directed to the Ames municipal code, which prohibits riding on the sidewalk on the south side of Lincoln Way between Stanton Avenue and Hayward Avenue.

Further amend rule 4.46(262) by rescinding subrule 4.46(6) and reserve for future use.

ITEM 8. Rule 4.47(262) and subrule 4.47(1) are amended as follows:

720—4.47(262) Parking bicycles. *Bicycles in violation may be impounded.*

4.47(1) Parking. Bicycles shall be parked in or immediately adjacent to the bicycle racks provided. They shall not be parked on lawns, on sidewalks, or chained to trees, light poles, fences, benches, etc. Bicycles improperly parked may be impounded by cutting and removal of locking device, if necessary.

ITEM 9. Subrule 4.50(2) and paragraphs "d", "k", "l", and "p" are amended as follows:

4.50(2) Violation of any of the regulations governing the use of motor vehicles and bicycles on campus will subject the violator to a penalty according to the following schedule:

d. Driving on campus walks or lawns, and riding a bicycle on lawns or walks not designated as bicycle paths (Rule 4.25(5), and 4.26(2), 4.46(5) and 4.46(8)). \$5.00 15.00 each offense

k. Failure to display a current identification sticker (Rule 4.30(4)). \$5.00 25.00 each offense

l. Illegal parking (Rule 4.29(4), 4.47(1), and 4.38(3)). \$5.00 each offense

p. Overtime parking at meters (Rule 4.38(7)) \$1.00 2.00 each offense

Further amend subrule 4.50(2) by adding new paragraph "s" as follows:

s. Failure to display a current bicycle registration (Rule 4.45(1)). \$10.00 each offense

Further amend rule 4.50(262) by rescinding subrules 4.50(3) and 4.50(9) and reserve for future use.

ITEM 10. Subrule 4.51(4) is amended as follows:

4.51(4) Reappeal of cases before the traffic appeals board which have been heard and acted upon by that board may be instituted only if new pertinent and substantial evidence is to be introduced.

Further amend rule 4.51(262) by adding a new subrule as follows:

4.51(6) *Within fifteen days following a final decision of the traffic appeals board on an appeal, a violator may request in writing an administrative hearing under the Iowa Administrative Procedures Act. Such hearings shall be conducted at least quarterly upon fifteen days' notice in accordance with chapter 17A, Code of Iowa.*

ARC 0250**REVENUE DEPARTMENT[730]
NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in §17A.4(1)"b" of Code.

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of section 17A.3(1)"b" of the Code, the Iowa Department of Revenue hereby gives notice of intended action to amend rules relating to forms developed by the Department of Revenue and used by taxpayers.

Any interested persons may submit their views in writing on these proposed rules on or before June 15, 1979, to the Director, Excise Tax Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319. Requests for a public hearing must be received by June 8, 1979.

Persons who want to orally convey their views should contact the Director, Excise Tax Division at (515) 281-5476 or at the Division office on the fourth floor of the Hoover State Office Building.

Here follows the substance of the intended action.

Pursuant to the authority of section 17A.3(1)"b" of the Code, the following rules pertaining to forms developed by the Department of Revenue and used by taxpayers are hereby amended.

ITEM 1. Subrule 8.1(6) is amended by adding the following new paragraph.

e. Hotel motel tax section

FORM NUMBER	DESCRIPTION
36-001	Combined Hotel/Motel and Retailers Sales Tax Quarterly Return. Filed quarterly by persons subject to the local option hotel motel tax and state sales tax. 2 pages.

ITEM 2. Subrule 8.1(6)"a" is amended by inserting after Form 35-021 the following new form:

36-001	Combined Hotel/Motel and Retailers Sales Tax Quarterly Return. Filed quarterly by persons subject to the local option hotel motel tax and state sales tax. 2 pages.
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These rules are intended to implement section 422A.1 of the Code.

ARC 0240**TRANSPORTATION
DEPARTMENT[820]
NOTICE OF TERMINATION**

Pursuant to the authority of section 307.10 of the Code, the department of transportation proposed a notice of intended action to amend paragraph 820—[07,C]13.11(8)"f". This notice appeared in the March 7, 1979, Iowa Administrative Bulletin.

Pursuant to paragraph 17A.4(1)"b" of the Code, notice is hereby given that the transportation commission terminates further action on this notice of intended action.

ARC 0251**ENVIRONMENTAL QUALITY[400]****SOLID WASTE DISPOSAL COMMISSION**

Pursuant to the authority of Chapter 455C of the Code, 1979, the rules of the Solid Waste Disposal Commission relating to beverage container deposits, appearing in Chapter 34 of the Iowa Administrative Code, are hereby amended.

ITEM 1. Subrule 34.3(1) is amended to read as follows:

34.3(1) All beer, mineral water, soda water and carbonated soft drink containers (other than exempt containers) sold or offered for sale on or after July 1, 1979, in Iowa by a dealer shall have the words "Iowa Refund 5¢" clearly and legibly indicated on the container. If the refund value is more than five cents, the greater value may be indicated, e.g., "Iowa Refund 10¢". *The words may be abbreviated if a request to use a specific abbreviation is submitted to and approved by the executive director.*

ITEM 2. Subrule 34.3(2) is amended to read as follows:

34.3(2) The minimum size of the words "Iowa Refund 5¢" shall be 9 point type (approximately .125 inch or 3 millimeters) if the words are embossed and 18 point type (approximately .25 inch or 6 millimeters) if the words are otherwise affixed to the container. *A stamp or label may have the words "Iowa Refund 5¢" in less than 18 point type if the label is submitted to the executive director and the executive director determines that the contrasting color, or the characteristics of the stamp or label make the stamp or label as easy to discern as a stamp or label with 18 point type.*

[Filed emergency after notice 4/27/79, effective 4/27/79]

Notice of intended action was published in the Iowa Administrative Bulletin on February 7, 1979. The rules are substantially the same as the proposed rules. However, in Item 1, section 34.3(1), in the last sentence of the first paragraph, "Iowa Refund 5¢" has been completely removed. This change was requested by the Administrative Rules Review Committee to eliminate possibly confusing language.

These rules shall be effective upon filing with the Administrative Rules Co-ordinator under the provision of section 17A.5(2)"b"(2), Code, 1979. This section requires the rule to confer a benefit or remove a restriction on the public or some segment thereof to be effective upon filing. Here the rules remove a restriction on manufacturers by allowing them the time (six to eight weeks before the effective date of the law) that they testified was necessary to accomplish the requirements of the law as they relate to labeling.

The rules were adopted by the Solid Waste Disposal Commission on April 11, 1979.

The rules were approved by the executive committee on April 26, 1979.

The rules are intended to implement sections 455C.5 and 455C.9 of the Code, 1979.

[Published 5/16/79]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 5/16/79.

ARC 0247**HEALTH DEPARTMENT[470]****BOARD OF COSMETOLOGY EXAMINERS**

Pursuant to the authority of section 157.6 of the Code, the board of cosmetology examiners amends the rules found in chapter 150 of the Iowa Administrative Code relating to beauty salons in residences as follows:

Amend the second sentence of subrule 150.4(1) to read as follows: "Such establishment shall have an outside, ~~separate~~ entrance leading to the establishment, and any inside doors of said establishment leading to living quarters must be closed at all times during business hours except during ingress and egress."

[Filed 4/24/79, effective 7/1/79]

This rule was published under notice of intended action in the Iowa Administrative Bulletin dated February 7, 1979. The rule is the same as that published under notice of intended action. No comments were received. The effective date of the rule is July 1, 1979.

[Published 5/16/79]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 5/16/79.

ARC 0245**HEALTH DEPARTMENT[470]****BOARD OF BARBER EXAMINERS**

Pursuant to the authority of section 258A.2 of the Code, the board of barber examiners amends the rules relating to continuing education found in chapter 152 of the Iowa Administrative Code as follows:

ITEM 1. Strike subrule 152.101(5)

ITEM 2. Subrule 152.102(3) is amended to read as follows:

152.102(3) It is conducted by individuals who have a special education, training, and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or written outline which substantially pertains to the subject matter of the program. Except as may be allowed pursuant to 152.107(258A), no licensee shall receive credit exceeding ten percent of the annual total required hours for self-study, including television viewing, video or sound recording programs, correspondence work, or research, or by other similar means as authorized by the board. *However, under extenuating circumstances of age or physical disability and with written permission of the board all the annual required hours of continuing education requirement may be obtained by the successful completion of correspondence work. Application may be made to the board for permission at the address provided in rule 470—152.105(258A). A statement signed by a physician may be required.*

[Filed 4/24/79, effective 7/1/79]

These rules were published under notice of intended action in the Iowa Administrative Bulletin dated March 7, 1979. The rule is the same as that published under notice of intended action. No comments were received. The effective date of the rules is July 1, 1979.

[Published 5/16/79]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 5/16/79.

ARC 0246**HEALTH DEPARTMENT[470]****BOARD OF BARBER EXAMINERS**

Pursuant to the authority of section 158.5 of the Code, the board of barber examiners amends the rules found in chapter 153 of the Iowa Administrative Code relating to barbershops in residences as follows:

Amend the third sentence of rule 470—153.4(158) to read as follows: "~~A~~ *An* direct outside entrance shall be provided."

[Filed 4/24/79, effective 7/1/79]

This rule was published under notice of intended action in the Iowa Administrative Bulletin dated February 7, 1979. The rule is the same as that published under notice of intended action. No comments were received. The effective date of the rule is July 1, 1979.

[Published 5/16/79]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 5/16/79.

ARC 0252**LABOR, BUREAU OF[530]**

Pursuant to the authority of chapter 17A and section 88.9(3), Code of Iowa, the following rules are adopted.

CHAPTER 8**DISCRIMINATION AGAINST EMPLOYEES****530—8.1(88) Introductory statement.**

8.1(1) The Occupational Safety and Health Act of 1972 (Chapter 88, Code), hereinafter referred to as the Act, is designed to regulate employment conditions relating to occupational safety and health and to achieve safer and healthier workplaces throughout the state. By the terms of the Act, every person engaged in a business, the state of Iowa and its various departments and agencies and any political subdivision of the state, who have employees is required to furnish each of its employees employment and a place of employment free from recognized hazards that are causing or likely to cause death or serious physical harm, and, further, to comply with occupational safety and health standards promulgated under the Act.

LABOR BUREAU[530] (cont'd)

8.1(2) Employees and representatives of employees are afforded a wide range of substantive and procedural rights under the Act. Moreover, effective implementation of the Act and achievement of its goals depend in large part upon the active but orderly participation of employees, individually and through their representatives, at every level of safety and health activity.

8.1(3) This chapter deals essentially with the rights of employees afforded under section 88.9(3). Section 88.9(3) prohibits reprisals, in any form, against employees who exercise rights under the Act.

530—8.2(88) Purpose of this chapter. The purpose of this chapter is to make available in one place interpretations of the various provisions of section 88.9(3), which will guide the commissioner of labor in the performance of his/her duties thereunder.

530—8.3(88) General requirements of section 88.9(3). Section 88.9(3) provides in general that no person shall discharge or in any manner discriminate against any employee because the employee has:

1. Filed any complaint under or related to the Act;
2. Instituted or caused to be instituted any proceeding under or related to the Act;
3. Testified or is about to testify in any proceeding under the Act or related to the Act; or
4. Exercised on his/her own behalf or on behalf of others any right afforded by the Act.

Any employee who believes that he/she has been discriminated against in violation of section 88.9(3) may, within thirty days after such violation occurs, lodge a complaint with the commissioner of labor alleging such violation. The commissioner shall then cause an appropriate investigation to be made. If, as a result of such investigation, the commissioner determines that the provisions of section 88.9(3) have been violated civil action may be instituted in any appropriate district court, to restrain violations of section 88.9(3) and to obtain other appropriate relief, including rehiring or reinstatement of the employee to his/her former position with back pay. Section 88.9(3) further provides for notification of complainants by the commissioner of determinations made pursuant to their complaints.

530—8.4(88) Persons prohibited from discriminating. Section 88.9(3) specifically states that "no person shall discharge or in any manner discriminate against any employee" because the employee has exercised rights under the Act. Section 88.3(3) defines "person" as "one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons." Consequently, the prohibitions of section 88.9(3) are not limited to actions taken by employers against their own employees. A person may be chargeable with discriminatory action against an employee of another person. Section 88.9(3) would extend to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any other person in a position to discriminate against an employee.

530—8.5(88) Persons protected by section 88.9(3).

8.5(1) All employees are afforded the full protection of section 88.9(3). For purposes of the Act, an employee is defined as "an employee of an employer who is employed in a business of his employer." The Act does not define the term "employ". However, the broad remedial nature of this legislation demonstrates a legislative intent that the existence of an employment relationship, for purposes of

section 88.9(3), is to be based upon economic realities rather than upon common law doctrines and concepts.

8.5(2) For purposes of section 88.9(3), even an applicant for employment could be considered an employee. Further, because section 88.9(3) speaks in terms of any employee, it is also clear that the employee need not be an employee of the discriminator. The principal consideration would be whether the person alleging discrimination was an "employee" at the time of engaging in protected activity.

530—8.6(88) Unprotected activities distinguished.

8.6(1) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon non-discriminatory grounds. The proscriptions of section 88.9(3) apply when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in activities protected by the Act does not automatically render him/her immune from discharge or discipline for legitimate reasons, or from adverse action dictated by nonprohibited considerations.

8.6(2) At the same time, to establish a violation of section 88.9(3), the employee's engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place "but for" engagement in protected activity, section 88.9(3) has been violated. Ultimately, the issue as to whether a discharge was because of protected activity will have to be determined on the basis of the facts in the particular case.

8.7 Reserved.

8.8 Reserved.

530—8.9(88) Complaints under or related to the Act.

8.9(1) Discharge of, or discrimination against, an employee because the employee has filed "any complaint . . . under or related to this Act . . ." is prohibited by section 88.9(3). An example of a complaint made "under" the Act would be an employee request for inspection pursuant to section 88.6(5). However, this would not be the only type of complaint protected by section 88.9(3). The range of complaints "related to" the Act is commensurate with the broad remedial purposes of this legislation and the sweeping scope of its application.

8.9(2) Complaints registered with other governmental agencies which have the authority to regulate or investigate occupational safety and health conditions are complaints "related to" this Act. Such complaints, however, must relate to conditions at the workplace, as distinguished from complaints touching only upon general public safety and health.

8.9(3) Further, the salutary principles of the Act would be seriously undermined if employees were discouraged from lodging complaints about occupational safety and health matters with their employers. Such complaints to employers if made in good faith, therefore would be related to the Act, and an employee would be protected against discharge or discrimination caused by a complaint to the employer.

530—8.10(88) Proceedings under or related to the Act.

8.10(1) Discharge of, or discrimination against, any employee because the employee has "instituted or caused to be instituted any proceeding under or related to this Act" is also prohibited by section 88.9(3). Examples of proceedings which could arise specifically under the Act would be inspections of workplaces under section 88.6. an

LABOR BUREAU[530] (cont'd)

employee contest of an abatement date under section 88.8(3), an employee application for modification or revocation of a variance under section 88.5 and an employee appeal of an Occupational Safety and Health Review Commission order under section 88.9(1). In determining whether a "proceeding" is "related to" the Act, the considerations discussed in rule 8.9(88) would also be applicable.

8.10(2) An employee need not directly institute the proceedings. It is sufficient if he/she sets into motion activities of others which result in proceedings under or related to the Act.

530—8.11(88) Testimony. Discharge of, or discrimination against, any employee because the employee "has testified or is about to testify" in proceedings under or related to the Act is also prohibited by section 88.9(3). This protection would of course not be limited to testimony in proceedings instituted or caused to be instituted by the employee, but would extend to any statements given in the course of judicial, quasi-judicial, and administrative proceedings, including inspections, investigations, and administrative rule making or adjudicative functions. If the employee is giving or is about to give testimony in any proceeding under or related to the Act, he would be protected against discrimination resulting from such testimony.

530—8.12(88) Exercise of any right afforded by the Act.

8.12(1) In addition to protecting employees who file complaints, institute proceedings, or testify in proceedings under or related to the Act, section 88.9(3) also protects employees from discrimination occurring because of the exercise "of any right afforded by this chapter." Certain rights are explicitly provided in the Act; for example, there is a right to participate as a party in enforcement proceedings. Certain other rights exist by necessary implication. For example, employees may request information from the IOSH Enforcement Division of the Iowa Bureau of Labor; such requests would constitute the exercise of a right afforded by the Act. Likewise, employees interviewed by agents of the commissioner in the course of inspections or investigations could not subsequently be discriminated against because of their co-operation.

8.12(2) On the other hand, review of the Act and examination of the legislative history discloses that, as a general matter, there is no right afforded by the Act which would entitle employees to walk off the job because of potential unsafe conditions at the workplace. Hazardous conditions which may be violative of the Act will ordinarily be corrected by the employer, once brought to its attention. If corrections are not accomplished, or if there is dispute about the existence of a hazard, the employee will normally have opportunity to request inspection of the workplace pursuant to section 88.6(5), or to seek assistance of other public agencies which have responsibility in the field of safety and health. Under such circumstances, therefore, an employer would not ordinarily be in violation of section 88.9(3) by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety or health hazards.

8.12(3) However, occasions might arise when an employee is confronted with a choice between not performing assigned tasks or subjecting himself/herself to serious injury or death arising from a hazardous condition at the workplace. If the employee, with no reasonable alternative, refuses in good faith to expose himself/her-

self to the dangerous condition, the employee would be protected against subsequent discrimination. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels. In addition, in such circumstances, the employee, where possible, must also have sought from his/her employer, and been unable to obtain, a correction of the dangerous condition.

8.13 Reserved.

8.14 Reserved.

530—8.15(88) Filing of complaint for discrimination.

8.15(1) A complaint of section 88.9(3) discrimination may be filed by the employee himself/herself, or by a representative authorized to do so on his/her behalf. No particular form of complaint is required. A complaint should be filed with the commissioner of labor.

8.15(2) Section 88.9(3) provides that an employee who believes he/she has been discriminated against in violation of section 88.9(3) "may, within thirty days after such violation occurs," file a complaint with the commissioner of labor. The major purpose of the thirty-day period in this provision is to allow the commissioner to decline to entertain complaints which have become stale. Accordingly, complaints not filed within thirty days of an alleged violation will ordinarily be presumed to be untimely. However, there may be circumstances which would justify tolling of the thirty-day period on recognized equitable principles or because of strongly extenuating circumstances, e.g., where the employer has concealed, or misled the employee regarding the grounds for discharge or other adverse action; where the employee has, within the thirty-day period, resorted in good faith to grievance-arbitration proceedings under a collective bargaining agreement or filed a complaint regarding the same general subject with another agency; where the discrimination is in the nature of a continuing violation. In the absence of circumstances justifying a tolling of the thirty-day period, untimely complaints will not be processed.

530—8.16(88) Notifications of commissioner of labor's determination. Section 88.9(3) provides that the commissioner is to notify a complainant within ninety days of the complaint of his/her determination whether prohibited discrimination has occurred. This ninety-day provision is considered directory in nature. While every effort will be made to notify complainants of the commissioner's determination within ninety days, there may be instances when it is not possible to meet the directory period set forth in section 88.9(3).

530—8.17(88) Withdrawal of complaint. Enforcement of the provisions of section 88.9(3) is not only a matter of protected rights of individual employees, but also of public interest. Attempts by an employee to withdraw a previously filed complaint will not necessarily result in termination of the commissioner's investigation. The commissioner's jurisdiction cannot be foreclosed as a matter of law by unilateral action of the employee. However, a voluntary and uncoerced request from a complainant to withdraw his/her complaint will be given careful consideration and substantial weight as a matter of policy and sound enforcement procedure.

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530—8.18(88) Arbitration or other agency proceedings.

8.18(1) An employee who files a complaint under section 88.9(3) of the Act may also pursue remedies under grievance-arbitration proceedings in collective bargaining agreements. In addition, the complainant may concurrently resort to other agencies for relief, such as the National Labor Relations Board or the Iowa Merit Employment Department. The commissioner's jurisdiction to entertain section 88.9(3) complaints, to investigate, and to determine whether discrimination has occurred, is independent of the jurisdiction of the other agencies or bodies. The commissioner may file action in district court regardless of the pendency of other proceedings. However, the commissioner also recognizes the policy favoring voluntary resolution of disputes under proceedings in collective bargaining agreements. By the same token, due deference should be paid to the jurisdiction of other forums established to resolve disputes which may also be related to section 88.9(3) complaints. Where a complainant is in fact pursuing remedies other than those provided by section 88.9(3), postponement of the commissioner's determination and deferral to the results of such proceedings may be in order.

8.18(2) Postponement of determination would be justified where the rights asserted in other proceedings are substantially the same as rights under section 88.9(3) and those proceedings are not likely to violate the rights guaranteed by section 88.9(3). The factual issues in such proceedings must be substantially the same as those raised by section 88.9(3) complaint, and the forum hearing the matter must have the power to determine the ultimate issue of discrimination.

8.18(3) A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-to-case basis, after careful scrutiny of all available information. Before deferring to the results of other proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular, and free of procedural infirmities, and that the outcome of the proceedings was not repugnant to the purpose and policy of the Act. In this regard, if such other actions initiated by a complainant are dismissed without adjudicatory hearing thereof, such dismissal will not ordinarily be regarded as determinative of the section 88.9(3) complaint.

8.19 Reserved.

8.20 Reserved.

530—8.21(88) Walkaround pay disputes. An employer's failure to pay employees for time during which they are engaged in walkaround inspections, or in other inspection related activities, such as responding to questions of compliance officers, or participating in the opening and closing conferences, is discriminatory under section 88.9(3) so long as neither the number of employee concerns is excessive. An authorized employee representative shall be given the opportunity to accompany on the physical inspection pursuant to 88.6(4) and 530, chapter 6 of the Iowa Administrative Code.

Note: The specific language of this rule differs from similar language adopted by the U.S. Department of Labor, Occupational Safety and Health Administration. An employee covered by the federal law can file a discriminatory action complaint with either the U.S. Department of Labor or the Iowa Bureau of Labor.

530—8.22(88) Employee refusal to comply with safety rules. Employees who refuse to comply with occupational safety and health standards or valid safety rules

implemented by the employer in furtherance of the Act are not exercising any rights afforded by the Act. Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety rules and regulations, will not ordinarily be regarded as discriminatory action prohibited by section 88.9(3). This situation should be distinguished from refusals to work as discussed in rule 8.12(88).

[Filed 4/27/79, effective 6/25/79]

These rules are intended to implement sections 17A.3 and 88.9(3), Code of Iowa. Notice of Intended Action for these rules was published in the November 29, 1978, Iowa Administrative Bulletin and will become effective on June 25, 1979.

[Published 5/16/79]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 5/16/79.

ARC 0239

LIBRARY DEPARTMENT[560]

Pursuant to the authority of sections 303A.4, 303A.23 and 17A.3 of the Code, the Library Department hereby adopts the new rules relating to depository.

560—1.10 and 1.11 Reserved.

560—1.12(303A) Definitions.

1.12(1) "State agency" means a legislative, executive, or judicial office of the state and all of its respective officers, departments, divisions, bureaus, boards, commissions, committees, and state institutions of higher education governed by the state board of regents.

1.12(2) "State publications" means all multiply-produced publications of state agencies regardless of format which are supported by public funds, except correspondence and memoranda intended solely for internal use within the agency or between agencies, and materials designated by law as being confidential.

1.12(3) "Depository library" means a library designated for the deposit of state publications under the provisions of this Act.

1.12(4) Depository librarian shall be appointed by the state librarian and shall administer the depository library center.

1.12(5) The depository library center shall be the central agency for the collection and distribution of state publications to depository libraries and shall be referred to as depository library center.

1.12(6) The state library commission and the state university of Iowa shall each permanently maintain two copies of each state publication.

1.12(7) "Full depository" shall be a library receiving everything collected by the depository library center.

1.12(8) "Selective depository" shall be a library receiving only those publications selected by it.

1.12(9) "Core list library" shall receive only those publications found on the periodically compiled core list.

1.12(10) "Core list" of Iowa state documents is a selected list intended to meet the basic document needs of libraries.

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1.12(11) A library may be designated as either a full depository or as a selective depository under the program. Depositories may receive materials on the "core list".

This rule implements section 303A.21 of the Code.

560—1.13(303A) Administration of depository program.

1.13(1) Depository status shall be determined by the state library commission upon written application by the library. Upon approval of the application, a contract between the depository library center and the depository library shall be completed.

1.13(2) A nine member advisory council shall be organized to advise the Iowa library department regarding this program. The advisory council may be composed of members of state agencies, representatives of depository and nondepository libraries, and the general public appointed by the commission.

1.13(3) The document depository program shall be administered by the depository librarian under the direction of the state librarian.

a. The depository librarian shall make a regular inspection of each depository library and shall submit a written evaluation to the depository library at the conclusion of the visit.

b. The depository library center shall compile the core list after consultation with interested parties.

1.13(4) All nondepository libraries may contact the agency or the state printer for material on a first-come, first-served basis.

1.13(5) Materials missing from the depository shipments must be claimed from the depository library center within one month of receipt of the shipment. After that time, requests should be made directly to the issuing agency or the state printer.

This rule implements section 303A.22 of the Code.

560—1.14(303A) Depositories.

1.14(1) The state university of Iowa and the Iowa library department shall be considered as depositories in addition to those mentioned in the subrules.

1.14(2) Depositories shall meet the following minimum requirements:

a. All publications received under this program will be retained for a minimum of three years unless a lesser retention period is designated for an item or items by the depository center.

b. The depository agrees to make the documents available for free public use. Every effort should be made by the depository library to make as few restrictions on circulation as possible.

c. Space for depository operations should be of the same quality as for other operations of the library. If documents are maintained in a separate division of the library, the space provided should be conveniently located to encourage use of the materials.

1.14(3) Depository libraries may be selected on the basis of one or more of the following criteria:

a. Geographic location consistent with a policy of distributing depositories so as to minimize the distance a user would need to travel.

b. Demonstrated ability to handle the receipts desired based on size of collection, identified need of the library's clientele, and the availability of space and staff.

c. Present federal depository status.

1.14(4) The program will be implemented as rapidly as funds, staff, and publications are available. Thirty libraries will be designated in the initial program.

560—1.15(303A) Withdrawal of a library from the program.

1.15(1) A "core list library" may withdraw from this program by sending written notice to the depository center.

1.15(2) A depository library may withdraw from this program by sending written notice to the document depository center sixty days prior to such withdrawal.

1.15(3) A library's depository designation may be withdrawn for failure to conform to the terms of the contract. The state librarian shall give written notification to the depository. Within thirty days after the receipt of such notice, the depository library and the state library shall hold a meeting to review the stated inadequacies. If inadequacies are not corrected or a written plan of action has not been submitted within thirty days, the state library shall withdraw the library's depository designation.

1.15(4) Upon termination of the contract the depository documents become the property of the depository library center and must be returned to the center or to such other depositories as may be specified by the center.

[Filed 4/19/79, effective 7/1/79]

Notice of intended action relating to these rules was published in the Iowa Administrative Bulletin November 15, 1978. The above modifications were approved by the state library commission of Iowa on Tuesday, March 20, 1979, and shall become effective July 1, 1979.

[Published 5/16/79]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 5/16/79.

ARC 0248

REVENUE DEPARTMENT[730]

Pursuant to the authority of section 17A.3(1)"b" of the Code, the department hereby amends rules pertaining to forms developed by the Department of Revenue and used by taxpayers.

ITEM 1. Chapter 8 is amended by deleting it in its entirety and inserting in lieu thereof the following:

730—8.1(17A) Forms. Forms and instructions are developed by the department to aid and assist taxpayers in exercising their rights and discharging their duties under the tax laws and rules and to explain the tax laws and rules. Many taxes are assessed and collected through the self-determination and self-application of the law and the rules by taxpayers. The tax forms are the instruments through which this is accomplished. The department also provides other necessary or appropriate forms for assisting the public in complying with the technical requirements of the tax laws and rules.

The material contained in the forms and instructions, and the arrangement thereof, is carefully considered and is designed to lead the taxpayer step-by-step through an orderly accumulation of data to an accurate report of the information required.

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Copies of all necessary forms and instructions may be obtained from the Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319 or from the department's various field offices located throughout the state.

The subrules which follow list and describe those forms and instructions which members of the public use when dealing with the department and the various tax divisions within the department. Each direction of every instruction shall be complied with and each question in every form answered in the same manner as if the forms and instructions were embodied in these rules.

8.1(1) Forms of General Application.

FORM NUMBER	DESCRIPTION
30-020	Claim for Refund. Used when seeking to obtain a refund of chain store, sales, or use taxes. Executed in duplicate. With instructions. 4 pages.
40-009 IA 843	Claim for Refund. Used when seeking to obtain a refund of individual income, corporation income, franchise, withholding, or fiduciary taxes. Executed in duplicate. With instructions. 4 pages.

8.1(2) Administrative Services Division Forms

FORM NUMBER	DESCRIPTION
30-031	Request for Itemized Deduction Information. Requests information that was omitted from the return when originally filed. 1 page.
31-071	Letter-Taxpayer to provide information needed to complete sales tax return filed. 1 page.
32-001	Retailer's Use Tax Quarterly Return. Filed quarterly with the department by non-residents indicating gross sales of tangible personal property or taxable services rendered, furnished or performed and goods consumed for the quarterly period covered. With separate instructions. 2 two-page cards.
41-024	Letter-To clarify if taxpayer is eligible for exemption of tax-income under \$4,000 1 page.
41-034	Error Resolution Worksheet. 1 page.
41-042	Letter-Income tax return was incomplete. 1 page.
41-044	Letter-Income tax return not found, provide social security number, other pertinent information. 1 page.
41-047	Letter-To answer income tax refund inquiry. 1 page.
41-077	Letter-Amended return received, need validation number stamped on remittance for original return. 1 page.
41-080	Iowa 1040A Income Tax Return Resident "short form" tax return to be used by calendar year taxpayers only. 1 page.
91-015	Income Tax Schedule(s) Returned to Taxpayer. Schedule(s) not attached to return.
95-002	Affidavit of Non-Receipt of State Warrant. Signed by taxpayer that refund sent was not received or if received was lost, destroyed or stolen and requesting three specimens of signature. 1 page.
95-006	Non-Probate Affidavit. Affidavit of claimant that deceased's estate had insufficient funds to warrant a probate proceeding being opened and will not be placed in probate and that claimant is entitled to proceeds. 1 page.
95-008	Letter-Taxpayer to provide social security number or copy of return to facilitate resolving refund inquiry. 1 page.
95-023	Affidavit for Issuance of Duplicate Warrant. Signed by taxpayer that refund sent was not received or if received was lost, destroyed or stolen. 1 page.
96-021	Status of Account Letter. Specifies the amount still owing on an unpaid tax account. 1 page.
96-027	Notice of Garnishment. Completed and returned to the department by employer of person whose wages are to be garnished.

FORM NUMBER	DESCRIPTION
96-032	Acknowledgement of Garnishment.
96-033	Request for Consent to Garnishment Concerning public employees. 1 page.
96-044	Offer of Compromise Affidavit. To be completed with reasons why the department is being asked to consider a compromise for a tax settlement. 1 page.
96-061	Letter-Refund is due, but assessment is on file. Taxpayer is to specify method of settlement. 1 page.

8.1(3) Field Services Division Forms

FORM NUMBER	DESCRIPTION
20-007	Taxpayer's certification that certain records taken by the department during an audit have been returned. 1 page.

8.1(4) Income Tax Division Forms

a. Individual Section. Iowa income tax return forms and other forms used in administration or correspondence with taxpayers:

FORM NUMBER	DESCRIPTION
16-005	Power of Attorney. Used to legally authorize another individual to act in behalf of the taxpayer. 2 pages.
20-021	Bank Records Consent Letter. Used by taxpayer to inform his bank that he has given the department consent to examine the taxpayer's bank records. 1 page.
40-011	Employee Earnings Verification Letter. A form sent to employer to determine employees earning from that employer. 1 page.
41-001 IA 1040	Resident "long form" return to be used by both calendar and fiscal year taxpayers. With separate instructions. 2 pages.
41-004 Schedule A	Schedule of Itemized Deductions. Schedule of several categories of deductible items. 1 page.
41-005 IA 4136	Computation of Iowa Motor Fuel Tax Credit. Used by those individuals who cancel their fuel permit and claim an income tax credit. With instructions. 1 page.
41-007 IA 2210	Underpayment of Estimated Tax - Individuals. Used to compute the penalty for an underpayment of estimate tax. With instructions. 1 page.
41-008	Underpayment of Estimated Tax by Farmers & Fishermen. Used to compute the penalty for an underpayment of estimate tax. With instructions. 1 page.
41-012 IA 1040NR	Iowa Nonresident Income Tax Return. To be used by taxpayers whose residence is in another state, but who have income from an Iowa source. With separate instructions. 2 pages.
41-016 IA 1065	Iowa Partnership Return of Income. 4 pages.
41-018	Request for Copy of Income Tax Return. Used by taxpayer to request copy of individual return previously filed. Payment for copy must accompany letter. With instructions. 2 pages.
41-019	Verification Letter. Used to obtain information from taxpayers concerning possible questionable entries on returns. 1 page.
41-052	Multiple Information Request Form. Request taxpayer to supply several types of information including request for delinquent return, request for information omitted from the return, and copies of schedules not attached to the return. 1 page.
41-059	Failure to File Form. A letter to taxpayers asking if taxpayer has filed Iowa returns for specific tax years. 1 page.
41-064	Failure to File Letter. Used when information from the Internal Revenue Service indicates that the federal returns have been adjusted. 1 page.
41-075	Information Letter. Used when information available indicates a return should have been filed but one cannot be located. 1 page.
41-080 IA 1040A	Resident "short form" tax return to be used by calendar year taxpayers only. 1 page.

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FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
41-081 IA 4868	Application for Automatic Extension of Time to File Iowa Individual Income Tax Return. Used to request additional time to file an Iowa return. With instructions. 1 page.	4562	Depreciation. Used to compute the annual depreciation that may be claimed as a deduction on farm schedules or business schedules. With instructions. 1 page.
41-082 IA 2688	Application for Extension of Time to File Iowa State Income Tax Returns. Used to request additional time to file an Iowa return. With instructions. 1 page.	4684	Casualties and Thefts. For optional use by individuals as a guide for reporting gains and losses resulting from casualties and thefts. 2 pages.
41-117	Questionnaire to Establish Domicile or Residence. Used for military personnel who have claimed to change their residence from Iowa to some other state. 1 page.	4797	Supplemental Schedule of Gains or Losses. Used for reporting details of gain (or loss) from sales, exchange, or involuntary conversions of noncapital assets and involuntary conversions of capital assets held more than six months. 2 pages.
96-029	Includes: (a) Statement of Net Worth. Used in conjunction with offers of compromise and payment plans of two months or less. (b) Monthly Cash Flow. Used when tax liability cannot be collected in a two month period. 2 pages.	4798	Capitol Loss Carryover. Used by an individual to compute a capital loss carryover from the preceding year to the current taxable year. 2 pages.
Federal income tax returns and other forms that may be required to support entries on the Iowa return or which are used by taxpayers in communications with the department.		4831	Rental Income. For optional use by individuals to provide detail of entries made in Schedule E, Part II pertaining to rental properties. 2 pages.
		4835	Farm Rental Income and Expenses. Used by landowner (or sublessor) to report gross farm rental income based on crops or livestock shares where he does not materially participate in the management or operation of the farm. 2 pages.
FORM NUMBER	DESCRIPTION	4952	Investment Interest Expense Deduction. Used by individuals, estates, and trusts limiting the interest expense deduction on investment property and net lease property. With instructions, 1 page.
1040	U.S. Individual Income Tax Return. Annual income tax return filed by citizens or residents of the United States. 2 pages.	4972	Special 10-Year Averaging Method. Used for the tax treatment of income from a lump sum distribution from a qualified retirement plan. 2 pages.
1040A	U.S. Individual Income Tax Return (Short Form). Annual income tax return filed by citizens and residents of the United States. 2 pages.	5884	New Jobs Credit. Filed by employers who hire additional employees to obtain a credit and whereby reduce wage expense by the amount of the credit. 1 page.
1040C	U.S. Individual Income Tax Return for Departing Alien. 2 pages.	Schedule A and B	Schedule A-Itemized Deductions. Used for reporting itemized deductions (medical and dental expenses, taxes, contributions, interest and miscellaneous deductions). Schedule B-Dividends and Interest Income. Used for listing gross dividends received (if in excess of four hundred dollars) and interest income (if in excess of four hundred dollars). 2 pages.
1040NR	U.S. Nonresident Alien Income Tax Return. Used by all nonresident alien individuals whether or not engaged in trade of business within the United States. 2 pages.	Schedule C	Profit (or Loss) from Business or Profession. For computation of profit (or loss) from business or profession. 2 pages.
1040X	Amended U.S. Individual Income Tax Return. Used by taxpayer (1) to claim refund of income taxes (2) to pay additional income taxes. 2 pages.	Schedule D	Capital Gain or Losses. Used for reporting details of gain (or loss) from sales, exchanges or certain involuntary, compulsory conversions of capital assets and for computation of alternative tax. 2 pages.
1065	U.S. Partnership Return of Income. Information return filed by partnerships. 5 pages.	Schedule E	Supplemental Income Schedule. Used to report income from rents, royalties, pensions, annuities, partnerships, small business corporations, estates, trusts, etc. 1 page.
Schedule 1116	Computation of Foreign Tax Credit. Used to compute tax credit for taxes paid to a foreign country or U.S. possession. 2 pages.	Schedule F	Farm Income and Expenses. For computation of profit (or loss) from farming. 2 pages.
1120S	U.S. Small Business Corporation Income Tax Return. Filed by qualifying small businesses who make the election prescribed under 1954 Internal Revenue Code section 1372. 6 pages.	Schedule R and RP	Credit for the Elderly. Used for computing the credit of 15% of the amount determined to be subject to the credit. 2 pages.
2106	Employees Business Expenses. For optional use to support deductions from income tax for travel, transportation, outside salesman or educational expenses. 2 pages.	Schedule SE	Computation of Social Security Self-Employment Tax. Used to compute self-employment income and self-employment tax. 1 page.
2119	Sales or Exchange of Personal Residence. Used to determine if there was a gain from the sale of a personal residence and to determine if gain is reported on return. 2 pages.		
2120	Multiple Support Declaration. Filed by the taxpayer who claims the dependent from a contributing group from each person in the group. 1 page.		
2440	Disability Income Exclusion. Used to compute amount of disability income exclusion from income tax. With instructions. 1 page.		
2441	Credit for Child and Dependent Care Expenses. Used to compute credit allowed for employment related expenses incurred. With instructions. 1 page.		
2555	Exemption of Income Earned Abroad. Used for U.S. citizens to determine if they qualify for exemption of income earned in a foreign country and how much of the income earned abroad is exempt from taxation. 2 pages.	FORM NUMBER	DESCRIPTION
2688	Application for Extension to File U.S. Individual Tax Return. Used to apply for an extension of time to file federal individual return. With instructions. 1 page.	42-001 IA 1120	Iowa corporation income tax return to be used by calendar or fiscal year taxable corporations including regular, cooperative and real estate investment trust. 2 pages.
2848	Power of Attorney. Used to legally authorize another individual to act in behalf of the taxpayer. 2 pages.	42-004 IA 1120NT	Iowa income return for certain non-taxable corporations including subchapter S and DISC. 2 pages.
3903	Moving Expense Adjustment. For optional use to support deductions from income for expenses of travel, transportation (including meals and lodging) and certain expenses. Attributable to disposition of an old residence and acquisition of a new residence for employees moving to a new job location. With instructions. 1 page.	42-005 IA 851	Schedule of affiliated companies, to be filed with each consolidated income tax return form 42-001. 2 pages
		42-006 IA 1122	Authorization and consent to be completed by each subsidiary corporation to be included in a consolidated income tax return. This form is to be filed only the first year the subsidiary is included in the consolidation. 1 page.

b. Corporation and Franchise Tax Section. Iowa income and franchise tax returns and other forms used in the administration or correspondence with taxpayers:

REVENUE DEPARTMENT[730] (cont'd)

FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
42-011 IA 7004	Application for extension of time to file Iowa corporation return IA 1120 or IA 1120NT. Must be filed by due date of return. 2 pages (must be filed in triplicate).	927	Proof of worthlessness of mineral rights at any specific date, whether for income, estate or gift tax purposes. 2 pages.
42-014	Request for additional information or payment of tax regarding a request for extension of time to file corporation income or franchise tax return. 1 page.	964	Election of shareholder to be taxed under 1954 Internal Revenue Code Section 333 on gain on capital stock owned at time of liquidation. 4 pages.
42-020	Questionnaire regarding corporation business activities in Iowa. Questionnaire is used to assist in the determination of whether or not a corporation is subject to Iowa income tax. Form is to be completed by taxpayer at the request of the Department. 3 pages.	972	Consent of shareholder to include specific amount in gross income under 1954 Internal Revenue Code Section 565. 2 pages.
42-022	Notification of failure to file corporation income tax returns IA 1120. Letter is generally sent to domestic corporations. 1 page.	982	Consent of individual or corporation to adjustment of basis of its property under 1954 Internal Revenue Code Section 1017. 2 pages
42-023	Request for information necessary to complete a review of corporation income tax returns filed. Information requested is optional to the Department and includes: federal audit status, request to sign a copy of the Iowa return, request to complete an enclosed Form 42-020, request for copies of federal return and another category to be specified by the Department. 1 page.	982A	Consent of corporation to adjustment of basis of its property under 1954 Internal Revenue Code Section 1082(a)(2). 1 page.
42-024	Notification of receipt of federal corporation income tax return without the accompanying Iowa corporation income tax return. 1 page.	985	Cost Depletion Schedule. 1 page.
42-025	Notice of failure to file corporation income tax returns. This form generally applies to foreign corporations and serves as a transmittal letter for the questionnaire form 42-020. 1 page.	985A	Depreciation schedule for the computation of depreciation involving oil reserves on the basis of unit production computation. 1 page.
42-026	Notification to corporation that application for exempt status has been approved. 2 pages.	990	Return of organization exempt from income tax under 1954 Internal Revenue Code Section 501(c). 2 pages.
42-029	Notification to taxpayer that Department has not received answer to previous correspondence. 1 page.	990 (Schedule A)	Organization Exempt Under 1954 Internal Revenue Code Section 501(c)(3) (except private foundations filing form 990-PF). Supplementary information. 4 pages.
42-037	Request for information relative to the computation of related expenses to allocable nonbusiness income. 2 pages.	990AR	Annual Report of private foundation as required by 1954 Internal Revenue Code Section 6056. 4 pages.
42-038	Questionnaire regarding corporation business activities in Iowa (trucking corporations). Questionnaire is used to assist in the determination of whether or not a trucking corporation is subject to Iowa income tax. Form is to be completed by taxpayer at the request of the Department. 2 pages.	990C	Exempt co-operative association income tax return filed by exempt co-operative associations described in 1954 Internal Revenue Code Section 521. 4 pages.
42-042 IA 2220	Form for computation of underpayment of estimated tax by corporations. 2 pages.	990P	Annual return of fiduciary of employees' pension or profit-sharing trust. 2 pages.
42-044	Application for exempt status. Filed by corporations seeking exemption from Iowa corporation income tax. 1 page.	990P (Schedule A)	Identification List of Funds for Employees' Pension or Profit-Sharing Plans. 1 page.
43-001 IA 1120P	Iowa franchise tax return to be filed by financial institutions including banks, trust companies, federally chartered savings and loan associations, financial institutions chartered by the federal home loan bank board, associations incorporated or authorized to do business under Chapter 534 and production credit associations. 2 pages.	990PF	Return of private foundation exempt from income tax. 8 pages.
43-005 IA 7004P	Application for extension of time to file Iowa franchise tax return form IA 1120P. 2 pages (must be filed in triplicate).	990T	Exempt organization business income tax return. 4 pages.
43-006	1979 Iowa estimated tax declaration for financial institutions. 3 pages.	1090	Statement of income and profit and loss accounts for railroads. 1 page
43-007 IA 2220P	Form for computation of underpayment of estimated tax by financial institutions. 2 pages.	1118	Computation of foreign tax credit-Corporations. 4 pages.
Federal forms or schedules that the Department may require of a taxpayer in filing a completed Iowa corporation income tax return:		1118 (Schedule F)	Computation of reduction for foreign taxes on foreign oil and gas extraction income. 2 pages.
FTD	Federal Tax Deposit, report on IRS return.	1120	Corporation income tax return for calendar of fiscal year. 4 pages
M	Depletion and depreciation data for mines and other natural deposits. 2 pages.	1120 (Schedule D)	Corporation schedule of gains and losses from sales or exchanges of property. 2 pages.
O	Oil and gas depletion data filed by oil and gas producers and all persons claiming depletion of oil and gas properties. 2 pages	1120 (Schedule PH)	Schedule for computation of U.S. personal holding company tax. 4 pages.
T (Timber)	Forest Industries Schedule. Supplemental to the income tax return form for taxpayers operating, buying, leasing, or selling timber lands. 6 pages.	1120-DISC	Domestic International Sales Corporation Return. 6 pages.
1 (California Debris)	Tax return on certain California hydraulic mining.	1120-DISC (Schedule K)	Shareholder's Statement of DISC Distribution. 6 pages.
851	Affiliations schedule for consolidation purposes. 2 pages.	1120-DISC (Schedule N)	Geographic Source of Gross Receipts. 2 pages.
886-X	Small business corporation shareholders' shares of income. 1 page.	1120-DISC (Schedule P)	Computation of inter-company transfer price or commission. 2 pages.
		1120-DISC (Schedule Q)	Borrower's certificate of compliance with the rules for producer's loans. 1 page.
		1120-PY	Tax computation schedule for component members of a controlled group that has elected Sec. 1562. (For fiscal year 1975-76.)
		1120-H	U.S. Income Tax Return for Homeowners Associations. 2 pages.
		1120-POL	U.S. corporation income tax return required by certain political organizations. 4 pages.
		1120S (Schedule D)	Schedule of gains and losses from sales or exchanges of property to be filed with Form 1120-S. 1 page.
		1120S (Schedule K-1)	Shareholder's Share of Undistributed Taxable Income, Items of Tax Preference, and Interest on Investment Indebtedness. 6 pages.
		1120X	Amended U.S. Corporation Income Tax Return. 2 pages.
		1122	Return of information and authorization and consent of subsidiary corporation included in a consolidated income tax return. 1 page.

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FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
2271	Agreement as to useful life, method and rate of depreciation of property, pursuant to 1954 Internal Revenue Code Section 167(d). 1 page.	1000	Ownership Certificate - Interest on Bonds of Domestic and Resident corporations. Used by a citizen or resident individual, fiduciary, or partnership in connection with interest on bonds of a domestic or resident corporation containing a tax-free covenant and issued before January 1, 1934. 2 pages.
2553	Election by small business corporation to tax corporate income directly to shareholders. 2 pages.	1001	Ownership, Exemption, or Reduced Rate Certificate. 2 pages.
3439-A	Statement of Annual Income (corporation). 1 page.	1023	Exemption application to be made by the principal officer of a religious, charitable, scientific, literary, or educational organization under 1954 Internal Revenue Code Section 501(c)(3). 14 pages.
3468	Computation of investment credit to be attached to return. 1 page.	1024	Exemption application for use of labor, agricultural, horticultural organizations, fraternal beneficiary societies; business leagues, chamber of commerce, civic leagues, social welfare organizations; local associations of employees claiming exemption from federal income tax; for social clubs; for local benevolent life insurance associations, mutual irrigation companies; corporations holding title to property for exempt organizations; cemetery companies and corporations chartered solely for burial purposes, and mutual insurance companies (other than life and marine); and for voluntary employees' beneficiary associations and for trusts providing for supplemental unemployment compensation benefits under 1954 Code Section 501(a). 12 pages.
3621	Net operating loss computation-individuals and corporations. 1 page.	1028	Exemption application for farmers', fruit growers', or like associations claiming exemption from federal income tax under 1954 Internal Revenue Code Section 521. 4 pages.
3646	Income from Controlled Foreign Corporation (under sections 951 through 972 of the Internal Revenue Code of 1954). 4 pages	1120-F	Foreign corporation income tax return. 6 pages.
4136	Computation of credit for federal tax on gasoline and lubricating oil. 2 pages.	1120-W (Worksheet)	U.S. Corporation Worksheet for Computation of Estimated Income Tax. 2 pages.
4255	Tax from recomputing a prior year investment credit. 2 pages.	1127	Application for extension of time for payment of deficiency in tax or installment of tax. 2 pages.
4562	Depreciation. 2 pages.	1128	Application for change in accounting period. 4 pages.
4626	Computation of minimum tax. 2 pages.	1138	Statement of purpose for an extension of time for payment of taxes by a corporation expecting a net operating loss carryback under 1954 Internal Revenue Code Section 6164. 2 pages.
4797	Supplemental Schedule of Gains and Losses (Sales, exchanges and involuntary conversions under 1954 Internal Revenue Code Sections 1231, 1245, 1250, etc.). 2 pages.	1139	Corporation application for tentative refund from carryback of net operating loss and unused investment credit. 2 pages.
4798	Capital Loss Carryover. 2 pages.	2198	Determination of liability for personal holding company tax. 1 page.
4832	Class Life (ADR) System. 4 pages.	2220	Statement relating to underpayment of estimated income tax by corporations. 2 pages.
4874	Credit for Wages Paid or Incurred in Work Incentive (WIN) Programs. 2 pages.	2438	Regulated investment company undistributed capital gains tax return pursuant to 1954 Internal Revenue Code Section 852(b)(3)(D). 2 pages.
4876	Election to be Treated as a DISC. 2 pages.	2848	General power of attorney. May be used in regard to any matters affecting any tax imposed by the Internal Revenue Code, except alcohol or tobacco taxes. 2 pages.
4952	Investment Interest Expense Deduction. 2 pages.	2848-D	Tax information "Authorization and Declaration". 2 pages.
5006	Guideline Class Life System. 2 pages	2952	Information return by domestic corporation with respect to controlled foreign corporation. 3 pages.
5735	Computation of Possessions Corporation Tax Credit Allowed Under Section 936. 2 pages.	3115	Application for change in accounting method. 4 pages.
5884	New Jobs Credit. 1 page.	3921	Exercise of a qualified or restricted stock option. U.S. information return under 1954 Internal Revenue Code Section 6039(a)(1). 6 pages.
Federal forms that may be required to substantiate entries made or activities surrounding the filing of the Iowa corporation income tax return:			
FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
926	Return of stock or securities transferred to a foreign organization under 1954 Internal Revenue Code Section 1491. 2 pages.	4466	Corporation application for quick refund of overpayment of estimated tax. 2 pages
949	United States annual report for profit on military contracts for naval vessels. 1 page.	4571	Explanation for late filing. 1 page
949A	United States annual report of profit on military contracts for air vessels. 1 page.	4629	Transfer of property to an exempt organization. 2 pages.
957	Foreign personal holding company information return. To be used by officers, directors, or United States shareholders of foreign personal holding companies. 2 pages.	4848	Annual Employer's Return for Pension or Profit-Sharing Plans. 4 pages.
958	Annual information return by officer or director with respect to a foreign personal holding company. 2 pages.	4848 (Schedule A)	Annual Status Report of an Employee's Pension or Profit-Sharing Plan. 2 pages.
959	Information return with respect to the organization or reorganization of a foreign corporation and acquisition of its stock. 3 pages.	4849	Financial Statement of Employees' Pension or Profit-Sharing Fund or Fiduciary Account. 2 pages.
966	Information return under 1954 Internal Revenue Code Section 6043 to be filed by corporations within thirty days after adoption of resolution or plan of dissolution, or complete or partial liquidation. 1 page.	7004	Application for automatic extension of time to file corporation income tax return. 2 pages.
966-E	Liquidation, Dissolution, Termination or Substantial Contraction of Organizations Exempt or Formerly Exempt under 1954 Internal Revenue Code Section 501(a). 2 pages	7005	Application for additional extension of time to file corporation income tax return. 2 pages.
966-P	Termination of an Employees' Pension or Profit-Sharing Plan. 4 pages.		
970	Application for the adoption and use of the elective inventory method provided by 1954 Internal Revenue Code Section 472. 2 pages.		
973	Return of information by corporations claiming consent dividends deduction under 1954 Internal Revenue Code Section 561. 2 pages.		
976	Claim for deficiency dividend credit or refund under 1954 Internal Revenue Code Section 547. 2 pages.		

REVENUE DEPARTMENT[730] (cont'd)

Federal agreement form which may be required to keep the department advised of federal audit activities:

FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
		44-013	Iowa Estimated Tax Declaration. Four installments to be filed quarterly with the department-flat without carbon. 1 page.
843	Claim for Abatement or Refund. Claim for abatement of taxes assessed (except estate, gift or income taxes); claim for refund of taxes illegally, erroneously, or excessively collected; and claim for refund of amounts paid for stamps unused, or used in excess or in error. 2 pages.	44-015	Nonresident Declaration of Estimated Income Tax. To be filed each year with the department by nonresidents expecting income from Iowa sources, requesting releases from withholding by Iowa payers. 1 page.
866	Agreement as to final determination of tax liability for a preceding taxable period. 4 pages.	44-016	Employee's Statement of Nonresidence in Iowa. Used by Illinois residents working in Iowa. Form is to be filed with employer. 1 page.
870	Waiver of restrictions on assessment and collection of deficiency in tax and acceptance of overassessment. 1 page.	44-019	Iowa Department of Revenue Employee's Withholding Exemption Certificate. Filed with employee's employer declaring total exemptions claimed for withholding tax purposes. 1 page.
870-A	Waiver of restrictions on assessment and collection of deficiency in tax; or acceptance of overassessment. 1 page.	44-020	Exemption From Withholding. Filed with employer annually by taxpayers anticipating no income tax liability. 1 page.
870-AD	Offer of waiver of restrictions of assessment and collection of deficiency in tax and acceptance of overassessment. 1 page.	44-021	Employee's Consent to Advance Annual Withholding. Used by employers who have employees desiring to have Iowa income tax withheld on an annual basis. 1 page.
870-C	Waiver of restrictions on assessment and collection of deficiency in tax (consolidated returns). 1 page.	44-022	Office Review of 19__ Iowa Withholding Tax. Initial informational letter to employer indicating an apparent Iowa withholding tax overpayment with request for advice on disposition of overpayment. 1 page.
872	Consent fixing period of limitation upon assessment of income and profits tax. 1 page.	44-031	Withholding Reconciliation Report. Request employer to supply the department with a completed form 44-007 and state copies of W-2. 1 page.
872-A	Special consent fixing period of limitation upon assessment of income tax. 1 page.	44-049	Withholding Tax Delinquent Notice. Notice sent to nonresident employers by the department indicating that a particular quarterly return has not been received. 1 page.
872-C	Consent fixing period of limitation upon assessment of tax under 1954 Internal Revenue Code Section 4940. 1 page.	44-050	Unidentified check. Request taxpayer to indicate to the department the purpose of a remittance received by the department. 1 page.
875	Acceptance of examining officer's findings by a partnership, fiduciary, or small business corporation. 1 page.	44-054	Receipt of Nonresident Estimate Tax Declaration Requests taxpayer to list name and address of taxpayers or withholding agents, gross proceeds expected, and enclose the proper remittance. 1 page.
900	Waiver of limitations on collection or assessment.	44-057	Withholding Application. Requests employer to supply the department with federal E.I. number which was missing on Iowa application form. 1 page.
906	Closing agreement as to final determination covering specific matters. 4 pages.	44-059	1979 Iowa Estimated Tax Declaration for Corporations. 3 pages.
907	Agreement to extend period of limitations. 1 page.	92-010	Estimate Tax Declaration Installment Forms Received Without Remittance. Department's request of payment or other explanation. 1 page.
921	Consent fixing assessment limitation period for allowance of estimated future expense liabilities under contract for sale of real estate. 1 page.	92-010	Federal Estimate Tax Declaration Voucher Received With Iowa Estimate Payment. Department's request to taxpayer to examine certain documents and mail the correct items to the department. 1 page.
952	Consent fixing period of limitation upon assessment of income and profits tax under 1954 Internal Revenue Code Section 332(b). 1 page.	92-010	Iowa Estimate Tax Declaration Installment Received with Federal Estimate Payment. Department's request to taxpayer to examine certain documents and mail correct items to the department. 1 page.
977	Consent fixing period of limitation upon assessment of liability at law or in equity for income and profits tax against a transferee. 3 pages.		
2259	Agreement as to the amount of income or excess profits tax liability of a taxpayer.		

c. Declaration and Withholding Section.

Iowa declaration of estimated tax and withholding forms and other forms used in administration or correspondence with taxpayers:

FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
44-001	Iowa Income Tax Withholding Tables. Booklet which provides tables for weekly, biweekly, semi-monthly, and monthly pay periods. Booklet. 2 pages.	1087-DIV	Statement for recipients of dividends and distributions. A copy of this form is required to be filed with the department. 3 pages.
44-002	Application for Withholding Agent's Identification Number. Used by employers who have been assigned a new E.I. number by the Internal Revenue Service and wish to be placed on Iowa withholding mailing list. 1 page.	1087-INT	Nominees statement for recipients of interest income. A copy of this form is required to be filed with the department. 3 pages.
44-003	Iowa Withholding Agents Monthly Deposit Report. Used to report and submit Iowa income tax withheld for the particular month being reported. 1 page.	1087-MED	Nominees statement for recipients of medical and health care payments. A copy of this form is required to be filed with the department. 3 pages.
44-004	Iowa Withholding Agents Quarterly Return. Used to report to the department total Iowa income tax withheld for the quarter with appropriate remittance. 1 page.	1087-MISC	Nominees statement for recipients of miscellaneous income. A copy of this form is required to be filed with the department. 3 pages.
44-006	Iowa Withholding Agents Delinquent Notice. Issued to all employers quarterly who do not return a quarterly return to the department. 3 pages.	1087-OID	Statement for recipients of original issue documents. A copy of this form is required to be filed with the department. 3 pages.
44-007	Iowa Withholding Reconciliation Report - Verified Summary of Payments. Used by employers to report total Iowa tax withheld for the year accompanied by state copies of all information returns as required. 1 page.	1099-DIV	Information return for recipients of dividends and distributions. A copy of which is to be filed with the department on payments in aggregate of one hundred dollars or more to any person. 6 pages.
		1099-INT	Information return for recipients of interest income. A copy of which is to be filed with the department on payments in aggregate of one thousand dollars or more to any person. 6 pages.

Federal forms that the department may require taxpayers to submit:

REVENUE DEPARTMENT[730] (cont'd)

FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
1099-L	Information return of distributions in liquidation for calendar year. A copy of the Internal Revenue Service original is to be filed with the department. 2 pages.	1041 (Schedule K-1)	Federal Schedule itemizing the Income, Deduction, Credits, etc.. a Beneficiary has Received as a Distribution from an Estate or Trust. To be filed with federal form 1041 with a copy for each beneficiary. 2 pages.
1099-MED	Information return for recipients of medical and health care payments. A copy of which is to be filed with the department on payment in aggregate of one thousand dollars or more to any person. 3 pages.	Schedule 4797	Supplemental Schedule of Gains and Losses of assets used in Trade or Business. For use by estates and trusts who sell or exchange assets. To be filed with form 1041. 2 pages.
1099-MISC	Information return for recipients of miscellaneous income. A copy of which is to be filed with the department on payments in aggregate of one thousand dollars or more to any person. 3 pages.	Schedule 4831	Schedule of Non-Farm Rental Income. For use when an estate or trust has income from residential, commercial or industrial real estate. To be filed with form 1041. 2 pages.
1099-OID	Information return for original issue discount. A copy of the Internal Revenue Service original is to be filed with the department. 6 pages.	Schedule 4835	Schedule of Farm Rental Income and Expenses for Use When an Estate or Trust has Rental Income from Farming as a Non-Participating Landlord.
1099-PATR	Information return for patrons of cooperatives. A copy of the Internal Revenue Service original is to be filed with the department. 3 pages.	b. Inheritance Tax Section	
1099-R	Statement for recipients of lump sum distributions from profitsharing and retirement plans. A copy of the Internal Revenue Service original is to be filed with the department. 6 pages.	60-001	Preliminary Inheritance Tax Report and Probate Inventory. Probate inventory filed in court which serves as a first report to the department that inheritance tax may be due. 9 pages.
W-2	Wage and Tax Statement. State copy of this Internal Revenue Service form is to be filed with state form 44-007. 12 pages.	60-008	Final Inheritance Tax Return. Filed with the department on taxable estates listing final values of property and listing liabilities and taxable shares. 2 pages.

8.1(5) Estates and Trusts Division Forms

a. Fiduciary Section

FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
40-009	Claim for refund. For use by the taxpayer when a refund of fiduciary income tax is requested due to excessive tax paid. 2 pages.	60-026	No Further Inheritance Tax Due. Form used in taxable estates when after a full payment certificate has been issued, there is a change in reported assets, which results in no additional inheritance tax due. 3 pages.
41-006	Adjustments to Income. Summary of the results of a fiduciary income tax audit, itemizing the changes to taxable income and a recapitulation of the tax or refund due. 2 pages.	60-027	Extension of Time to Pay Inheritance Tax. This form is a combination of an application and extension itself. Used when the estate is unable to pay the inheritance tax within twelve months after death. An extension avoids the penalty of eight percent during the period of extension. 2 pages.
44-048	Withholding Rate Tables. To be used in determining the correct amount of income tax a fiduciary should withhold on distribution to non-resident beneficiaries of estates and trusts. 2 pages.	60-028	Joint Bank Account Report Form. All Iowa banks and trust companies are required by law to report the amount of joint accounts held in the name of the decedent and another to the department upon the death of one of the joint tenants. The form indicates the name of the decedent, date of death, name and address of the surviving joint tenant(s) together with the amount of the account at death. 1 page.
60-027	Application for Extension of Time to File Fiduciary and/or Inheritance Tax Return and Pay the Tax Due. With instructions. 2 pages.	60-030	Inventory of Safe Deposit Box. Banks and trust companies use this form to report the contents of value in safe deposit boxes to the department when the decedent is the sole or co-owner of the box. 1 page.
63-001	Iowa Fiduciary Return of Income-Form IA1041. To be used to report the annual income of estates and trusts. 2 pages.	60-031	Application for Inheritance Tax Consent. Used by an heir or beneficiary to request the department's consent to transfer corporate securities owned by the decedent where there is no estate and no tax is due. 2 pages.
63-002	General Instructions for Preparing the Iowa Fiduciary Return of Income-Form IA1041, Form No. 63-001.	60-032	Notice of Time and Place of Appraisal. Used to inform the fiduciary of the estate and the beneficiaries and the department when and where property is to be appraised by the county inheritance tax appraisers. 2 pages.
63-004	Partial Release of Income Tax Lien or Claim. For use when a specific parcel of real estate is sold and a specific release is needed to convey marketable title. 1 page.	60-033	Commission to Inheritance Tax Appraisers. Used by the clerk of the court to direct the inheritance tax appraisers to appraise certain property pursuant to the department's request. 4 pages.
63-006	Iowa Income Tax Certificate of Acquittance. A certificate issued by the department to the fiduciary of an estate or trust that all income tax due from the estate or trust has been paid. 1 page.	60-034	Notice to IPERS to Withhold or Release Funds. Direction from the department to IPERS to either withhold payment of funds to a beneficiary until arrangements have been made to pay the tax or to release funds if the department is satisfied that the tax will be paid. This form is similar to 60-064. 1 page.

Federal forms which the department may require to be submitted for fiduciary income tax administration.

1040 (Schedule C)	Profit or Loss Report for a Business or Profession from which an estate or trust has received income. To be filed with federal schedule 1041. 2 pages.
1040 (Schedule E)	Supplemental Income Schedule for Reporting Rental, Annuity, Partnership Income of an Estate or Trust. To be filed with schedule 1041. 1 page.
1040 (Schedule F)	Schedule of Farm Income & Expenses for Reporting the Income an Estate or Trust Receives from Farming. To be filed with federal form 1041. 2 pages.
1041	Federal Fiduciary Return of Income. Filed by the fiduciaries of domestic estates and trusts. 2 pages.
1041 (Schedule D)	The Federal Schedule of Gains and Losses from the Sale of Assets in an Estate or Trust. Filed with federal schedule 1041. 2 pages
1041 (Schedule J)	Federal Schedule for Allocating Accumulation Distribution to Beneficiaries of Complex Trusts. To be filed with federal Form 1041 for those years when an accumulation distribution is made. 2 pages.

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FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
60-039	Mortality Tables (as of 7-4-65). Table is used to compute the value of life estates and remainders. The table divides the total value of property based on the life expectancy of the life tenant at four percent. Also included in this form are tables for computing four percent annuities and the remainder values upon the expiration of the annuity. 6 pages.	30-017	Summary of Audit Report. A summary report used for field audits which show in detail the taxpayer's audit liabilities or refunds.
60-044	Certificate to IRS of Inheritance Tax Paid. This is an Internal Revenue Service form for the department to certify the amount of Iowa inheritance tax paid for the purpose of state death tax credit allowable against the total federal estate tax. 1 page.	30-032	Excise Tax Adjustment Schedule. Attached to all hand billings explaining why tax is due. 1 page.
60-045	Letter to Beneficiary or Joint Tenant to Report Assets for Taxation. Letter sent to surviving joint tenant, transferees and beneficiaries to be used when an estate is not opened or when audits of bank accounts and safe deposit box records and reports of land transfers indicate a tax may be due. 1 page.	30-040	Sales and Use Tax Booklet. Sales and use tax booklet setting forth the statutory requirements as well as rules and regulations relating to sales or use tax. 18 pages.
60-046	Request to Clerk to Issue Appraisal Commission. When the department requires that an item or items of property be appraised, this form is sent to the clerk of the court requesting a commission be issued to the county inheritance tax appraiser. 1 page.	30-044	Overpayment Letter. Used to explain amount of sales or use tax overpayment and how to take credit. 1 page.
60-047	Application for Release of Inheritance Tax Lien and Release. Application by the fiduciaries, transferees or joint tenant, during a pending estate, that a release of lien be given so real estate can be sold during the administration of the state. 1 page.	31-001	Retailer's Sales Tax Monthly Deposit. Filed monthly with the department by retailers indicating the amount and type of deposit. With Instructions. 2 two-page cards.
60-048	Specific Release of Inheritance Tax Lien. Release is to be used to release specific real estate from the Iowa inheritance tax lien. Used when an estate has been closed and all tax due has been paid but the property was omitted or misdescribed originally. 1 page.	31-004	Retailer's Sales Tax Quarterly Returns. Filed quarterly by retailers indicating gross sales of tangible personal property or taxable services rendered, furnished or performed less allowable deductions for the quarterly period covered. With separate instructions. 2 pages.
60-049	Inheritance Tax Information Memorandum. Sent by the department to the fiduciary of an estate or his attorney requesting certain information. 1 page.	31-007	Amended Quarterly Sales Tax Returns. Filed if the retailer's sales tax form number 31-004 shows incorrect figures. 2 pages.
60-050	Insurance Company Notice. Notice sent to the department from an insurance company that they are paying proceeds of insurance contracts to designated beneficiaries. 1 page.	31-009	Quarterly Sales Tax Return Filed by Nonpermit Holders. To be completed by taxpayers having limited or one time filing requirements. 2 pages.
60-053	Notice to Beneficiary of Insurance Contract of Withholding. Used to notify the recipient of insurance and annuity contracts that the company is withholding inheritance tax from the proceeds payable and that the beneficiary should make arrangements to pay the tax due. This is a companion form to 60-064. 1 page.	31-011	Application for Retail Sales Tax Permit. To be completed when applying for a sales tax permit. One dollar fee is required to accompany application. 2 pages.
60-055	Reason for Returning Waiver. Form letter sent to the fiduciary of an estate or his attorney when form 60-014 has not been correctly prepared or lists property not included in the inventory. 1 page.	31-014	Uniform Sales and Use Tax Certificate Form. Exemption certificate to supply information to retailers in support of a tax free purchase under a resale or processing exemption. 1 page, card stock.
60-058	Numbered Inheritance Tax Payment Receipts. Certification by the department that an amount of inheritance tax has been paid in either full or partial payment of the tax due. 1 page.	31-021	One Page Form Letter. Relating to the expiration of a surety bond. 1 page.
60-061	Inheritance Tax Computation Chart. Tax rate schedule for use for deaths on or after July 1, 1976. The schedule indicates the tax rates for all classes of beneficiaries from direct line beneficiaries through tax exempt charitable institutions. 2 pages.	31-022	Claim for Refund of Cash Bond. To be used for filing claim for a cash bond previously deposited with the department. 1 page.
60-064	Withholding Letter to Company. Used for the purpose of notifying insurance companies to withhold inheritance tax from the proceeds of insurance or annuity contracts that are subject to tax. Most frequently used when the payee is a nonresident and does not otherwise participate in the assets of the estate. 1 page.	31-024	Confirmation of Sales Tax Permit Cancellation. Confirms that permit holder wishes to have sales tax permit cancelled. Permit to be cancelled must accompany form. 1 page.
60-066	Instructions for Iowa Final Inheritance Tax Return. 1 page.	31-025	Change of Address Form. For correction or replacement of a sales tax permit. 1 page.
60-067	Letter to Estate That Inheritance Tax Warrant for Overpayment is Enclosed. This letter accompanies an overpayment warrant and is sent to the estate in those situations where there has been an excess tax paid upon submission of the final return. Also used for fiduciary income tax refund. 1 page.	31-027	Relief Agency Refund Application. Application for refund of sales tax paid by relief agency for quarterly period covered. 1 page.
8.1(6) Excise Tax Division Forms		31-033	Claim for Refund of Certificate of Deposit. Used to claim a refund of a certificate of deposit previously deposited as a sales tax bond. 1 page.
a. Sales and Use Tax Section		31-034	Retail Sales Bond. Bond signed by retailer (principal) and his surety for sales tax liability. 2 pages.
FORM NUMBER	DESCRIPTION	31-043	Assignment of Certificate of Deposit. Continuing assignment of holder's certificate of deposit to the department as security for sales tax liability. 1 page.
20-037	Field Auditor's Report. A summary of the history of a field audit written by the auditor. The report details a variety of events occurring during the course of a field audit.	32-001	Retailer's Use Tax Returns. Filed quarterly with the department by nonresidents indicating gross sales of tangible personal property or taxable services rendered, furnished or performed and goods consumed for the quarterly period covered. With separate instructions. 2 two-page cards.
30-010	Error Resolution. Indicates figures reported on taxpayer's filed sales tax return and requests that taxpayer provide any figures which correct those reported. 2 pages.	32-004	Consumer's Use Tax Returns. Filed quarterly by purchasers of tangible personal property and services for personal use in Iowa upon which sales or use tax has not been paid in Iowa. With separate instructions. 2 pages.
		32-008	Application for Retailer's Use Tax Registration. To be completed when applying for use tax certificate or registration. No registration fee required. 1 page.
		34-002	County Treasurer's Monthly Use Tax Report. Report filed by county treasurers on a monthly basis stating amount of collections. 1 page.
		34-005	County Recorder's Monthly Use Tax Report. Report filed by county recorders on a monthly basis stating amount of collections. 1 page.
		34-006	Transaction Certificate UT-510. To be completed by applicants claiming a vehicle which is subject to a transaction is exempt from use tax. 1 page.

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FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
34-012	Receipt for Motor Vehicle Use. Receipt used by county treasurers for use tax paid on motor vehicles.	70-019	Continuation of form 70-018. 1 page.
34-023	Warrant Insert. Sent with motor vehicle use tax refund warrants to explain reason for warrant. 1 page.	70-020	Self Audit Report. Submitted to the department monthly with form 70-017 by distributors of cigarettes and taxable little cigars doing business in Iowa. 1 page.
35-001	Contract Summary Sheet. To be completed by general contractor indicating subcontracts, materials and sales of services. 1 page.	70-021	Self Audit Report. Submitted to the department monthly with form 70-018 by distributors of cigarettes and taxable little cigars doing business in other states. 1 page.
35-002	Contractors Statement. Statement prepared by each general contractor, special contractor, or subcontractor performing a contract sponsored by agencies or instrumentalities of the federal, state, county and municipal governments or private nonprofit educational institutions. 1 page.	70-022	Monthly Return of Licensed Distributors of Tobacco Products Other Than Cigarettes. Indicates tobacco products purchased and manufacturers' gross list price. 1 page.
35-003	Claim for Refund-Construction. Filed by a governmental body or private nonprofit educational institution when seeking a refund for tax paid by contractors and their subs on tangible personal property used in the performance of a written construction contract with the governmental body or private nonprofit educational institution filing for refund. 1 page.	70-023	Continuation of form 70-022. 1 page.
35-005	Construction Refund Explanation. Sent with refund warrant explaining what warrant is for. 1 page.	70-024	Schedules required to accompany form 70-022 indicating merchandise returned to the manufacturer or merchandise destroyed by the distributor. 1 page.
35-009	Information Letter. Sent to out-of-state contractors requesting certain information be supplied. 1 page.	70-025	Schedule to be attached to form 70-022 indicating credit for tobacco products other than cigarettes sold out-of-state. 1 page.
35-011	Authorization for Final Payment. Release letter sent to sponsor of a construction contract after completion of project advising that final payment can be made. 1 page.	70-026	Return of Out-of-State Distributors Monthly Sales in Iowa of Tobacco Products Other than Cigarettes. 1 page.
35-012	Subcontractors. Form filed by construction contractors listing subcontractors who have been awarded contracts to furnish materials and/or labor to be incorporated into real property. 1 page.	70-031	Bond-Sale of Cigarettes. Bond in the amount of twenty-five hundred dollars signed by distributors or wholesalers (principal) and his surety for cigarette tax liability. 2 pages.
35-013	Material Suppliers. List of suppliers furnishing materials to contractor on a project. 1 page.	70-032	Bond-Sale of Cigarettes. Bond in the amount of one thousand dollars signed by cigarette vendor (principal) and his surety for cigarette tax liability. 1 page.
35-016	Request to Withhold Funds. Letter sent to sponsor of construction contracts requesting that final payment be withheld on out-of-state contractors until such time the department of revenue advises sponsor that tax payments have been received. 1 page.	70-035	Affidavit for the Return of Merchandise to the Factory. Submitted to the department along with an affidavit from the manufacturer to whom merchandise is returned by those requesting a refund of cigarette tax. 1 page.
35-018	List of Machinery and Equipment. List of machinery and equipment used to fulfill a contract which remains tangible personal property after installation. 1 page.	-----	Affidavit for Refund of Cigarette Revenue. Request for refund on unused cigarette tax stamps or meter indicia returned to the department. 1 page.
31-085	Guidelines for Nonprofit Organization. Information letter relating to sales tax requirements for religious, charitable and educational organizations. 9 pages.	70-048	Application for Special Retail Permit for Railway Cars. Applicant's request to keep for sale and to sell cigarettes at retail on a railway car. A one thousand dollar surety bond is required to accompany the application. A twenty-five dollar fee is also required to accompany the application. 1 page.
39-029	Sales and Use Tax Guidelines for Municipal and County Finance Officers. Letter setting forth statutes and regulations relating to governmental organizations. 8 pages.	71-009	Assessment Letter. For an office edit of cigarette tax report. 1 page.
35-021	Guidelines for Construction Contractors. A summary of information relating to sales and use tax for construction contractors doing business in Iowa. 11 pages.	CB-26	Application for Transfer of State Cigarette Permit. Applicant's (permit holder) request to transfer his present cigarette permit covering one location to another location and approval of the change of location by the surety holding the bond on the applicant. 1 page.
75-011	Application for Gambling Licenses. Questionnaire relating to gambling licenses. 2 pages.	CB-78	Bond-Sale of Cigarettes. The bond form to be filled in and submitted along with the form number CB-77. 2 pages.
-----	-----	CB-85	Report Filed With the Department Monthly by Railroads Indicating Cigarette Sales. The tax on packages of cigarettes sold while in Iowa is remitted along with this form. 1 page.
-----	-----	TP-2	Bond-Sale of Tobacco Products. Bond in the amount of one thousand dollars signed by a distributor or a distributor-retailer (principal) and his surety for tobacco tax liability. 2 pages.
b. Cigarette & Tobacco Tax Section.	-----	TP-3	Appointment of Secretary of State for Service of Process. Filed with the department by out-of-state distributors of tobacco products other than cigarettes. 1 page.
70-002	Certificate of Cancellation. Certification by city clerk, county board of supervisors or county attorney that a retail cigarette permit has been canceled. 1 page.	TP-5	Order form--Tobacco Products Tax Forms. 1 page.
70-014	Application for Retail Cigarette Permit. Applicant's request for a permit to sell cigarettes at retail. 1 page.	-----	-----
70-015	Application for Iowa Cigarette Permit. Applicant's request for a permit to engage in business as a distributor, wholesaler, or vendor of cigarettes in this state. 1 page.	-----	Application for Transfer of State Tobacco Permit. Applicant's (permit holder) request to transfer his present tobacco permit covering one location to another location and approval of the change of location by the surety holding the bond on the applicant. 1 page.
70-016	Licenses Application for Distributors, Sub-jobbers, Distributors, Retailers, and Sub-jobber--Retailers of Tobacco Products. With instructions. 2 pages.	c. Motor Fuel Tax Section	-----
70-017	Cigarette Tax Report. Monthly report filed with the department by distributors doing business in Iowa indicating purchases of cigarettes and revenues. 4 pages.	81-007	Tax Paid Special Fuel License Holder Report. Monthly report filed with the department by persons who purchase or use diesel fuel from and pay tax to their supplier. Executed in duplicate. 2 pages.
70-018	Cigarette Tax Report. Monthly report filed with the department by out-of-state distributors indicating sales of cigarettes and little cigars in Iowa. 2 pages.	81-009	Application for a Fuel Tax Credit Memorandum. Filed with the department when requesting credit on fuel used for nonhighway use. Application must be submitted with the tax report of the same month. 1 page.

REVENUE, DEPARTMENT OF [730] (cont'd)

FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
81-014	Statement of Sales of Motor Vehicle Fuel. Statement attached to form #86-003 when motor fuel is sold and delivered outside this state. Executed in duplicate. 2 pages.	86-003	Gasoline Distributor Monthly Report. Monthly report filed with the department by those persons or firms who transport gasoline from any source located in this state. Executed in duplicate. 4 pages.
81-015	Supplemental form to 86-003. Used if additional space is needed to record information requested on 86-003. 1 page.	86-007	Special Fuel Dealer or User Monthly Report-Fuel Oil and Taxable Diesel Fuel. Monthly report filed with the department by retailers who sell diesel fuel or special fuel oil for highway purposes by placing same in the supply tank of a motor vehicle. Executed in duplicate. 4 pages.
81-019	Notice of Broken Seal on Special Fuel Pump. To be sent by licensed dealer or user or service company to the department within twenty-four hours of seal breakage. 1 page.	86-009	Special Fuel Distributors Monthly Fuel Oil Report. Monthly report to be filed with the department by those persons or firms who make fuel oil available at marine or pipeline terminals in Iowa or at any place outside this state for bulk highway sale or use in this state. Executed in duplicate. 4 pages.
81-020	Credit Memorandum. Issued in cases of overpayment rather than issuing a warrant. 1 page.	86-050	Special Fuel Distributors Monthly Liquefied Petroleum (L.P.) Report. Monthly report filed with the department by those persons or firms who transport L.P. from any source located in this state. Executed in duplicate. 4 pages.
81-023	Diversion in Transit Form. Notice sent to the department by transport company within forty-eight hours after a load of petroleum products has been diverted in transit from the original consignee shown on the manifest or bill of lading. 1 page.	85-051	Special Fuel Dealer or User Monthly Report Taxable Liquefied Petroleum. Monthly report filed with the department by retailers of L.P. for highway purposes by placing same in the supply tank of a motor vehicle and by users of L.P. for their own use. Executed in duplicate. 4 pages.
81-025	Certificate for Tax Exempt Sale of Special Fuel Only. Certification by purchaser of special fuel that the fuel purchased is to be used for nonhighway purposes, or state of Iowa or federal government use and that retail sales tax was charged on the special fuel purchase. 1 page.	86-070	Aviation Gasoline Distributor Monthly Report. Monthly report filed with the department by aviation gasoline distributors who transport aviation gasoline from any source located in this state. Executed in duplicate. 4 pages.
81-029	Report of Motor Vehicle Fuel Deliveries by Transport Into Iowa from Without the State--from Iowa Terminals to Points Within the State and from Iowa to Points Out of the State. Report filed monthly by transporters of fuel with the department. 1 page.	80-011	Financial Statement. Statistical report compiled by the department on fuel taxes.
81-030	Certification that signer does not dispense special fuel for highway use from his supplies. 1 page.		d. Chain Store Tax Section
81-031	Terminal Metered Products. Report filed with the department indicating amount of fuel distributed from metered terminals. 1 page.	33-001	Chain Store Tax Return. Filed annually by persons conducting a business by a system of chain stores. 2 pages.
81-032	Daily Report of Transport Shipments. Daily report filed with the department by transporters of motor fuel. 1 page.	-----	Information Letter Relating to Chain Store Tax. A summary of the applicable Code sections and the departmental rules relating to chain store tax. 2 pages.
81-033	Monthly Terminal Reports. Monthly report filed with the department by terminals indicating inventory of motor fuel. 1 page.		8.1(7) Property Tax Division Forms.
81-035	Urban Transit System Quarterly Report. Report filed with the department by urban transit companies located and doing business in this state indicating fuel tax due and fuel tax exempt, use of motor fuel and retail sales tax paid. 2 pages.	FORM NUMBER	DESCRIPTION
81-036	Letter to certain fuel outlets from the department detailing invoice requirements. Executed in duplicate with copy retained by fuel outlet. 1 page.	51-123	Application to Take Assessor Examination. Filed by persons wanting to take the examination for position of city or county assessor.
83-001	Application for Refund Permit. To be filed with the department when a refund will be claimed on motor fuel purchases used under specified circumstances. One dollar fee is required to accompany application. 2 pages.	51-124	Application to take Deputy Assessor Examination. Filed by persons wanting to take the examination for position of Deputy City or County Assessor.
83-004	Iowa Motor Vehicle Fuel Tax Refund Permit. Indicates new permanent permit number to be used when filing a claim for refund. With instructions. 2 pages.	52-006	Statement by Small Loan Agencies. Form used by loan companies not incorporated in Iowa to report annually the amount of loans made in Iowa. 4 pages.
83-005	Iowa Fuel Tax Refund Claim for Refund of Motor Fuel Tax Paid on Purchases of Gasoline. 2 pages.	52-011	Annual Report of Telephone Companies. Used by telephone companies annually to report property and financial information. Composed of pages A1 to H1. 8 pages.
83-008	Fuel Tax Refund For Off Highway Use. Invoice required. Sent with form 83-001. 1 page.	52-022	Municipal Gas Annual Report. To be filed by municipal gas companies annual for valuation purposes. 24 pages.
83-009	Certification that original invoices which are required to accompany a claim for refund have been lost or destroyed. 1 page.	52-027	Annual Report to Municipal Water. To be filed annually by municipal water companies to report certain property. 8 pages.
83-010	Miscellaneous Claim Form. Request for motor fuel tax refund which remains unpaid due to original refund claim being lost, misdirected or unpaid. With instructions. 1 page.	52-038	Railroad Annual Report. Used annually by railroads to report property and financial information. 30 pages.
83-012	Political Subdivision Refund Request Form. Used to obtain fuel tax refund for fuels in which fuel tax was paid. 1 page.	52-043	Annual Report Water. To be filed annually by water companies for valuation purposes. 35 pages.
83-016	Permit holder's request that department send a photocopy of warrant issued in payment of refund claim. 1 page.	52-044	Annual Report to Pipelines. To be filed annually by pipeline companies for valuation purposes. 38 pages.
83-019	Lost Unpaid Refund Claim. To be completed by purchaser and supplier in cases where original invoice has been lost or destroyed.	52-045	Annual Report Electric Transmission Lines. Used by electric transmission line companies annually to report property information. 10 pages.
85-015	Licensee's Request that the Department cancel his license. 1 page.	52-046	Annual Report to Cooperatives. To be filed annually by cooperative companies for valuation purposes. 26 pages.
		52-047	Annual Report to Municipal Electrics. To be filed annually by electric companies for valuation purposes. 27 pages.

REVENUE, DEPARTMENT OF [730] (cont'd)

FORM NUMBER	DESCRIPTION	FORM NUMBER	DESCRIPTION
52-049	Annual Report to Gas. To be filed annually by gas companies for valuation purposes. 39 pages.	54-088	Iowa Disabled and Senior Citizen's Property Tax and Rent Reimbursement Supplemental Form (Supporting Schedule A). To be used by elderly and disabled persons who own more than one acre of land to claim a reimbursement of rent or property taxes paid. 1 page.
52-050	Annual Report to Electric. To be filed annually by electric companies for valuation purposes. 94 pages.	54D100	Personal Property Tax Credit Application. To be used by owners of personal property to claim a tax credit. 1 page.
52-052	Pipeline Companies, Claim for Tax Exemption. Exemption claim filed annually for personal property in transit. 2 pages.	54D250	Claim for Tax Exemption. To be used by organizations who use property for charitable, religious, literary, scientific, benevolent and agricultural purposes to receive a tax exemption. 1 page.
52-053	Locally Assessed Property List. To be filed annually by railroads, electric, gas, water, cooperatives, telephone and telegraph companies describing the property assessed by the local authorities. 1 page.	54D270	Forest and Fruit Tree Exemption Application. To be used by property owners to receive a tax exemption on property which meets forest and fruit tree specifications. 1 page.
52-055	Statement to Assessors CV-1. To be filed annually by Credit Unions for valuation purposes. 2 pages.	56-040	Industrial Machinery and Equipment Reporting Form. To be used by owners of industrial property to report machinery and equipment to local assessors each year and to the Department of Revenue upon request. 1 page.
52-057	Annual Report for Generating Facility Owners. To be filed annually by all municipal electricians engaged in the construction of an electric power generating plant. 3 pages.	56-041	Industrial Machinery and Equipment Itemized Listing Form. To be used by owners of industrial property to report machinery and equipment to local assessors and the Department of Revenue upon request. 1 page.
52-063	Prescribed Specific Instructions. To be filed annually by railroad companies for valuation purposes. 8 pages.	56-042	Industrial Machinery and Equipment Itemized Listing Form: Continuation. A continuation of form 56-041. 1 page.
52-065	Major Plant Construction Information Sheet. To be filed by electric utility companies engaged in construction of an electric power generating plant. 2 pages.	56-043	Industrial Return of Leased and/or Not Owned Machinery and Equipment - State of Iowa. To be used by owners of industrial property to report to local assessors and the Department of Revenue machinery and equipment not owned by the company. 1 page.
52-073	Capital Market Instruction. Describes the information required on form 52-074. 2 pages.		
52-074	Capital Market Sheet. To be filed by electric, gas, water, pipeline, railroad and telephone and telegraph companies for valuation purposes. 2 pages.		
52-076	601-A Cooperative, Trans Line Property Listing. To be filed annually by all cooperative and transmission line companies and is used to allocate value to various taxing districts. 1 page.		
52-077	601-B Electric-Gas-Water Property Listing. To be filed annually by all electric, gas, and water companies and is used to allocate value to various taxing districts.		
52-078	606 Pipeline Property Listing. To be filed annually by pipeline companies and is used to allocate value to various taxing districts.		
52-079	County Number Listing. To be used annually by railroad and telephone and telegraph companies for allocation of value. 1 page.		
53-010	Freight Line and Equipment Company Report. Used by freight line and equipment companies to list property information and car mileage data. 1 page.		
54-001	Iowa Disabled and Senior Citizens' Property Tax and Rent Reimbursement Claims. Submitted annually by elderly and disabled persons as a claim for a property tax or rent reimbursement. Must be filed by July 31 of each year. 2 pages.		
54-009	Application for Extension of Time for Filing Iowa Disabled and Senior Citizens' Property Tax and Rent Reimbursement Claim. Submitted by claimants who desire an extension of the deadline for filing claims for property tax or rent reimbursements. Executed in triplicate. 1 page.		
54-014	Mobile Home Reduced Tax Rate Application. To be used by elderly and disabled persons to claim a reduced semi-annual square footage tax rate. 1 page.		
54-028	Homestead Tax Credit Application. To be used by homeowners to claim a tax credit on owner occupied homes. 1 page.		
54-036	Special Assessment Credit Application. To be used by elderly and disabled persons to claim a credit for special assessments. 1 page.		
54-049	Disabled Veterans Tax Credit Application. To be used by disabled veterans to claim a tax credit on specially adapted housing financed by the federal government. 1 page.		
54-052	Military Service Tax Exemption Application. To be used by military veterans to claim a property tax exemption. 1 page.		
54-064	Request for Pollution Control Property Tax Exemption and Certification of Pollution Control Property. Submitted annually on or before February 1 by owners of property assessed by the department to obtain an exemption for pollution control property. 10 pages.		
54-067	Impoundment Structure Application for Exemption. To be used by property owners to obtain a tax exemption on property which meets impoundment structure specifications. 1 page.		

[Filed 4/26/79, effective 6/20/79]

A notice of intended action was published in the Iowa Administrative Bulletin on March 21, 1979. There have been a number of changes in the rules from those printed under notice. These changes are as follows:

1. Rule 8.1(2) was amended at form 96-033 by deleting the description and inserting in lieu thereof the following description:

"Request for consent to garnishment concerning public employees."

2. Rule 8.1(4)"a" was amended at form 41-118 by deleting this number and inserting in lieu thereof the number "41-117". Also, at the end of the description, the words "1 page." were added.

3. Rule 8.1(4)"b" was amended by adding after form 43-006 and its description, the following new form:

"43-007 Form for computation of IA 2220F underpayment of estimated tax by financial institutions. 2 pages"

4. Rule 8.1(4)"b" was amended by changing the word "Lost" to "List" in the description of form 990P (Schedule A).

5. Rule 8.1(4)"c" was amended in the description of forms 1087-DIV, 1087-INT, 1087-MED, 1087-MISC, 1087-OID, 1099-MED, 1099-MISC, and 1099-PATR by deleting the number "6" in the last line of the description and inserting in lieu thereof the number "3".

6. Rule 8.1(5)"a" is amended at form 44-048 by adding the words "2 pages." at the end of the description.

Form Schedule 4835 is amended by adding at the end of the description the word "Landlord."

7. Rule 8.1(6)"a" is amended at form 30-032 by deleting the word "explained" in line 2 of the description and inserting in lieu thereof the word "explaining".

8. Rule 8.1(6)"a" is amended by adding after form 31-011 the following form:

REVENUE DEPARTMENT[730] (cont'd)

"31-014 Uniform Sales and Use Tax Certificate Form. Exemption certificate to supply information to retailers in support of a tax free purchase under a resale or processing exemption. 1 page, card stock."

9. Rule 8.1(6)"a" is amended by switching pages 29 and 30. Page 29 should be "Page 30" and page 30 should be "Page 29".

10. Rule 8.1(6)"c" is amended at form 81-025 by correcting the misspelling of the word "nonhighway" in line 4 of the description.

The changes to the proposed Chapter 8 rules as filed under notice are merely technical changes and additions which provide for further clarification of the various forms utilized by the department.

Items 1 and 2 correct minor errors in the number and description of two forms.

Items 3 and 8 contain additional forms utilized by the department that were inadvertently omitted when the rules were filed under notice.

Items 4-7 and 10 also correct minor errors of a technical and typographical nature.

In Item 9 two pages were out of order when filed under notice and therefore, for the forms to be properly grouped, page 29 should be "Page 30" and page 30 should be "Page 29".

These rules will become effective on June 20, 1979 after filing with the Rules Co-ordinator and publication in the Iowa Administrative Code.

[Published 5/16/79]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 5/16/79.

ARC 0249

REVENUE DEPARTMENT[730]

Pursuant to the authority of Chapter 17A of the Code, the following rules are adopted.

ITEM 1. Analysis of agency number 730, Iowa Administrative Code, is amended by adding the following at page 12:

TITLE XVI
REASSESSMENT EXPENSE FUND

CHAPTER 120
ORGANIZATION AND OPERATION

- 120.1(421) Organization of committee
- 120.2(421) Application for loan
- 120.3(421) Criteria for granting loan

ITEM 2. Agency number 730 of the Iowa Administrative Code is amended by adding a Title XVI, Reassessment Expense Fund Committee, Chapter 120.

TITLE XVI
REASSESSMENT EXPENSE FUND

CHAPTER 120
ORGANIZATION AND OPERATION

730—120.1(421) Organization of committee. The reassessment expense fund committee consists of the director of revenue, the state comptroller, and the chairperson of the state board of tax review. One of the three members is selected as the chairperson and it is his or her duty to call and chair meetings. The reassessment expense fund committee shall appoint a secretary who shall take minutes of committee meetings and maintain the committee's records. The committee is established to authorize loans from the reassessment expense fund for assessing jurisdictions used in reappraising a class or classes of property within the jurisdiction. A majority of the members must be present to constitute a quorum and a majority vote by those members present shall govern and control. The office of the committee is maintained in the office of the Department of Revenue in the Hoover State Office Building, Des Moines, Iowa 50319. Persons wishing to obtain information pertaining to the committee or to make submissions or requests should direct correspondence to that address.

730—120.2(421) Application for loan. Applications for loans from the reassessment expense fund may be made by a conference board established under section 441.2 of the Code. The application shall be made on forms provided by the director of revenue and shall be submitted to the director who will forward the application to the reassessment expense fund committee. Applications shall contain the following information:

1. A statement of the amount of funds in the special appraisal fund, any unencumbered balance in the assessment expense fund, and the maximum amount of revenue which could be raised from the assessment expense fund and the special appraisal fund.

2. A detailed statement as to how monies obtained from the reassessment expense fund will be expended, such statement to be itemized to indicate specific expenditures for personnel, supplies and materials, mileage, public information, and payment for any work performed under contract with a professional appraisal firm.

3. A copy of the assessing jurisdiction's most recent budget as approved by the state comptroller.

REVENUE DEPARTMENT[730] (cont'd)

4. A copy of any proposed contract with a professional appraisal company.

730—120.3(421) Criteria for granting loan. In determining whether to grant a loan from the reassessment expense fund and the amount of any such loan, the reassessment expense fund committee shall consider the following factors:

1. The amount of monies presently on hand and not encumbered or intended for another purpose in both the assessment expense fund and the special appraisal fund.

2. When the assessing jurisdiction can next begin to collect revenues from the tax levied for the special appraisal fund.

3. The reasonableness and accuracy of the jurisdiction's statement as to how the funds are to be expended, giving special attention as to whether such funds will be expended in such a manner as to ensure compliance with the reassessment order.

4. The capability of the jurisdiction to repay the loan within the time period specified in section 421.30 of the Code.

In the event the reassessment expense fund committee denies a request for a loan or approves a loan in an amount less than that requested by the assessing jurisdiction, the assessing jurisdiction may, within ten days of receipt of notice of the committee's decision, request the committee to reconsider the original request. Such reconsideration by the committee shall be considered final action on the matter and the committee's final decision may be appealed to the district court.

[Filed 4/26/79, effective 6/20/79]

A notice of intended action was published in the March 21, 1979, Administrative Bulletin. These rules are identical to those published under Notice and will become effective June 20, 1979, after filing with the Rules Co-ordinator and publication in the Iowa Administrative Code.

[Published 5/16/79]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 5/16/79.

ARC 0242

TRANSPORTATION
DEPARTMENT[820]

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of section 307.10 of the Code, rules 820—[07,D] chapter 11 entitled "Vehicle Registration and Certificate of Title" are hereby amended.

ITEM 1. Rule [07,D]11.48(321) is amended to read as follows:

820—[07,D]11.48(321) Special mobile equipment. Application for a special mobile equipment plate and certificate of identification shall be made to the ~~vehicle registration office~~ *Office of Operating Authority*, Motor Vehicle Division, Department of Transportation, ~~Lucas Office Building 5238 N.W. Second Avenue, Des Moines, Iowa 50319, on forms provided by the department.~~ A special mobile equipment plate shall not be transferable from one vehicle to another. When special mobile equipment, upon which special mobile equipment plate and a certificate of identification have been issued, has been transferred to another person the owner in whose name the special mobile equipment plate and certificate have been issued shall return the plate and certificate to the department for cancellation. The purchaser of the equipment shall make application for issuance of a special mobile equipment plate and certificate of identification to the department.

ITEM 2. Rule [07,D]11.49(321) is amended by adding the following new subrules:

11.49(4) Duplicate special mobile equipment plates and certificates may be obtained by submitting an application to the department and paying a \$2.00 issuance fee.

11.49(5) All special mobile equipment must comply with size and weight limitations as indicated in chapter 321 unless a permit is obtained under the provisions of chapter 321E.

[Filed 4/23/79, effective 6/20/79]

A notice of intended action for the amendment of these rules was published in the March 7, 1979, Iowa Administrative Bulletin. The transportation commission approved the amendment of these rules on April 17, 1979. The amendment of these rules is to be published as adopted in the May 16, 1979, Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective June 20, 1979. The amendment of these rules is identical to the one published under notice.

[Published 5/16/79]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 5/16/79.

ARC 0241**TRANSPORTATION
DEPARTMENT[820]**

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of section 307.10 of the Code, the following rules are adopted.

ARTICLE F
OPERATING AUTHORITY

CHAPTER 6

COMPACTED RUBBISH VEHICLE PERMITS

820—[07,F]6.1(321) Definitions.

6.1(1) "Compacted rubbish vehicle" means any vehicle hauling rubbish which has been mechanically compacted with a hydraulically, electrically, or air operated ram.

6.1(2) "Rubbish" means any unwanted or useless material which has no commercial or practical value or use and which would normally be discarded.

820—[07,F]6.2(321) General stipulations. All compacted rubbish vehicle permits issued by the department shall be subject to the following:

6.2(1) Permits issued shall be in writing and shall be carried on the vehicles for which the permits have been issued and shall be available for inspection by any peace officer or authorized agent of any permit granting authority.

6.2(2) Movements by permit shall be allowed day and night, seven days a week, including holidays.

6.2(3) Vehicles traveling under permit shall be registered for the gross weight or combined gross weight of the vehicle and load.

6.2(4) Vehicles under permit must be in compliance with posted bridge and road embargoes and speed limits.

6.2(5) Maximum axle weight allowed on the interstate system shall be 20,000 pounds on a single axle and 34,000 pounds on a tandem axle.

820—[07,F]6.3(321) Application. Forms for an annual special permit for compacted rubbish vehicles may be obtained from the Iowa Department of Transportation, Office of Operating Authority, 5238 NW 2nd

Avenue, Des Moines, Iowa 50313. Completed applications shall include the following:

6.3(1) Complete name and address of the applicant; vehicle make, serial number, license* number, state in which registered and registered weight.

6.3(2) Axle measurements, which must be in compliance with 820—[07,F]2.1(16), IAC.

6.3(3) Route requested, including the beginning and ending points for all county, city and state routes requested.

6.3(4) Appropriate county and city approvals, if applicable.

820—[07,F]6.4(321) Replacement permit. A permit may be issued, at the discretion of the issuing authority, for a replacement vehicle if a permit had previously been obtained for the original vehicle. The original permit shall be returned to the office of operating authority. The expiration date on the replacement permit shall be the same as on the original permit.

820—[07,F]6.5(321) Permit violations. All permit violations shall be handled in accordance with 820—[07,F]2.5(321E), IAC, including a factual summary of all violations of section 321.473 of the Code.

These rules are intended to implement section 321.473 of the Code.

[Filed 4/23/79, effective 6/20/79]

A notice of intended action for the adoption of these rules was published in the March 7, 1979, Iowa Administrative Bulletin. The transportation commission approved the adoption of these rules on April 17, 1979. The adoption of these rules is to be published in the May 16, 1979, Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective June 20, 1979. These rules are identical to the ones published under notice except for 6.1(1), which was changed to include air operated rams.

[Published 5/16/79]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 5/16/79.

*registration probably intended

SUMMARY OF DECISIONS - THE SUPREME COURT OF IOWA
Filed - April 25, 1979

NOTE: Copies of these opinions may be obtained from the Supreme Court, State Capitol Building, Des Moines, Iowa 50319, for a fee of 40 cents per page.

No. 62185. STATE v. POWERS.

Appeal from Washington District Court, Ira F. Morrison, Judge. Affirmed. Considered by Reynoldson, C.J., and Rees, McCormick, McGiverin, and Larson, JJ. Opinion by Reynoldson, C.J. (5 pages \$2.00)

Defendant challenges the applicability of the mandatory minimum sentence of section 902.7, The Code 1979, for use of a firearm during a forcible felony to his attempted murder guilty pleas. OPINION HOLDS: I. Defendant committed an assault within every section 708.1 definition of that crime; assault is an included offense of the crime of attempt to commit murder; attempted murder is a felony, section 707.11; thus, defendant was guilty of committing a section 702.11 "felonious assault," and consequently, a section 902.7 "forcible felony"; imposition of section 902.7 does not require that defendant be specifically charged with a felonious assault. II. A person of ordinary intelligence would have fair notice that attempting murder with a firearm would invoke the mandatory minimum sentence of section 902.7; section 902.7, examined as a sentencing statute, is not so vague as to deprive defendant of due process; trial court correctly imposed the mandatory minimum sentence provision of section 902.7.

No. 60788. POGGE v. FULLERTON LUMBER CO.

Appeal from Webster District Court, M. D. Seiser, Judge. Reversed. Considered by Reynoldson, C.J., and LeGrand, Harris, McCormick, and Allbee, JJ. Opinion by Reynoldson, C.J. (10 pages \$4.00)

Defendant appeals from jury verdict for compensatory and exemplary damages resulting from breach of contract. OPINION HOLDS: I. There was no evidence to show value of the house as actually constructed and therefore nothing on which to calculate the diminished value of the home compared with its value if constructed in compliance with the contract; the remaining issues defendant raises are treated because they may recur. II. Punitive damages cannot be recovered for breach of contract, except when the breach also constitutes an intentional tort, or an illegal or wrongful act committed or continued with a willful or reckless disregard of another's rights; an intentional breach of contract is not a wrongful act in this context. III. Iowa R. Civ. P. 96 states: "A party intending to prove malice to affect damages must aver the same"; allegations of fact which if proven would show malice will suffice. IV. The offer of settlement or compromise exclusionary rule protected defendant which made the offer, and could be waived by it; defendant's offer was admissible.

SUPREME COURT (cont'd)

Nos. 61293. & 61325. CITIZENS AGAINST THE LEWIS AND CLARK (MOWERY) LANDFILL v. POTTAWATTAMIE COUNTY BOARD OF ADJUSTMENT. Appeal from Pottawattamie District Court, Leo F. Connolly, Judge. Reversed and remanded. Considered by Reynoldson, C.J., and LeGrand, McCormick, McGiverin, and Larson, JJ. Opinion by LeGrand, J. (13 pages \$5.20)

Plaintiffs in these consolidated cases appeal from a decree upholding grant of a conditional use permit by the Pottawattamie Board of Adjustment for the operation of a sanitary landfill in that county. OPINION HOLDS: I. The failure of the board to adopt rules as directed by both section 358A.12, The Code 1977, and the ordinance (§ 61) invalidates the grant of the permit; boards of adjustment shall make written findings of fact on all issues presented in any adjudicatory proceeding; such findings must be sufficient to enable a reviewing court to determine with reasonable certainty the factual basis and legal principles upon which the board acted; this rule shall apply to board of adjustment proceedings after the date this opinion is filed. II. Defendants may urge lack of standing of plaintiffs designated as Citizens Against Lewis and Clark (Mowery) Landfill; the parties who signed and swore to the petition and who are referred to therein as the plaintiffs are the parties actually "presenting a petition" to the district court and that they have standing to do so. III. The standing of plaintiffs Barta and Hale in the second of the consolidated cases would not change the result, and we therefore do not consider it. IV. The judgment is reversed and the cause is remanded for entry of judgment setting aside the board's decision granting the intervenor, Community Refuse Disposal, Inc., the right to operate a sanitary landfill.

No. 60295. JOHNSON v. TYLER. Appeal from Polk District Court, John Hughes, Judge. Affirmed on both appeals. Considered en banc. Opinion by LeGrand, J. (6 pages \$2.40)

Plaintiffs appeal and defendants cross-appeal from judgment for \$6,300.00 entered on plaintiffs' claim for damage resulting from deliberate and willful removal of trees and shrubs. OPINION HOLDS: I. Plaintiffs' petition asked treble damages under § 658.4, The Code, and also claimed punitive damages; by bringing the action under the treble damage statute, plaintiffs chose the remedy afforded by that statute, which is itself punitive; it was error to submit the issue of punitive damages to the jury; consequently the order for new trial was proper, and we affirm it. II. The statute allows treble damages for loss resulting from willfully injuring any timber, trees, or shrubs; it does not limit recovery to the value of the timber, trees, or shrubs themselves; loss of enjoyment resulting from such conduct is an element of damage; if properly proved, this item, too, comes within the treble damage provision of § 658.4. III. Courts should not add interest prior to the date of judgment in applying penal statutes such as § 658.4.

No. 61720. PARSONS v. NATIONAL DAIRY CATTLE CONGRESS. Appeal from Black Hawk District Court, Dennis D. Damsgaard, Judge. Reversed and remanded. Considered en banc. Opinion by Reynoldson, C.J. (10 pages \$4.00)

A spectator injured by a flying hockey puck appeals from summary judgment in her tort action holding she assumed the risk of injury. OPINION HOLDS: There is a genuine issue as to whether due care requires a warning or protection for a hockey spectator, moving in the aisles, whose attention may be diverted and whose vision may be obscured.

SUPREME COURT (cont'd)

No. 62610. STATE V. SWARTZ.

Appeal from Black Hawk District Court, Peter Van Metre, Judge. Affirmed. Considered by Reynoldson, C.J., and Rees, McCormick, McGiverin and Larson, JJ. Opinion by Larson, J.

(7 pages \$2.80)

Defendant appeals from the sentence imposed following conviction of breaking and entering under section 708.8, The Code 1975, contending that the sentencing court improperly considered evidence subject to the exclusionary rule. OPINION HOLDS: Evidence should not per se be inadmissible in a sentencing hearing solely upon the basis that, if tendered at trial, it would be subject to exclusion on constitutional grounds; we decline to extend the exclusionary rule to those proceedings absent some showing that the evidence in question was gathered in violation of the defendant's constitutional rights and for the express purpose of influencing the sentencing court; no such purpose was shown, or even claimed, in the present case; trial court properly considered defendant's past felony involvements in imposing the sentence.

No. 61861. McFARLAND V. BOARD OF EDUCATION.

Appeal from Warren District Court, M. C. Herrick, Judge. Reversed and remanded. Considered by Rees, P.J., and Harris, McCormick, Allbee, and Larson, JJ. Opinion by Larson, J.

(9 pages \$3.60)

Plaintiff school teacher appeals from an order of the district court sustaining a motion to dismiss his application for judicial review of a suspension without pay imposed in a discharge action under section 279.27, The Code. OPINION HOLDS: I. The board's decision to suspend plaintiff without pay is a determination from which appeal may be taken to an adjudicator, with judicial review by the district court. II. The board lacked authority to suspend plaintiff without pay. III. The district court erred in assessing transcript costs on appeal to plaintiff rather than the board.

No. 62184. STATE V. STOBER.

Appeal from Story District Court, Glen C. Sedgwick, Judicial Magistrate. Appeal dismissed. Considered by Rees, P.J., and Harris, McCormick, Allbee, and Larson, JJ. Per Curiam.

(2 pages \$.80)

Appellant filed a motion in arrest of judgment following a verdict finding him guilty of operating a motor vehicle while under the influence of an alcoholic beverage, which was sustained, then filed a motion to dismiss the charge on the basis of former jeopardy. The motion was overruled and defendant appealed. OPINION HOLDS: The trial court's action in overruling the motion to dismiss was not a final judgment from which defendant would have a right of appeal.

No. 62162. DAVENPORT COMMUNITY SCHOOL DISTRICT v. IOWA CIVIL RIGHTS COMMISSION.

Appeal from Scott District Court, Nathan Grant, Judge. Affirmed. Considered by Reynoldson, C.J., and Rees, McCormick, McGiverin and Larson, JJ. Opinion by Rees, J. (7 pages \$2.80)

This appeal by the petitioner Davenport Community School District is from the order, judgment and decree of the district court affirming the award by the appellee Iowa Civil Rights Commission of back pay to teachers who had not been paid for absences from employment by the appellant due to pregnancy. OPINION HOLDS: The decision of the Civil Rights Commission in granting relief to the claimant teachers did not involve a retrospective application of the Cedar Rapids Community School District v. Parr decision, but was based on a rule validly promulgated by the commission.

SUPREME COURT (cont'd)

No. 61644. L. H. WAGENER, INC. v. KENDALL.

Appeal from Jasper District Court, Thomas S. Bown, Judge. Affirmed. Considered by Rees, P.J., Harris, McCormick, Allbee and Larson, JJ. Opinion by McCormick, J. (6 pages \$2.40)

Plaintiff appeals from judgment for defendant in action against accommodation endorser on a promissory note. OPINION HOLDS: The accommodation endorser defendant could disclaim liability to any subsequent transferee of the instrument when the holder of the promissory note authorized him to do so; the holder authorized this disclaimer through the acts of his agent; as the note was not "negotiated" until it was delivered, we hold that plaintiff may not look to the accommodation endorser for payment because his qualified endorsement effectively revoked his suretyship on the note before it was negotiated to plaintiff; no basis for reversal appears.

No. 62357. BARCUS v. BARCUS.

Appeal from Union District Court, M. C. Herrick, Judge. Affirmed as modified. Considered by Rees, P.J., Harris, McCormick, Allbee and Larson, JJ. Opinion by McCormick, J. (13 pages \$5.20)

Defendants appeal from an order sustaining a petition for writ of habeas corpus in a child custody dispute involving the Uniform Child Custody Jurisdiction Act. OPINION HOLDS: I. The Uniform Child Custody Jurisdiction Act, Ch. 598A, The Code 1979, is applicable to this case even though the other state whose jurisdiction was invoked, Illinois, has not adopted the Act. II. The Illinois court's temporary custody order of August 18, 1977, is a sufficient predicate for application of section 598A.8(1); that section gives an Iowa trial court discretion to decline jurisdiction when a party uses the processes of the court of a sister state to obtain possession of a child and then defies the court in refusing to return the child to its jurisdiction; trial court's decision to refuse jurisdiction of the child custody issue was authorized and justified. III. Once the court decided to refuse to decide the merits of the custody dispute, it still had the prerogative and duty in the habeas corpus action to determine whether plaintiff Miriam had the right to take the child Johnny back to Illinois under the authority of the Illinois court's temporary custody order; the court had authority to sustain the petition for habeas corpus as a means of accomplishing that objective. IV. It was not a violation of due process for the trial court to enforce the Illinois custody order without deciding the merits of the custody case. V. Because of the passage of time and the possibility of trauma to Johnny by present enforcement of the Illinois temporary custody order, we modify the trial court's order by conditionally staying enforcement in Iowa of the Illinois temporary custody order pending final adjudication of custody by that court, or, if it decides the Iowa court is a more appropriate forum for litigation of the issue, a final adjudication by the district court in Union County.

No. 61759. CEDAR RAPIDS COMMUNITY SCHOOL v. CADY.

Appeal from Linn District Court, William R. Eads, Judge. Affirmed. Considered en banc. Opinion by McCormick, J. Dissent by Allbee, J. (13 pages \$5.20)

Employer and its insurance carrier appeal from district court decision affirming the industrial commissioner's award of workers' compensation death benefits. OPINION HOLDS: I. An injury from an on-the-job assault by a deranged co-employee arises out of employment. II. Employer and its insurance carrier failed to establish their willful injury defense. DISSENT ASSERTS: Death resulting from an assault by a deranged fellow employee does not arise out of employment.

SUPREME COURT (cont'd)

No. 62067. ESCHER V. MORRISON.

Appeal from Washington District Court, L. R. Carson, Judge. Reversed and remanded. Considered by Rees, P.J., and Harris, McCormick, Allbee and Larson, JJ. Opinion by Allbee, J. Dissent by McCormick, J. (7 pages \$2.80)

Plaintiff appeals from a decree holding that his farm lease was properly terminated. Notice of termination of plaintiff's farm lease was mailed by restricted certified mail to his last known address and was returned unclaimed. OPINION HOLDS: In the absence of a refusal to accept delivery, service of the notice is incomplete where returned unclaimed to the sender. DISSENT ASSERTS: I would hold that service of notice of termination of farm tenancy is effective upon sending the notice by restricted certified mail to the other party at his or her last known address.

No. 61691. STATE V. BOUSMAN.

Appeal from Clinton District Court, Arlen J. Van Zee, Magistrate. Affirmed. Considered by Rees, P.J., and Harris, McCormick, Allbee and Larson, JJ. Opinion by Allbee, J. (5 pages \$2.00)

Defendant appeals from the sentence rendered on his conviction for resisting execution of process, a violation of section 742.1, The Code 1977. Defendant argues that the savings clause of section 4.13, The Code, required trial court to sentence him under the new criminal code because it reduced the sentence. OPINION HOLDS: I. The procedure of section 4.13, which leaves no discretion in the trial judge, is in conflict with section 801.5(2)(b)(2), The Code 1979, which leaves the matter of whether to apply the new criminal code entirely to trial court discretion; when a conflict such as has appeared here occurs, a specific statute governs over a general one; the more specific statute, section 801.5(2)(b)(2), controls this case. II. The punishment imposed is not cruel or unusual.

No. 62267. HISEROTE HOMES, INC., V. RIEDEMANN.

Appeal from Cherokee District Court, Tom Hamilton, Judge. Affirmed. Considered by LeGrand, P.J., and Uhlenhopp, Harris, McCormick and Allbee, JJ. Opinion by Allbee, J. (8 pages \$3.20)

Claimant appeals from the district court's reversal of an agency award of unemployment compensation. OPINION HOLDS: A payment of full back pay pursuant to an NLRB approved settlement agreement is "wages" within the contemplation of the Iowa Employment Security Law, ch. 96, The Code, so that a claimant who has received such a payment is ineligible to receive unemployment compensation; but if that compensation was paid, recoupment by the agency would not be available although the employer's account should not be charged.

No. 62174. LEWIS V. KENNISON.

Appeal from Polk District Court, James P. Denato, Judge. Reversed. Considered by Rees, P.J., and Harris, McCormick, Allbee, and Larson, JJ. Opinion by Allbee, J. (4 pages \$1.60)

Defendants appeal asserting error in the admission of evidence of an insurance company's advance payment for damage to a claimant's vehicle. OPINION HOLDS: I. The objection which defendants entered in the trial court that evidence of an advance payment was irrelevant and that it was against public policy to admit it was sufficient to preserve the error. II. First, an advance payment is either merely preliminary to settlement negotiations or an attempt to avoid the need for such negotiations; the policy which favors settlement negotiations requires that this evidence be excluded; second, evidence of advance payments, whether they were made before or after the initiation of a controversy, must be excluded because admission of such evidence would deter the continued use of them. III. Prejudice is presumed where error is found unless the contrary is affirmatively established; plaintiff has failed to make an adequate showing of lack of prejudice; defendants are entitled to a new trial.

SUPREME COURT (cont'd)

No. 60502. STATE v. WHITEHEAD.

Appeal from Jasper District Court, Thomas S. Bown, Judge. Appeal dismissed. Considered by Reynoldson, C.J., and LeGrand, Uhlenhopp, Harris, and McGiverin, JJ. Opinion by Reynoldson, C.J. (5 pages \$2.00)

State appeals from judgment on jury verdict acquitting former county attorney of charge of interfering with administration of justice. OPINION HOLDS: In criminal cases an appeal by the State is permitted only if it "involves questions of law, either substantive or procedural, whose determination will be beneficial to the bench and bar as a guide in the future"; the State neither argues a decision on the merits would be of benefit to courts in trial of future cases nor asserts such a decision would be of general benefit; we hold this appeal should be dismissed.

No. 61984. UNITED SECURITY INSURANCE CO. v. JOHNSON.

Appeal from Lucas District Court, M. C. Herrick, Judge. Reversed and remanded with directions. Considered by Reynoldson, C.J., and Rees, McCormick, McGiverin, and Larson, JJ. Opinion by Reynoldson, C.J. Dissent by McCormick, J. (8 pages \$3.20)

Defendant appeals from judgment against him in subrogation action brought by his former spouse's insurer. OPINION HOLDS: I. Although we entertain some misgivings whether the real party in interest issue was raised clearly in district court, we resolve the doubt in defendant's favor on the record before us. II. We hold that a subrogated insurer which has not itself paid the full loss because of a "deductible" provision in the policy is not a real party in interest under Iowa R. Civ. P. 2; the plaintiff cannot maintain this action in its own name. III. We do not reach other defenses, including a challenge to the doctrine of spousal immunity. DISSENT ASSERTS: In this situation both parties have an interest in a claim against a third party based upon the loss; we have not held before today that, to avoid splitting, the action must be dismissed when it is brought in the name of the subrogee; on objection by defendant, the plaintiff should be required to join the absent party in the action pursuant to Iowa R.Civ.P. 25(a).

No. 60452. IN RE MARRIAGE OF WINEGARD.

Appeal from Des Moines District Court, David B. Hendrickson, Judge. Affirmed as modified. Considered by Rees, P.J., Harris, McCormick, Allbee and Larson, JJ. Opinion by Rees, P.J. (14 pages \$5.60)

This is an appeal by petitioner wife and a cross-appeal by respondent husband from a finding of common law marriage and economic provisions of decree of dissolution. OPINION HOLDS: I. Petitioner wife had the capacity to enter into common law marriage because petitioner's first divorce is not subject to collateral attack under the laws of Nevada and the Full Faith and Credit clause and because respondent is estopped from attacking the validity of petitioner's second divorce. II. Noting that intent may be shown by circumstantial evidence in the common law marriage context, the trial court did not err in its findings and conclusions that a common law marriage existed between petitioner and respondent. III. It is not necessary to reverse the trial court as to protective orders it entered limiting petitioner's access to tax returns of respondent's corporation because a valuation of the stock of the corporation need not be made before the award of a lump sum to petitioner in this case; antenuptial agreements limiting alimony are void as against public policy and will not be enforced to bar a lump sum awarded in lieu of alimony; the decree of the trial court is modified and petitioner is awarded the sum of \$140,000 as a full and complete lump sum property settlement in lieu of alimony. V. The prior award of \$7,500 to petitioner wife for temporary attorney fees is reaffirmed, and petitioner wife is awarded the further amount of \$25,000 for the payment of all attorney fees for services rendered at the district court level and for the prosecution of this appeal.

SUPREME COURT (cont'd)

Nos. 60440 & 61532. STATE v. HICKS.

Appeals from Henry District Court, Thomas E. Tucker, Judge. Affirmed. Considered by LeGrand, P.J., and Uhlenhopp, Harris, McGiverin, and Larson, JJ. Opinion by Uhlenhopp, J. (18 pages \$7.20)

Defendant challenges his conviction of first-degree murder in these consolidated appeals from the conviction and from denial of post-conviction relief. OPINION HOLDS: I. The identification procedures employed were not impermissibly suggestive. II. Hicks has failed to show that the trial court abused its discretion by denying his request for a jury view; to give the jury a first-hand impression of the State's evidence and to corroborate Hicks' testimony were not appropriate reasons for granting a jury view. III. We give no consideration to Hicks' contention that the numerical testimony of a fingerprint expert was improperly admitted when no objection was lodged at the time the objectionable testimony was received and Hicks is not asserting here the objection asserted at trial. IV. The record is insufficient to show knowing use of perjured testimony. V. The trial court did not abuse its discretion by not allowing a second change of venue when it does not appear that any group was systematically excluded from the jury panel. VI. Hicks has failed to prove that his pre-trial counsel was not within the range of normal competency. VII. No new trial was merited when newly discovered evidence was impeaching and would probably not change the jury's verdict. VIII. Reports not made available to the defense would have been only inferentially helpful and do not create a reasonable doubt that did not otherwise exist. IX. The record does not substantiate Hicks' claim that his trial was unfair.

Nos. 61715 & 61660. CITIZENS FOR WASHINGTON SQUARE v. CITY OF DAVENPORT.

Appeal from Scott District Court, Lowell D. Phelps, Judge. Affirmed in part, reversed in part as to Anderson; reversed as to Citizens. Considered by LeGrand, P.J., and Uhlenhopp, Harris, McGiverin and Larson, JJ. Opinion by Uhlenhopp, J. (9 pages \$3.60)

This interlocutory appeal involves a motion to dismiss the petition of plaintiffs Citizens For Washington Square and Marie Le Claire Anderson which sought to set aside a conveyance of public property. The trial court sustained the motion as to Citizens and sustained it in part as to Anderson. Plaintiffs appealed. OPINION HOLDS: The trial court should simply have overruled the motion to dismiss as to Anderson when it held the petition did not disclose to a certainty that she had no right to relief with regard to one claim; Citizens is in the same position as Anderson, except that as to it we simply reverse the sustention of the motion.

No. 61811. WYATT v. CRIMMINS.

Appeal from Webster District Court, Francis E. Tierney, Magistrate. Appeal dismissed. Considered by LeGrand, P.J., and Uhlenhopp, Harris, McCormick, and Allbee, JJ. Opinion by LeGrand, P.J. (4 pages \$1.60)

The president of a corporation appeals from a judgment against the defendant corporation for wages due to plaintiff. OPINION HOLDS: I. The trial court had no jurisdiction to enter judgment against the corporation when it was not served with original notice and did not appear. II. The president of a corporation may not appeal as an individual from a judgment against the corporation because the judgment does him no harm.

SUPREME COURT (cont'd)

No. 62181 & 62182. GUSTAFSON v. CENTRAL IOWA MUTUAL INSURANCE ASSOCIATION.

Appeal from Boone District Court, Milton D. Seiser, Judge. Affirmed. Considered by LeGrand, P.J., and Uhlenhopp, Harris, McGiverin and Larson, JJ. Opinion by McGiverin, J.

(13 pages \$5.20)

Insurance companies appeal from trial court judgments awarding recovery to insureds under windstorm policies after insureds' wind-destroyed farm buildings were replaced without charge under a builder's warranty. OPINION HOLDS: I. A reasonable interpretation of the language of these insurance policies is that the losses to the insureds in the present cases must be assessed at the date of the windstorm and not after the manufacturer had replaced the buildings under warranty; we retain the New York Rule, that an insurance company accepting and retaining premiums for the coverage of loss that occurred should not be relieved of liability on the basis of the contractual relations between the claimant and third parties; the defendants are entitled to claim both the benefits of the building manufacturer's warranty and the insurance proceeds. II. Both insurance policies contained clauses disavowing liability in event that the insured carried other insurance on property otherwise covered; we hold the building manufacturer's warranty is not "other insurance" within the meaning of defendants' insurance policies.

No. 61848 and 62047. FRYER v. HAMILTON.

Certiorari and appeal from Lyon District Court, Tom Hamilton, Judge. Writ sustained. Appeal dismissed. Considered by LeGrand, P.J., Uhlenhopp, Harris, McGiverin, and Larson, JJ. Opinion by McGiverin, J.

(9 pages \$3.60)

Allen Fryer brings both a certiorari action and an appeal arising from the dismissal of his post-conviction relief application on grounds of default. OPINION HOLDS: Iowa R. Civ. P. 82 applies to actions for post-conviction relief under chapter 663A, The Code; rule 82(d), provides that filing of a document shall be deemed timely if service is made within the time for filing and filing is completed within a reasonable time after service; under this rule, Fryer's resistance to the court's notice of intent to dismiss the application was timely filed; since the resistance was timely, Fryer was not in default and the trial court acted illegally in so ruling; we do not decide whether chapter 663A permits an application for post-conviction relief to be dismissed on grounds of the applicant's default in any circumstances; the writ of certiorari is sustained; this ruling renders the consolidated appeal moot, and the appeal is therefore dismissed.

No. 62155. ORR v. IOWA PUBLIC SERVICE COMPANY.

Appeal from Woodbury District Court, James P. Kelley, Judge. Appeal dismissed. Considered en banc. Opinion by McCormick, J. Dissent by Harris, J.

(6 pages \$2.40)

Plaintiff appeals from grant of summary judgment for defendant. OPINION HOLDS: A trial does not occur when the case is disposed of through summary judgment; when no trial has been held, a motion for new trial is inapposite; therefore plaintiff's motion for a new trial did not extend the time for appeal; plaintiff's notice of appeal was not filed within 30 days of the entry of summary judgment for defendant; therefore under Iowa R. App. P. 5(a), the appeal was taken too late and we lack jurisdiction. DISSENT ASSERTS: A summary judgment proceeding is a trial under Iowa R. Civ. P. 176; accordingly, the appeal here was timely.

SUPREME COURT (cont'd)

No. 62094. MANLEY v. STATE.

Appeal from Jefferson District Court, Ira F. Morrison, Judge. Affirmed. Considered en banc. Opinion by Harris, J. Special concurrence by McCormick, J. (8 pages \$3.20)

By petition for postconviction relief Manley sought to review the proceedings in which he entered guilty pleas to two open charges of murder. He appeals from the denial of his petition. OPINION HOLDS: I. Manley was aware of all his Sisco rights and his failure to assert that he was unaware of the elements of the crime of murder precludes him from challenging the trial court's failure to recite those elements to him in his guilty plea proceeding. II. The factual basis for his guilty plea was clearly established at the degree of guilt hearing. III. Manley's allegations that he was denied effective assistance of counsel were not factually established. SPECIAL CONCURRENCE ASSERTS: I. I would hold that State v. Reaves has no application to a postconviction attack upon a pre-Reaves guilty plea. II. The guilty plea was taken in compliance with the requirements of State v. Sisco.

No. 62407. FRANKLIN v. IOWA DEPARTMENT OF JOB SERVICE.

Appeal from Polk District Court, Dale S. Missildine, Judge. Reversed and remanded. Considered by LeGrand, P.J., Uhlenhopp, Harris, McGiverin and Larson, JJ. Opinion by McGiverin, J. (11 pages \$4.40)

Department appeals from a district court judgment that amounts erroneously overpaid as unemployment compensation need not be repaid and that amounts collected by the department toward satisfaction be refunded. OPINION HOLDS: I. Due to the untimeliness of claimant's administrative appeal from the final agency decision there is no statutory authorization for subsequent agency or judicial review of the merits of the issue. II. On remand claimant should have the option to select which statutory method of repayment will be applicable to the balance outstanding on the overpayment.

No. 62221. STATE v. HANNA.

Appeal from Lee District Court, Thomas E. Tucker, Judge. Affirmed. Considered by LeGrand, P.J., and Uhlenhopp, Harris, McGiverin, and Larson, JJ. Opinion by LeGrand, P.J. (7 pages \$2.80)

Defendant appeals from trial court judgment sentencing him as a habitual criminal under § 747.5, The Code 1977. OPINION HOLDS: I. The fact that the crime of which defendant was convicted was changed from a felony to an aggravated misdemeanor in the new criminal code does not supply a "defense or mitigation" under § 801.5(2)(a), The Code 1979, such that at defendant's request the provisions of the new criminal code apply; trial court did not err in refusing to try defendant under the new criminal code. II. The habitual criminal statute goes only to the punishment meted out to one who has committed multiple designated offenses; being a habitual criminal is not a separate crime; there is no requirement that defendant be arraigned as a habitual criminal. III. It was not error for trial court to permit the jury to hear evidence of three prior convictions and commitments of defendants even though only two are required under the habitual offender statute, § 747.5, The Code. IV. Defendant's complaint that the State failed to prove venue was not timely raised; under section 753.2, The Code 1977, any objection to venue is waived unless raised prior to trial. V. In regard to defendant's fifteen year sentence, section 801.5(2)(b)(2) authorizes sentence to be imposed under the new law even though the conviction was had under the old.

SUPREME COURT

(cont'd)

No. 62186. HOLMES v. POLK CITY SAVINGS BANK.

Appeal from Polk District Court, Theodore H. Miller, Judge. Affirmed. Considered en banc. Opinion by Harris, J. Dissent by Uhlenhopp, J. (8 pages \$3.20)

An action to foreclose a real estate mortgage resulted in a default judgment against the mortgagors. More than a year later this action was brought by the mortgagors to vacate that judgment. This action is grounded on the assertion that the original notice in the foreclosure action was fatally defective. The trial court held there was no fatal defect and, hence, dismissed the petition to vacate. The mortgagors appeal. OPINION HOLDS: I. A substantial defect renders an original notice fatally defective; any judgment based thereon is void; a mere irregularity, on the other hand, has no such effect on the original notice; a judgment based thereon is not void (but may be voidable). II. The original notice directed defendants to serve an appearance, motion, or other pleading upon opposing counsel within 20 days and to file a copy with the district court clerk within a reasonable time thereafter instead of directing them to "appear and defend" as required by Iowa R. Civ. P. 49(a); in spite of its infirmities the notice was not substantially defective in telling them to appear in accordance with the requirements of Iowa R. Civ. P. 53 and 82. III. Since the Holmeses did not appear and thereafter fail to defend, they were in no way prejudiced by the omission of a directive to defend. IV. An application to vacate on the ground that the judgment was voidable because of the omission of a directive to defend in the original notice would have to have been filed within one year under Iowa R. Civ. P. 253. Thus, the petition in regard to this ground was untimely filed. DISSENT ASSERTS: Because of Iowa R. Civ. P. 87, serving and filing an appearance is not sufficient to prevent default; thus I do not think that giving the alternative of appearing and omitting the requirement of defending under rule 49(a) constitutes a mere irregularity; to hold that the omission was a mere irregularity because it was not prejudicial means, essentially, that an invalid notice gives a court jurisdiction; I would reverse.

No. 62324. DAVOREN v. IOWA EMPLOYMENT SECURITY COMMISSION.

Appeal from Polk District Court, Theodore H. Miller, Judge. Reversed and remanded. Considered by LeGrand, P.J., and Uhlenhopp, Harris, McGiverin and Larson, JJ. Opinion by Harris, J. (7 pages \$2.80)

Defendant agency appeals from the trial court's reversal of the agency's disallowance of unemployment benefits to a full-time student laid off from a part-time job. OPINION HOLDS: Claimant's challenge to an administrative rule stating that full-time students are deemed to have no reasonable expectancy of securing employment is not considered when raised for the first time on appeal; the rule does apply to a full-time student seeking unemployment compensation as a part-time worker and does not operate as a denial of equal protection. Because a presumption contained in the administrative rule was un rebutted, the claim was denied.

No. 61482. STEWART v. CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Appeal from Polk District Court, Van Wifvat, Judge. Affirmed. Considered en banc. Opinion by Larson, J. (19 pages \$7.60)

Defendant railroad appeals and defendant driver of automobile cross-appeals from rulings of trial court in railroad-crossing accident case. OPINION HOLDS: I. There was sufficient evidence to submit issues of speed, lookout and warning to the jury. II. There was sufficient evidence to support submission of last clear chance to the jury; it was not error to submit to the jury an interrogatory couched in terms of last clear chance rather than proximate cause. III. We abolish the doctrine of last clear chance as to all cases commenced after filing of this opinion. IV. The submission of the issue of driver's contributory negligence was not prejudicial to the railroad. V. It was not error to restrict evidence of a settlement between plaintiff Stewart and the defendant driver as was done by the trial court. VI. We adhere to the collateral source rule. VII. The railroad was not prejudiced by the court's ruling that the engineer could not testify about the alleged habit of drivers of driving quickly up to a crossing, then stopping abruptly, as the railroad's evidence of the engineer's state of mind could still be introduced. VIII. Whether Iowa should adopt comparative negligence is basically a policy question which would be better handled through the legislative process than by the courts; we therefore decline, at this time, to adopt the doctrine of comparative negligence.

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