

State of Iowa

Iowa

Administrative

Code

Supplement

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement pages to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement pages incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement pages may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(4); an effective date delay imposed by the ARRC pursuant to section 17A.4(5) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(6); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index and for the preliminary sections of the IAC: General Information about the IAC, Chapter 17A of the Code of Iowa, Style and Format of Rules, Table of Rules Implementing Statutes, and Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR

Updating Iowa Administrative Code
with Biweekly Supplement

NOTE: Please review the "Preface" for both the Iowa Administrative Code and Biweekly Supplement and follow carefully the updating instructions.

The boldface entries in the left-hand column of the updating instructions correspond to the tab sections in the IAC Binders.

Obsolete pages of IAC are listed in the column headed "Remove Old Pages." New and replacement pages in this Supplement are listed in the column headed "Insert New Pages." It is important to follow instructions in both columns.

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UPDATING INSTRUCTIONS February 23, 2000, Biweekly Supplement

[Previous Supplement dated 2/9/00]

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*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

Remove Old Pages*

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*It is recommended that “Old Pages” be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

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	1.8		74.1-74.5
	1.9		[489] 1.1
	20.1-20.14		2.1-2.5
	21.1-21.7		3.1-3.6
	24.14		[493] 1.1-1.5
	24.15		4.1-4.15
	[201] 10.1-10.8		[561] 1.1-1.5
	[263] 1.3		4.4-4.6
	1.4		4.10
	2.11		4.11
	3.31		4.13
	[265] 1.1-1.3		5.1
	1.10		5.3
	2.8		[567] 1.1-1.11
	9.1-9.21		3.1
	[281] 1.1-1.3		7.1
	2.3		9.1-9.4
	[283] 1.1		20.1-20.3
	1.2		40.1-40.7
	[284] 1.1		50.1-50.9
			60.1-60.4
			70.1-70.6
			90.1
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	[571] 1.1-1.10		604.3
	3.1		607.2
	4.1		615.3
	5.1		640.1
	7.1		700.2
	8.1		710.3
	[581] 31.1-31.15		750.3
	[650] 5.3		800.2
	5.5	[765] 1.2	910.2
	6.1		2.3
	6.2		4.1
	6.4	[781] 1.1-1.3	
	7.1	[811] 1.1-1.3	
	7.2		6.1-6.8
	[653] 10.1-10.9		7.1
	[655] 1.1		7.2
	1.3		8.1-8.3
	2.3		8.5-8.10
	2.6	[875] 3.12	
	3.1		4.7
	3.2	[876] 1.1	
	3.4-3.6		1.2
	5.1-5.3		3.1
	6.1-6.3		4.7
	6.6		4.23
	7.2		4.34
	[657] 1.1		7.1
	1.2		7.3
	28.1-28.17		
	[661] 1.1-1.4	17A.4	[21] 1.1-1.7
	1.6-1.8		[61] 11.7
	[685] 1.3		[201] 10.1-10.8
	[701] 8.1-8.4		[223] 4.4-4.6
	[705] 1.1-1.4		4.10
	[721] 3.1-3.10		4.11
	4.4		4.13
	7.1-7.17		[261] 101.3-101.6
	[741] 2.2		101.11
	[751] 1.1-1.7		101.13
	[761] 1.1-1.8		[265] 1.4
	4.9		1.5
	10.1-10.4		[282] 4.3-4.6
	110.1		[283] 2.1
	400.6		2.2
	500.2		3.1
	511.2		3.2

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	[441] 3.5 3.16	17A.7	[111] 4.1-4.4 [141] 5.1 5.2
	[481] 4.3-4.6 4.11 4.13		[201] 10.1-10.8
	[591] 4.3-4.6 4.11		[223] 5.1 5.3
	[641] 174.3-174.6 174.11 174.13		[263] 1.2 [265] 1.4 [281] 2.1 2.3
	[650] 7.2		[282] 2.1 2.3
	[653] 10.1-10.9		[283] 2.1 2.2 3.1 3.2
	[655] 8.1 8.2 9.1 10.1 10.2 11.1-11.3		[289] 2.1 2.3
	[657] 28.1-28.17		[301] 2.5
	[685] 2.1		[321] 17.1 17.3
	[701] 6.4 201.1		[411] 3.1 3.2
	[721] 7.1-7.17		[441] 4.1-4.4
	[761] 10.1-10.4		[481] 2.1-2.4
	[765] 2.3		[486] 4.107
	[801] 4.3-4.6 4.11 4.13		[493] 2.1 2.3
	[876] 9.1 9.3 9.6 9.8-9.14		[501] 1.11 [591] 2.1 2.3
17A.4A	[701] 6.5		[597] 4.1 4.3
17A.5	[197] 5.1-5.4 [657] 28.1-28.17 [721] 7.1-7.17 [761] 10.1-10.4 [765] 2.3		[605] 2.1 2.3 [645] 6.1 6.2 [650] 7.1 [653] 10.1-10.9
17A.6	[201] 10.1-10.8		

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	[657] 1.1 1.2 26.1 26.3 28.1-28.17		[571] 6.1 [591] 3.1 3.3 [605] 3.1 3.3
	[721] 8.1-8.4		[621] 10.1-10.6
	[741] 2.5		[645] 8.1-8.3 240.3
	[761] 10.1-10.4		[653] 10.10
	[765] 2.3		[655] 8.1 8.2 9.1 10.1 10.2
	[801] 2.1 2.3		[657] 1.1 1.2 27.1-27.12
	[877] 26.1		[685] 3.1
17A.7S	[441] 4.1-4.4		[721] 9.1-9.12
17A.9	[111] 5.1-5.13		[741] 2.4
	[141] 6.1-6.4		[751] 3.1-3.6
	[193C] 1.1(3)		[761] 10.1-10.4
	[199] 4.1-4.12		[765] 2.3
	[201] 11.1-11.3		[801] 3.1 3.3
	[221] 3.1-3.12		[876] 5.1 5.3
	[223] 6.1 6.3		[877] 26.2
	[263] 2.10	17A.9S	[441] 5.1-5.12
	[265] 1.6 9.8-9.21	17A.10	[201] 12.1-12.24 50.4 50.5
	[281] 3.1 3.3		[263] 3.12
	[282] 3.1 3.3		[265] 1.7 7.1-7.9 9.8-9.30
	[283] 3.1 3.2		[285] 1.1-1.11
	[285] 1.1-1.11		[301] 2.3
	[289] 3.1 3.3		
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	[481] 10.16		10.21
	[645] 280.1-280.213		25.1-25.11
	[657] 35.1-35.30		[567] 7.1
	36.1-36.17		73.1-73.32
	[685] 4.1		[571] 7.1
	[741] 2.3		[591] 17.1-17.33
	[761] 400.56		[657] 35.1-35.30
	[781] 10.1		36.1-36.17
	[875] 3.12		[701] 7.14
	38.5		7.16
	38.10		[721] 22.1
	[876] 4.46		22.3-22.18
	10.3		[751] 4.1-4.27
	17A.11		[201] 12.1-12.24
[265] 9.22-9.30		[811] 10.1-10.8	
[481] 10.20		10.50-10.80	
10.21		[875] 38.5	
10.26		38.10	
[657] 1.2		[876] 4.6-4.9	
35.1-35.30		4.11	
36.1-36.17		4.28-4.30	
[701] 7.1-7.21		4.35	
7.23-7.27		4.39	
[761] 400.56		4.45	
[811] 10.1-10.8		4.46	
10.50-10.80	4.48		
[875] 38.5	7.1		
38.10	7.3		
17A.12	[201] 12.1-12.24	17A.13	[201] 12.1-12.24
	50.4		[263] 3.10
	50.5		3.23
	[263] 3.7		[265] 7.1-7.9
	3.16		9.22-9.30
	3.17		[345] 6.2
	3.22		[351] 1.4
	[265] 7.1-7.9		7.1-7.28
	9.22-9.30		[441] 95.13
	[351] 1.1-1.5		[481] 10.13
	7.1-7.28		10.14
	[441] 95.13		10.20
[481] 10.5	10.21		
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	[571] 7.1		

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	[761] 400.56		[811] 10.1-10.8 10.50-10.80		
	[811] 10.1-10.8 10.50-10.80		[875] 38.5 38.10		
	[875] 38.5 38.10		[876] 4.25 4.27-4.30		
	[876] 4.35		17A.16	[201] 12.1-12.24	
	17A.14			[201] 12.1-12.24	[263] 3.25 3.28 3.29
				[263] 3.18-3.21	[265] 7.1-7.9 9.22-9.30
				[265] 7.1-7.9 9.22-9.30	[345] 6.4
[345] 6.2		[441] 95.13			
[441] 95.13		[567] 7.1			
[481] 10.20 10.21 10.23		[571] 7.1			
[567] 7.1		[657] 35.1-35.30 36.1-36.17			
[571] 7.1		[701] 7.20			
[657] 35.1-35.30 36.1-36.17	[761] 400.56 620.4				
[761] 400.56	[811] 10.1-10.8 10.50-10.80				
[811] 10.1-10.8 10.50-10.80	[875] 38.5 38.10				
[875] 38.5 38.10	17A.17	[201] 12.1-12.24			
[876] 4.35 4.46 10.3		[263] 3.6			
17A.15		[201] 12.1-12.24	[265] 9.22-9.30		
		[265] 7.1-7.9 9.22-9.30	[345] 6.2		
		[345] 6.4	[441] 95.13		
		[441] 95.13	[481] 10.9 10.23		
		[481] 10.25	[567] 7.1		
		[567] 7.1	[571] 7.1		
	[571] 7.1	[657] 35.1-35.30 36.1-36.17			
	[657] 35.1-35.30 36.1-36.17	[761] 400.56			
[701] 2.9 2.12 7.17	[875] 38.5 38.10				
	[876] 4.38				

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	[201] 12.1-12.24		[657] 1.3 35.1-35.30 36.1-36.17		
	[265] 7.1-7.9 9.8-9.30		[701] 1.1 1.2 7.1-7.21 7.23-7.27		
	[441] 95.13				
	[567] 7.1 52.7				
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	[657] 35.1-35.30 36.1-36.17		Ch 18 [401] 8.1-8.7		
	[701] 13.8		18.3 [401] 1.1 1.2 7.1 7.3 7.5 7.7-7.17 7.19 7.21		
	[761] 400.56 910.8				
	[875] 38.5 38.10				
	17A.19		[201] 12.1-12.24	18.4	[761] 20.1-20.4 20.8
			[263] 4.3 4.4		
			[345] 6.4		[401] 1.2 4.1-4.3 4.5-4.12 6.1-6.26 7.6 8.7-8.9 9.9-9.11 10.2 10.3 10.5-10.7
[441] 95.13					
[481] 10.25					
[657] 35.1-35.30 36.1-36.17					
[721] 22.1 22.4 22.19-22.29					
[761] 10.1-10.4 400.56					
[765] 2.3		18.6 [401] 5.8 5.9 5.12 5.14 7.1-7.4 7.18 9.1 9.3 9.4			
17A.20	[441] 95.13				
	[657] 35.1-35.30 36.1-36.17				
17A.22	[289] 5.1 5.3 5.6 5.9-5.13		[761] 20.1-20.4 20.8		
	[481] 10.2 10.10 10.18 10.19	18.7 [401] 8.7-8.9 9.9-9.11			
	[650] 51.12	18.8A [401] 14.1-14.8 16.1-16.5			

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18.12	[401] 7.4	19A.9	[581] 1.1 2.1-2.4 3.1-3.7 4.1-4.11 4.13 5.1-5.6 6.1-6.5 6.7 7.1-7.12 8.1-8.13 9.1-9.9 10.1-10.6 11.1-11.3 12.1-12.3 13.1-13.3 14.1-14.19 15.1-15.13 16.1-16.3 17.1-17.3 18.1-18.4 19.1-19.3 19.5 21.4-21.6 21.8 21.10-21.13 21.15 21.17-21.19 21.22 21.24
18.18	[661] 14.1		
18.32	[401] 5.8		
18.33	[401] 5.8		
18.34	[401] 5.8		
18.35	[401] 5.8		
18.36	[401] 5.8		
18.37	[401] 5.8		
18.38	[401] 5.8		
18.45	[401] 5.8		
18.59	[401] 5.6		
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18.77	[401] 5.6		
18.115	[401] 11.1-11.11		
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19A.18	[681] 3.128		[721] 22.1 22.3-22.18
19A.35S	[581] 15.13		[761] 4.9
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19B.7	[541] 4.1-4.8	21.8	[25] 1.3
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20.15	[621] 5.2 5.4		
20.17	[621] 7.1 7.4-7.7		
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20.22	[621] 1.8		
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22.3	[61] 1.4		[193C] 5.1 5.3 5.7 5.9-5.18
	[761] 610.1-610.3		[193D] 5.1 5.3 5.9-5.16
22.7	[481] 5.1 5.3 5.6 5.9-5.16		[193E] 5.1 5.3 5.7 5.9-5.19
	[493] 4.1-4.15		[193F] 9.1 9.3 9.7 9.9-9.16
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	[25] 8.1 8.2		[201] 5.1-5.3 5.5 5.6 5.9-5.16
	[61] 2.1-2.17		[205] 5.1-5.15
	[81] 24.1 24.3 24.6 24.9-24.17		[221] 2.1 2.3 2.6 2.9-2.17
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	[111] 13.1-13.15		[261] 100.1 100.3 100.9-100.16
	[141] 3.1-3.15		[263] 6.1 6.3 6.6 6.9-6.16
	[161] 11.1-11.17		[265] 13.1 13.3 13.4 13.6 13.9
	[181] 1.7		[267] 5.1 5.3 5.6 5.9-5.16
	[185] 18.1 18.3 18.9-18.17		[281] 4.6
	[187] 7.1 7.3 7.9-7.16		
	[189] 25.1 25.3 25.6 25.9-25.15		
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	[282] 5.1 5.3 5.6 5.9-5.16		[431] 2.1 2.2
	[283] 6.1 6.3 6.6 6.9-6.12		[433] 6.1 6.2
	[286] 2.1 2.3 2.9-2.17		[434] 2.1 2.2
	[288] 3.1-3.17		[435] 4.1 4.2
	[289] 1.7		[441] 9.1-9.13
	[301] 5.1 5.3 5.6 5.9-5.11		[481] 5.1 5.3 5.6 5.9-5.16 9.1-9.11 22.1 22.2 25.3 30.1-30.13 40.1-40.4 41.16 50.8 71.1-71.9 72.1-72.4 74.1-74.5 75.1-75.12 100.36
	[321] 19.1 19.3 19.9-19.17		[486] 8.1 8.3 8.6 8.9-8.13
	[351] 10.1-10.17		[489] 4.1 4.3 4.6 4.9-4.14
	[371] 9.1 9.3 9.9-9.16		[491] 3.1 3.3 3.6 3.9-3.14
	[401] 2.1 2.3 2.6 2.9-2.17		[493] 4.1-4.15
	[411] 7.1-7.12		[501] 7.1 7.3 7.6 7.8-7.16
	[421] 2.1 2.3 2.6 2.9-2.16		[541] 8.1 8.3 8.9-8.16
	[425] 2.1 2.2		[543] 6.1
	[427] 2.1 2.2		
	[428] 2.1 2.2		
	[429] 3.1 3.2		

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	[545] 8.1 8.3 8.9-8.17		[653] 1.1 1.3 1.6 1.7 1.9-1.17
	[547] 9.1 9.3 9.9-9.17		[655] 11.1-11.3
	[551] 1.1 2.1 2.3 3.1 3.3 4.1 4.4 5.1 5.3 5.9-5.11		[657] 14.1 14.3 14.6 14.9-14.17
	[561] 2.1-2.15		[661] 25.1-25.13
	[567] 2.1		[681] 17.1 17.3 17.6 17.7 17.9-17.16
	[571] 2.1		[701] 5.1 5.3 5.6 5.9-5.16
	[575] 3.1		[705] 1.5
	[597] 3.1 3.3 3.6		[721] 5.1 5.3 5.6 5.9-5.16
	[605] 5.1 5.3 5.6-5.18		[727] 5.1 5.3 5.6 5.9-5.16
	[621] 12.1 12.3 12.6 12.9-12.15		[741] 2.2 2.4 2.5 3.1 5.1 5.3 5.6 5.9-5.11
	[641] 175.1 175.3 175.6-175.17		[751] 2.1-2.15
	[643] 5.1 5.3 5.6 5.9-5.17		[761] 4.1 4.3 4.4 4.6 4.9 4.10 607.7
	[645] 10.1 10.3 10.5 10.6 10.9-10.16		[781] 2.1 2.3
	[650] 6.1 6.3 6.6		

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	[811] 5.1 5.3 5.6 5.9-5.18	24.48	[543] 2.1-2.4 2.7 5.1-5.9
	[871] 42.1-42.14		[545] 9.1
	[875] 1.11-1.23		
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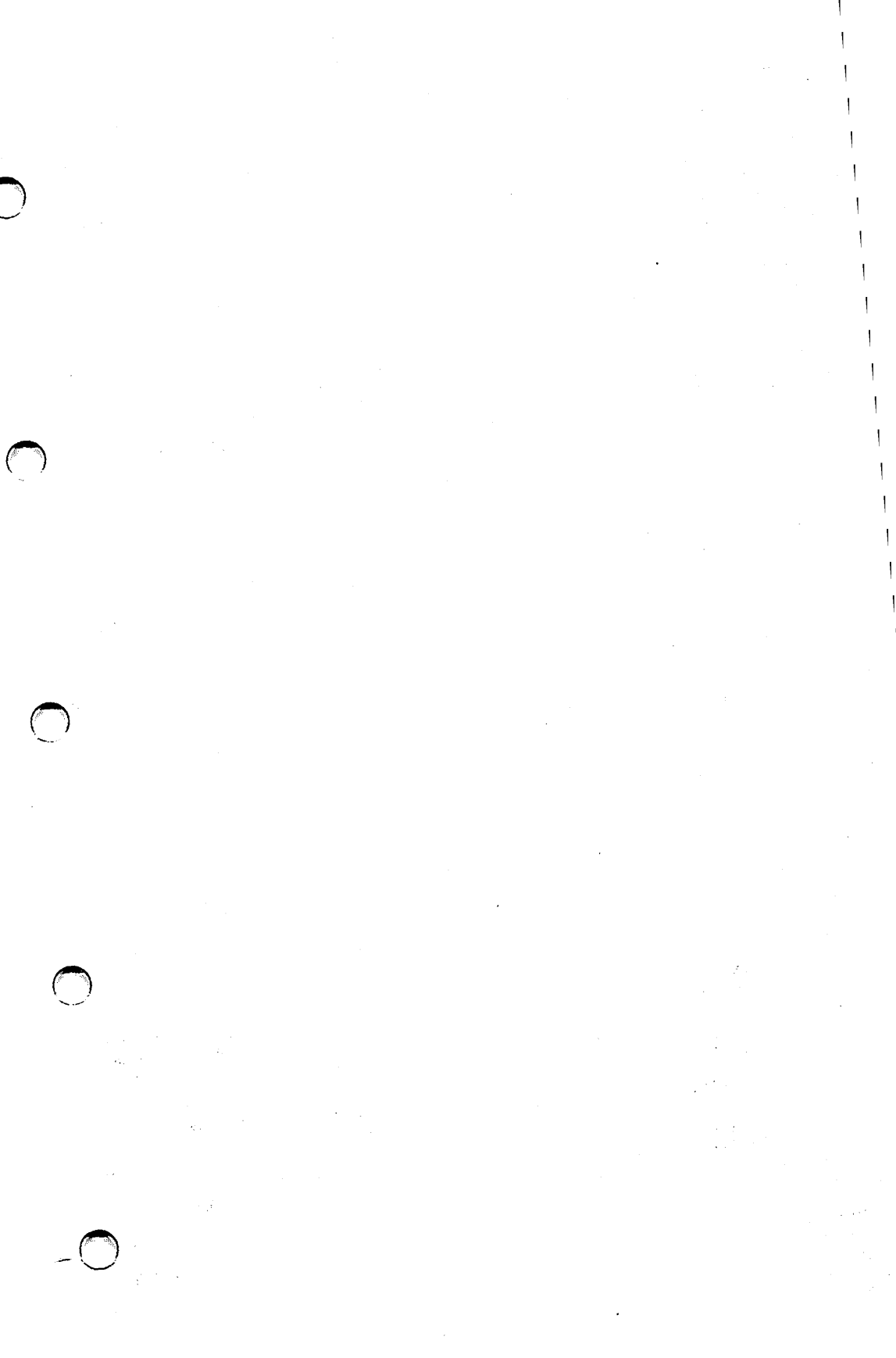
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- Region 4: Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, and Page.

- Region 5: Guthrie, Dallas, Polk, Jasper, Adair, Madison, Warren, Marion, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.

- Region 6: Benton, Linn, Poweshiek, Iowa, Johnson, Muscatine, Mahaska, Keokuk, Washington, Louisa, Monroe, Wapello, Jefferson, Henry, Des Moines, Appanoose, Davis, Van Buren, and Lee.

“*Third-party administrator*” shall mean the person or entity with which the department contracts to provide administrative services for the HAWK-I program.

441—86.2(514I) Eligibility factors. A child must meet the following eligibility factors to participate in the HAWK-I program.

86.2(1) Age. The child shall be under 19 years of age. Eligibility for the program ends the first day of the month following the month of the child’s nineteenth birthday.

86.2(2) Income. Countable income shall not exceed 185 percent of the federal poverty level for a family of the same size when determining initial and ongoing eligibility for the program.

a. Countable income. When determining initial and ongoing eligibility for the HAWK-I program, all earned and unearned income, unless specifically exempted, shall be countable.

(1) **Earned income.** The earned income of all parents, spouses, and children under the age of 19 who are not students shall be countable. Income shall be countable earned income when an individual produces it as a result of the performance of services. Earned income is income in the form of a salary, wages, tips, bonuses, and commissions earned as an employee, or net profit from self-employment.

1. **Earned income from employment.** Earned income from employment means total gross income.

2. **Earned income from self-employment.** Earned income from self-employment means the net profit determined by comparing gross income with the allowable costs of producing the income. The net profit from self-employment income shall be determined according to the provisions of 441—subparagraphs 75.57(2)“f”(1) through (7). Additionally, the cost of depreciation of capital assets identified for income tax purposes shall be allowed as a cost of doing business for self-employed persons. A person is considered self-employed when any of the following conditions exist. The person:

- Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions; or
- Establishes the person’s own working hours, territory, and methods of work; or
- Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

3. **Earned income deduction.** Each person in the household whose nonexempt income, earned as an employee or from self-employment, is considered in determining HAWK-I eligibility is entitled to a 20 percent earned income deduction. The deduction is intended to include work-related expenses other than child care. These expenses may include taxes, transportation, meals, uniforms and other work-related expenses.

(2) **Unearned income.** The unearned income of all parents, spouses, and children under the age of 19 shall be counted. Unearned income is any income in cash that is not gained by labor or service. The available unearned income shall be the amount remaining after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Examples of unearned income include, but are not limited to:

1. **Social security benefits.** Social security income is the amount of the entitlement before withholding of a Medicare premium.

2. **Child support and alimony payments** received for a member of the family.

3. **Unemployment compensation.**

4. **Veterans benefits.**

(3) Recurring lump sum income. Earned and unearned lump sum income that is received on a regular basis shall be counted and prorated over the time it is intended to cover. These payments may include, but are not limited to:

1. Annual bonuses.
2. Lottery winnings that are paid out annually.

b. *Exempt income.* The following shall not be counted toward the income limit when establishing eligibility for the HAWK-I program.

(1) Nonrecurring lump sum income. Nonrecurring lump sum income is income that is not expected to be received more than once. These payments may include, but are not limited to:

1. An inheritance.
2. A one-time bonus.
3. Lump sum lottery winnings.
4. Other one-time payments.

(2) Food reserves from home-produced garden products, orchards, domestic animals, and the like, when used by the household for its own consumption.

(3) The value of the coupon allotment in the Food Stamp Program.

(4) The value of the United States Department of Agriculture donated foods (surplus commodities).

(5) The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.

(6) Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

(7) Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

(8) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.

(9) Interest and dividend income.

(10) Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe.

(11) Payments to volunteers participating in the Volunteers in Service to America (VISTA) program.

(12) Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.

(13) Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.

(14) Experimental housing allowance program payments.

(15) The income of a Supplemental Security Income (SSI) recipient.

(16) Income of an ineligible child if the family chooses not to include the child in the eligibility determination in accordance with the provisions of paragraph 86.2(3)"c."

(17) Unearned income in kind.

(18) Family support subsidy program payments.

(19) All earned and unearned educational funds of an undergraduate or graduate student or a person in training. However, any additional amount of educational funds received for the person's dependents that are in the eligible group shall be considered as nonexempt income.

(20) Bona fide loans.

(21) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the *In re Agent Orange product liability litigation*, M.D.L. No. 381 (E.D.N.Y.).

86.7(8) Admission to an institution for mental disease. The child shall be disenrolled from the plan and canceled from the program if the child is a patient in an institution for mental disease at the time of annual review.

86.7(9) Employment with the state of Iowa. The child shall be disenrolled from the plan and canceled from the HAWK-I program as of the first day of the month in which the child's parent became eligible to participate in a health plan available to state of Iowa employees.

441—86.8(514I) Premiums and copayments.

86.8(1) Income limit. No premium shall be assessed when countable income is less than 150 percent of the federal poverty level for a family of the same size. When countable income is equal to or greater than 150 percent of the federal poverty level for a family of the same size, participation in the program is contingent upon the payment of a monthly premium.

EXCEPTION: No cost sharing shall be imposed on eligible American Indian or Alaskan Native children regardless of family income.

86.8(2) Premium amount. The premium amount shall be \$10 per month per child up to a maximum of \$20 per month per family.

86.8(3) Due date. When the third-party administrator notifies the applicant that the applicant is eligible to participate in the program, the applicant shall pay any premiums due within ten working days for the initial month of coverage. When the premium is received, the third-party administrator shall notify the plan of the enrollment. After the initial month of coverage, premiums shall be received no later than the last day of the month prior to the month of coverage. Failure to pay the premium by the last day of the month before the month of coverage shall result in disenrollment from the plan. At the request of the family, premiums may be paid in advance (e.g., on a quarterly or semiannual basis) rather than a monthly basis.

86.8(4) Reinstatement. A child may be reinstated once in a 12-month period when the family fails to pay the premium by the last day of the month prior to the month of coverage. However, the reinstatement must occur within the calendar month following the month of nonpayment and the premium must be paid in full prior to reinstatement.

86.8(5) Method of premium payment. Premiums may be submitted in the form of cash, personal checks, automatic bank account withdrawals, or other methods established by the third-party administrator.

86.8(6) Failure to pay premium. Failure to pay the premium in accordance with subrules 86.8(3) and 86.8(5) shall result in disenrollment from the plan and cancellation from the program unless the reinstatement provisions of subrule 86.8(4) apply. Once a child is disenrolled and canceled from the program due to nonpayment of premiums, the family must reapply for coverage.

86.8(7) Copayment. There shall be a \$25 copayment for each emergency room visit if the child's medical condition does not meet the definition of emergency medical condition.

EXCEPTION: A copayment shall not be imposed when family income is less than 150 percent of the federal poverty level for a family of the same size or when the child is an eligible American Indian or Alaskan Native.

441—86.9(514I) Annual reviews of eligibility. All eligibility factors shall be reviewed at least every 12 months to establish ongoing eligibility for the program. "Month one" shall be the first month in which coverage is provided.

86.9(1) Review form. The family shall complete Form 470-3526, Healthy and Well Kids in Iowa (HAWK-I) Application, and provide information and verification of current income as part of the review process.

86.9(2) Failure to provide information. The child shall not be enrolled for the next 12-month period if the family fails to provide information and verification of income or otherwise fails to cooperate in the annual review process.

86.9(3) *Change in plan.* At the time of the annual review of eligibility, if more than one plan is available, the family shall designate whether the child is to remain enrolled in the current plan or is to be enrolled in another plan. The plan choice shall be designated in writing by completing Form 470-3574, Healthy and Well Kids in Iowa (HAWK-I) Selection of Plan.

441—86.10(514I) Reporting changes. Changes that may affect eligibility shall be reported to the third-party administrator as soon as possible but no later than ten working days after the change. “Day one” shall begin with the date of the change. The parent, guardian, or other adult responsible for the child shall report the change. If the child is emancipated, married, or otherwise in an independent living situation, the child shall be responsible for reporting the change.

86.10(1) *Pregnancy.* The pregnancy of a child shall be reported when the pregnancy is diagnosed.

86.10(2) *Entry to a nonmedical public institution.* The entry of a child into a nonmedical public institution, such as a penal institution, shall be reported following entry to the institution.

86.10(3) *Iowa residence is abandoned.* The abandonment of Iowa residence shall be reported following the move from the state.

86.10(4) *Other insurance coverage.* Enrollment of the child in other health insurance coverage shall be reported.

86.10(5) *Employment with the state of Iowa.* The employment of the child’s parent with the state of Iowa shall be reported.

86.10(6) *Decrease in income.* If the family reports a decrease in income, the third-party administrator shall ascertain whether the change affects the premium obligation of the family. If the change is such that the family is no longer required to pay a premium in accordance with the provisions of rule 441—86.8(514I), premiums will no longer be charged beginning with the month following the month of the report of the change.

86.10(7) *Failure to report changes.* Any benefits paid during a period of time in which the child was ineligible due to unreported changes will be subject to recoupment.

441—86.11(514I) Notice requirements. The applicant or enrollee shall be notified in writing of the decision of the third-party administrator regarding the applicant or enrollee’s eligibility for the HAWK-I program. If the applicant or enrollee has been determined to be ineligible, an explanation of the reason shall be provided.

441—86.12(514I) Appeals and fair hearings. If the applicant or enrollee disputes a decision by the third-party administrator to reduce, cancel or deny participation in the HAWK-I program, the applicant or enrollee may appeal the decision in accordance with 441—Chapter 7.

441—86.13(514I) Third-party administrator. The third-party administrator shall have the following responsibilities:

86.13(1) *Determination of eligibility.* The third-party administrator shall determine eligibility in accordance with the provisions of rule 441—86.2(514I).

86.13(2) *Dissemination of application forms and information.* The third-party administrator shall disseminate the following:

a. Application forms to any organization or individual making a request in accordance with the provisions of subrule 86.3(1).

b. Outreach materials to any organization or individual making a request.

c. Participating health plan information.

d. Other materials as specified by the department.

(3) Provides a specific medical record on demand.

(4) Meets state and federal reporting requirements applicable to the HAWK-I program.

(5) Maintains the confidentiality of medical records information and releases the information only in accordance with established policy below:

1. All medical records of the enrollee shall be confidential and shall not be released without the written consent of the enrollee or responsible party.

2. Written consent is not required for the transmission of medical records information to physicians, other practitioners, or facilities that are providing services to enrollees under a subcontract with the plan. This provision also applies to specialty providers who are retained by the plan to provide services which are infrequently used, which provide a support system service to the operation of the plan, or which are of an unusual nature. This provision is also intended to waive the need for written consent for department staff and the third-party administrator assisting in the administration of the program, reviewers from the peer review organization (PRO), monitoring authorities from the Health Care Financing Administration (HCFA), the plan itself, and other subcontractors which require information as described under numbered paragraph "5" below.

EXCEPTION: Written consent is required for the transmission of medical records relating to substance abuse, HIV, or mental health treatment in accordance with state and federal laws.

3. Written consent is not required for the transmission of medical records information to physicians or facilities providing emergency care pursuant to paragraph 86.15(2) "b."

4. Written consent is required for the transmission of the medical records information of a former enrollee to any physician not connected with the plan.

5. The extent of medical records information to be released in each instance shall be based upon a test of medical necessity and a "need to know" on the part of the practitioner or a facility requesting the information.

6. Medical records maintained by subcontractors shall meet the requirements of this rule.

b. Each plan shall provide at a minimum reports and plan information to the third-party administrator as follows:

(1) A list of providers of medical services under the plan.

(2) Information regarding the plan's appeals process.

(3) A plan for a health improvement program.

(4) Periodic financial, utilization and statistical reports as required by the department.

(5) Encounter data on a monthly basis as required by the department.

(6) Time-specific reports which define activity for child health care, appeals, and other designated activities which may, at the department's discretion, vary among plans, depending on the services covered and other differences.

(7) Other information as directed by the department.

86.15(10) Systems. The participating health plan shall maintain data files that are compatible with the department's and third-party administrator's systems.

86.15(11) Payment to the participating health plan.

a. In consideration for all services rendered by a plan, the plan shall receive a payment each month for each enrollee. This capitation rate represents the total obligation of the department with respect to the costs of medical care and services provided to the enrollees.

b. The capitation rate shall be actuarially determined by the department July of 2000 and each fiscal year thereafter using statistics and data assumptions and relevant experience derived from similar populations.

c. The capitation rate does not include any amounts for the recoupment of losses suffered by the plan for risks assumed under the current or any previous contract. The plan accepts the rate as payment in full for the contracted services. Any savings realized by the plan due to lower utilization from a less frequent incidence of health problems among the enrolled population shall be wholly retained by the plan.

d. If an enrollee has third-party coverage or a responsible party other than the HAWK-I program available for purposes of payment for medical expenses, it is the right and responsibility of the plan to investigate these third-party resources and attempt to obtain payment. The plan shall retain all funds collected through third-party sources. A complete record of all income from these sources must be maintained and made available to the department.

86.15(12) *Quality assurance.* The plan shall have in effect an internal quality assurance system.

441—86.16(514I) Clinical advisory committee. Members of the clinical advisory committee established in accordance with the provisions of 441—paragraph 1.10(2) “c” shall be appointed to three-year terms. Members may be appointed for more than one term. No more than one-third of the membership of the committee shall rotate off the committee in any given calendar year.

These rules are intended to implement Iowa Code chapter 514I.

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12. Federal Savings and Loan Insurance Corporation (FSLIC)—Principal and interest from notes, bonds, debentures, and other such obligations issued by the Federal Savings and Loan Insurance Corporation (12 USCS Section 1725[e]).

13. Federal Financing Corporation—Principal and interest from notes, bonds, debentures, and other such obligations issued by the Federal Financing Corporation (12 USCS Section 2288(b)).

14. Financing Corporation (FICO)—Principal and interest from any obligation of the Financing Corporation (12 USCS Sections 1441[e][7] and 1433).

15. General Services Administration (GSA)—Principal and interest from General Services Administration participation certificates. Considered to be United States Government obligations (31 USCS Section 3124[a]).

16. Housing and Urban Development (HUD).

- Principal and interest from War Housing Insurance debentures (12 USCS Section 1739[d]).
- Principal and interest from Rental Housing Insurance debentures (12 USCS Section 1747g[g]).
- Principal and interest from Armed Services Mortgage Insurance debentures (12 USCS Section 1748b[f]).
- Principal and interest from National Defense Housing Insurance debentures (12 USCS Section 1750c[d]).
- Principal and interest from Mutual Mortgage Insurance Fund debentures (12 USCS Section 1710[d]).

17. National Credit Union Administration Central Liquidity Facility—Income from notes, bonds, debentures, and other obligations issued on behalf of the National Credit Union Administration Central Liquidity Facility (12 USCS Section 1795k[b]).

18. Resolution Funding Corporation—Principal and interest from obligations issued by the Resolution Funding Corporation (12 USCS Sections 1441[f][7] and 1433).

19. Student Loan Marketing Association (Sallie Mae)—Principal and interest from obligations issued by the Student Loan Marketing Association. Considered to be United States Government obligations (20 USCS Section 1087-2[1], 31 USCS Section 3124[a]).

20. Tennessee Valley Authority—Principal and interest from bonds issued by the Tennessee Valley Authority (16 USCS Section 831n-4[d]).

21. United States Postal Service—Principal and interest from obligations issued by the United States Postal Service (39 USCS Section 2005[d][4]).

22. Treasury Investment Growth Receipts.

23. Certificates on Government Receipts.

40.2(2) Taxable securities. There are a number of securities issued under the authority of an Act of Congress which are subject to the Iowa income tax. These securities may be guaranteed by the United States Treasury or supported by the issuing agency's right to borrow from the Treasury. Some may be backed by the pledge of full faith and credit of the United States Government. However, it has been determined that these securities are not direct obligations of the United States Government to pay a specified sum at a specified date, nor are the principal and interest from these securities specifically exempted from taxation by the respective authorizing Acts. Therefore, income from such securities is subject to the Iowa income tax. Examples of securities which fall into this category are those issued by the following agencies and institutions:

a. Federal agency obligations:

1. Federal or State Savings and Loan Associations
2. Export-Import Bank of the United States
3. Building and Loan Associations
4. Interest on federal income tax refunds
5. Postal Savings Account
6. Farmers Home Administration
7. Small Business Administration
8. Federal or State Credit Unions
9. Mortgage Participation Certificates
10. Federal National Mortgage Association
11. Federal Home Loan Mortgage Corporation (Freddie Mac)
12. Federal Housing Administration
13. Federal National Mortgage Association (Fannie Mae)
14. Government National Mortgage Association (Ginnie Mae)
15. Merchant Marine (Maritime Administration)

b. Obligations of international institutions:

1. Asian Development Bank
2. Inter-American Development Bank
3. International Bank for Reconstruction and Development (World Bank)

c. Other obligations:

Washington D.C. Metro Area Transit Authority

Interest from repurchase agreements involving federal securities is subject to Iowa income tax. *Nebraska Department of Revenue v. John Loewenstein*, 514 US ___, 130 L.Ed.2d 470, 115 S.Ct. __ (1994). *Everett v. State Dept. of Revenue and Finance*, 470 N.W.2d 13 (Iowa 1991).

For tax years beginning on or after January 1, 1987, interest from Mortgage Backed Certificate Guaranteed by Government National Mortgage Association ("Ginnie Maes") is subject to Iowa income tax. See *Rockford Life Insurance Company v. Illinois Department of Revenue*, 96 L.Ed.2d 152.

For the treatment of interest or dividends from regulated investment companies (mutual funds) that invest in obligations of the type discussed in this rule, see rule 701—40.52(422).

This rule is intended to implement Iowa Code section 422.7.

701—40.3(422) Interest and dividends from foreign securities, and securities of state and their political subdivisions. Interest and dividends from foreign securities and from securities of state and their political subdivisions are to be included in Iowa net income. Certain types of interest and dividends, because of specific exemption, are not includable in income for federal tax purposes. To the extent such income has been excluded for federal income tax purposes, unless the item of income is specifically exempted from state taxation by the laws or constitution of Iowa or of the United States, it must be added to Iowa taxable income.

The following is a noninclusive listing of bonds issued by the state of Iowa and its political subdivisions, interest on which is exempt from both federal and state income taxes.

1. Board of Regents: Bonds issued under Iowa Code sections 262.41, 262.51, 262.60, 262A.8, and 263A.6.
2. Urban Renewal: Bonds issued under Iowa Code section 403.9(2).
3. Municipal Housing Law - Low-income housing: Bonds issued under Iowa Code section 403A.12.
4. Subdistricts of soil conservation districts, revenue bonds: Bonds issued under Iowa Code section 467A.22 (transferred to Iowa Code section 161A.22 in 1993 Iowa Code).

5. Aviation authorities, revenue bonds: Bonds issued under Iowa Code section 330A.16.
6. Rural water districts: Bonds issued under Iowa Code section 357A.15.
7. Iowa Alcoholic Beverage Control Act - Warehouse project: Bonds issued under Iowa Code section 123.159.
8. County Health Center: Bonds issued under Iowa Code section 331.441(2)“c”(7).
9. Iowa Finance Authority, Sewage treatment and drinking water facilities financing: Bonds issued under Iowa Code section 220.131(6) (transferred to Iowa Code section 16.131(6) in 1993 Iowa Code).
10. Agricultural Development Authority, Beginning farmer loan program: Bonds issued under Iowa Code section 175.17.
11. Iowa Finance Authority, Iowa comprehensive petroleum underground storage tank fund: Bonds issued under Iowa Code section 455G.6(14).
12. Iowa Finance Authority, E911 Program notes and bonds: Bonds issued under Iowa Code section 477B.20(6). (Transferred to Iowa Code section 34A.20(6) in 1993 Iowa Code.)
13. Quad Cities Interstate Metropolitan Authority Bonds: Bonds issued under Iowa Code section 330B.24. (Transferred to Iowa Code section 28A.24 in 1993 Iowa Code.)
14. Iowa Finance Authority, Municipal Investment Recovery Program: Bonds issued under Iowa Code section 220.173(4). (Transferred to Iowa Code section 16.173(4) in 1993 Iowa Code.)
15. Prison Infrastructure Revenue Bonds: Bonds issued under Iowa Code section 16.177(8).
16. Government Flood Damage Program Bonds: Bonds issued under Iowa Code section 16.183(4).
17. Iowa sewage treatment bonds: Bonds issued under Iowa Code section 16.131(6).
18. Community college residence halls and dormitories bonds: Bonds issued under Iowa Code section 260C.61.
19. Community college bond program bonds: Bonds issued under Iowa Code section 260C.71(6).
20. Regents institutions medical and hospital buildings at University of Iowa bonds: Bonds issued under Iowa Code section 263A.6.
21. Interstate bridges bonds: Bonds issued under Iowa Code section 313A.36.

Interest from repurchase agreements involving obligations of the type discussed in this rule is subject to Iowa income tax. *Nebraska Department of Revenue v. John Loewenstein*, 514 US —, 130 L.Ed. 2d 470, 115 S.Ct. — (1994). *Everett v. State Dept. of Revenue and Finance*, 470 N.W.2d 13 (Iowa 1991).

For the treatment of interest or dividends from regulated investment companies (mutual funds) that invest in obligations of the type discussed in this rule, see rule 701—40.52(422).

Gains and losses from the sale or other disposition of bonds issued by the state of Iowa or its political subdivisions, as distinguished from interest income, shall be taxable for state income tax purposes.

This rule is intended to implement Iowa Code section 422.7.

701—40.4(422) Certain pensions, annuities and retirement allowances. Pensions, annuities, or retirement allowances paid under the peace officers' retirement system, Iowa public employees' retirement system and the Iowa police officers' and firefighters' retirement system plans provided for under Iowa Code chapters 97A, 97B and 411 are exempt from taxation under Iowa Code sections 97A.12, 97B.39, and 411.13. In addition, annuities paid from the Iowa judicial retirement system which are received on or after July 1, 1985, are exempt from taxation under Iowa Code section 602.9109. Therefore, if the federal adjusted gross income of an individual, taxable by Iowa, includes one or more of these exempt incomes, an adjustment must be made deducting the amount of income that is exempt.

Certain qualifying persons who receive one or more annuities from the United States civil service retirement and disability trust fund may exclude from net income the amount of the annuity or annuities up to \$5,500 for a person who files a separate state income tax return and \$8,000 total for a husband and wife who file a joint state income tax return. To qualify for this exclusion an individual must be disabled, 62 years of age or older, or a surviving spouse or survivor having an insurable interest of an individual who would have qualified for this exemption for the tax years being filed. A survivor who is not disabled or 62 years of age or older can only exclude the amount of annuities received as a result of the death of the annuitant. The amount of the exemption shall be reduced by the amount of any social security benefits received. This exclusion shall apply to any amounts of an annuity not already excluded in determining net income as defined in Iowa Code section 422.7. The full amount of an annuity or annuities received from the United States civil service retirement and disability trust fund taxable under the Internal Revenue Code shall be included in net income to determine whether an individual qualifies to exclude the income from tax under the \$5,000 rule provided by Iowa Code section 422.5.

EXAMPLE 1. Husband and wife file a joint Iowa income tax return and have received the following income during the year:

Interest income	\$3,500
U.S. civil service retirement annuity (husband)	5,500
Social Security (wife)	3,000

The amount of civil service exclusion allowable on the joint Iowa return would be \$2,500 (\$5,500 annuity minus wife's \$3,000 social security benefit). The \$5,000 or less exclusion would not be applicable since the total of interest income of \$3,500 and the civil service annuity of \$5,500 exceeds \$5,000.

EXAMPLE 2. Husband and wife file separately on a combined Iowa income tax return and have received the following income during the taxable year:

	Wife	Husband
Interest income	\$1,500	\$2,500
Dividends	3,000	
Social Security	2,000	
Civil service annuity		6,000

The amount of civil service exclusion in this case would be limited to \$5,500 since the taxpayers elected to file separately. The amount of the civil service exclusion to the husband would not be reduced by the wife's social security benefits.

For tax years beginning in 1979 and for tax years beginning thereafter, there is an allowable civil service annuity exclusion of up to \$8,184 for married taxpayers filing jointly and of up to \$5,627 for an individual filing a separate return. These exclusion amounts reflect adjustment for indexation as provided in rule 701—38.10(422).

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CHAPTER 52
FILING RETURNS, PAYMENT OF TAX AND
PENALTY AND INTEREST

[Prior to 12/17/86, Revenue Department[730]]

701—52.1(422) Who must file. Every corporation, organized under the laws of Iowa or qualified to do business within this state or doing business within Iowa, regardless of net income, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer. If the corporation was inactive or not doing business within Iowa, although qualified to do so, during the taxable year, the return must contain a statement to that effect.

For tax years beginning on or after January 1, 1989, every corporation organized under the laws of Iowa, doing business within Iowa, or deriving income from sources consisting of real or tangible property located or having a situs within Iowa, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer.

For tax years beginning on or after January 1, 1995, every corporation organized under the laws of Iowa, doing business within Iowa, or deriving income from sources consisting of real, tangible, or intangible property located or having a situs within Iowa, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer. For tax years beginning on or after January 1, 1999, every corporation doing business within Iowa, or deriving income from sources consisting of real, tangible, or intangible property located or having a situs within Iowa, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer.

Political organizations described in Internal Revenue Code Section 527 which are domiciled in this state and are required to file federal Form 1120POL and pay federal corporation income tax are subject to Iowa corporation income tax to the same extent as they are subject to federal corporation income tax.

Homeowners associations described in Internal Revenue Code Section 528 which are domiciled in this state and are required to file federal Form 1120H and pay federal corporation income tax are subject to Iowa corporation income tax to the same extent as they are subject to federal corporation income tax.

52.1(1) Definitions.

a. Doing business. The term “doing business” is used in a comprehensive sense and includes all activities or any transactions for the purpose of financial or pecuniary gain or profit. Irrespective of the nature of its activities, every corporation organized for profit and carrying out any of the purposes of its organization shall be deemed to be “doing business.” In determining whether a corporation is doing business, it is immaterial whether its activities actually result in a profit or loss.

For the period from July 1, 1986, through December 31, 1988, the term “doing business” does not include placing of liquor in bailment pursuant to 1986 Iowa Acts, chapter 1246, section 603, if this is the corporation’s sole activity within Iowa. Any activities by corporate officers or employees in Iowa in addition to bailment are “doing business” and will subject the corporation to corporation income tax.

b. Representative. A person may be considered a representative even though that person may not be considered an employee for other purposes such as withholding of income tax from commissions.

c. Tangible property having a situs within this state. The term “tangible property having a situs within this state” means that tangible property owned or used by a foreign corporation is habitually present in Iowa or it maintains a fixed and regular route through Iowa sufficient so that Iowa could constitutionally under the 14th Amendment and Commerce Clause of the United States Constitution impose an apportioned ad valorem tax on the property. *Central R. Co. v. Pennsylvania*, 370 U.S. 607, 82 S. Ct. 1297, 8 L.Ed.2d (1962); *New York Central & H. Railroad Co. v. Miller*, 202 U.S. 584, 26 S. Ct. 714, 50 L.Ed. 1155 (1906); *American Refrigerator Transit Company v. State Tax Commission*, 395 P.2d 127 (Or. 1964); *Upper Missouri River Corporation v. Board of Review*, Woodbury County, 210 N.W.2d 828.

d. *Intangible property located or having a situs within Iowa.* Intangible property does not have a situs in the physical sense in any particular place. *Wheeling Steel Corporation v. Fox*, 298 U.S. 193, 80 L.Ed. 1143, 56 S.Ct. 773 (1936); *McNamara v. George Engine Company, Inc.*, 519 So.2d 217 (La. App. 1988). The term “intangible property located or having a situs within Iowa” means generally that the intangible property belongs to a corporation with its commercial domicile in Iowa or, regardless of where the corporation which owns the intangible property has its commercial domicile, the intangible property has become an integral part of some business activity occurring regularly in Iowa. *Beidler v. South Carolina Tax Commission*, 282 U.S. 1, 75 L.Ed. 131, 51 S.Ct. 54 (1930); *Geoffrey, Inc. v. South Carolina Tax Commission*, 437 S.E.2d 13 (S.C. 1993), cert. denied, 114 S.Ct. 550 (1993). The following is a noninclusive list of types of intangible property: copyrights, patents, processes, franchises, contracts, bank deposits including certificates of deposit, repurchase agreements, loans, shares of stocks, bonds, licenses, partnership interests including limited partnership interests, leaseholds, money, evidences of an interest in property, evidences of debts, leases, an undivided interest in a loan, rights-of-way, and interests in trusts.

The term also includes every foreign corporation which has acquired a commercial domicile in Iowa and whose property has not acquired a constitutional tax situs outside of Iowa.

52.1(2) *Corporate activities not creating taxability.* Public Law 86-272, 15 U.S.C.A., Sections 381-385, in general prohibits any state from imposing an income tax on income derived within the state from interstate commerce if the only business activity within the state consists of the solicitation of orders of tangible personal property by or on behalf of a corporation by its employees or representatives. Such orders must be sent outside the state for approval or rejection and, if approved, must be filled by shipment or delivery from a point outside the state to be within the purview of Public Law 86-272. Public Law 86-272 does not extend to those corporations which sell services, real estate, or intangibles in more than one state or to domestic corporations.

a. If the only activities in Iowa of a foreign corporation selling tangible personal property are those of the type described in the noninclusive listing below, the corporation is protected from the Iowa corporation income tax law by Public Law 86-272.

- (1) The free distribution by salespersons of product samples, brochures, and catalogues which explain the use of or laud the product, or both.
- (2) The lease or ownership of motor vehicles for use by salespersons in soliciting orders.
- (3) Salespersons' negotiation of a price for a product, subject to approval or rejection outside the taxing state of such negotiated price and solicited order.
- (4) Demonstration by salesperson, prior to the sale, of how the corporation's product works.
- (5) The placement of advertising in newspapers, radio, and television.
- (6) Delivery of goods to customers by foreign corporation in its own or leased vehicles from a point outside the taxing state. Delivery does not include nonimmune activities, such as picking up damaged goods.
- (7) Collection of state or local-option sales taxes or state use taxes from customers.
- (8) Audit of inventory levels by salespersons to determine if corporation's customer needs more inventory.
- (9) Recruitment, training, evaluation, and management of salespersons pertaining to solicitation of orders.
- (10) Salespersons' intervention/mediation in credit disputes between customers and non-Iowa located corporate departments.

52.4(4) *Payment of tax by uncertified checks.* The department will accept uncertified checks in payment of income taxes, provided the checks are collectible for their full amount without any deduction for exchange or other charges unless requirements for electronic transmission of remittances and related information specify otherwise. The date on which the department receives the check will be considered the date of payment, so far as the taxpayer is concerned, unless the check is dishonored. If one check is remitted to cover two or more corporations' taxes, the remittance must be accompanied by a letter of transmittal stating: (a) the name of the drawer of the check; (b) the amount of the check; (c) the amount of any cash, money order or other instrument included in the same remittance; (d) the name of each corporation whose tax is to be paid by the remittance; and (e) the amount of payment on account of each corporation.

52.4(5) *Procedure with respect to dishonored checks.* If any check is returned unpaid, all expenses incidental to the collection thereof will be charged to the taxpayer. If any taxpayer whose check has been returned by the depository bank uncollected should fail at once to make the check good, the director will proceed to collect the tax as though no check had been given. A taxpayer who tenders a certified check in payment for taxes is not relieved from his obligation until the check has been paid.

52.4(6) *New jobs credit.* Transferred to 52.8(422) IAB 11/28/90, effective 1/2/91.

This rule is intended to implement Iowa Code sections 422.21, 422.24, 422.25, 422.33 and 422.86.

701—52.5(422) Minimum tax.

52.5(1) Effective for tax years beginning on or after January 1, 1982, but before January 1, 1987, an Iowa minimum tax is imposed in addition to the tax computed under Iowa Code section 422.33. The Iowa minimum tax on tax preference items is a percentage of the federal minimum tax for tax preferences computed under Sections 56 through 58 of the Internal Revenue Code for the tax year. For tax years beginning on or after January 1, 1986, "federal minimum tax" means the federal minimum tax for tax preferences computed under Sections 56 through 58 except Section 57(a)(8) of the Internal Revenue Code for the tax year.

For a corporation conducting 100 percent of its business within Iowa as defined in rule 701—54.1(422), the Iowa minimum tax is a percentage of the federal minimum tax. For a corporation doing business both within and without Iowa, the state's portion of the federal minimum tax shall be based upon the apportionment provisions of rules 701—54.5(422) to 54.8(422) unless an alternative method more accurately reflects that portion of minimum tax attributable to Iowa.

When a corporation joins with at least one other corporation in the filing of a consolidated federal income tax return, and files a separate Iowa corporation income tax return, the consolidated federal minimum tax shall be allocated to the separate corporations. The allocation of the consolidated federal minimum tax shall be determined as follows: The consolidated federal minimum tax is multiplied by a fraction, the numerator of which is the sum of the taxpayer's federal tax preference items and the denominator of which is the total of the federal tax preference items of each corporation included in the consolidated federal income tax return.

For tax years beginning on or after January 1, 1982, and prior to January 1, 1983, the Iowa minimum tax is 25 percent of the state's apportioned share of the federal minimum tax on tax preference items.

For tax years beginning on or after January 1, 1983, the Iowa minimum tax is 70 percent of the state's apportioned share of the federal minimum tax on tax preference items.

52.5(2) For tax years beginning after 1997, a small business corporation or a new corporation for its first year of existence, which through the operation of Internal Revenue Code Section 55(e) is exempt from the federal alternative minimum tax, is not subject to Iowa alternative minimum tax. A small business corporation may apply any alternative minimum tax credit carryforward to the extent of its regular corporation income tax liability.

For tax years beginning on or after January 1, 1987, the minimum tax is imposed only to the extent that it exceeds the taxpayer's regular tax liability computed under Iowa Code subsection 422.33(1). The minimum tax rate is 60 percent of the maximum corporate tax rate rounded to the nearest one-tenth of 1 percent or 7.2 percent. Minimum taxable income is computed as follows:

State taxable income as adjusted by Iowa Code section 422.35

Plus: Tax preference items, adjustments and losses added back

Less: Allocable income including allocable preference items and adjustments under Section 56 of the Internal Revenue Code including adjusted current earnings related to allocable income including the allocable preference items

Subtotal

Times: Apportionment percentage

Result

Plus: Income allocable to Iowa including allocable preference items and adjustments under Section 56 of the Internal Revenue Code including adjusted current earnings related to allocable income including the allocable preference items

Less: Iowa alternative tax net operating less deduction
\$40,000 exemption amount

Equals: Iowa alternative minimum taxable income

For tax years beginning on or after January 1, 1987, the items of tax preference are the same items of tax preference under Section 57 except for Subsections (a)(1) and (a)(5) of the Internal Revenue Code used to compute federal alternative minimum taxable income. The adjustments to state taxable income are those adjustments required by Section 56 except for Subsections (a)(4) and (d) of the Internal Revenue Code used to compute federal alternative minimum taxable income. In making the adjustment under Section 56(c)(1) of the Internal Revenue Code, interest and dividends from federal securities net of amortization of any discount or premium shall be subtracted. For tax years beginning on or after January 1, 1988, in making the adjustment under Section 56(c)(1) of the Internal Revenue Code, interest and dividends from state and other political subdivisions and from regulated investment companies exempt from federal income tax under the Internal Revenue Code shall be subtracted net of amortization of any discount or premium. In making the adjustment for adjusted current earnings, subtract Foreign Sales Company (FSC) dividend income and Puerto Rican dividend income computed under Internal Revenue Code Section 936 to the extent they are included in the federal computation of adjusted current earnings. Losses to be added are those losses required to be added by Section 58 of the Internal Revenue Code in computing federal alternative minimum taxable income.

a. Tax preference items are:

1. Intangible drilling costs;
2. Incentive stock options;
3. Reserves for losses on bad debts of financial institutions;
4. Appreciated property charitable deductions;
5. Accelerated depreciation or amortization on certain property placed in service before

January 1, 1987.

b. Adjustments are:

1. Depreciation;
2. Mining exploration and development;
3. Long-term contracts;
4. Iowa alternative minimum net operating loss deduction;
5. Book income or adjusted earnings and profits.

New investment which is directly related to the building or rehabilitating of homes includes but is not limited to the following costs: land, surveying, architectural services, building permits, inspections, interest on a construction loan, building materials, roofing, plumbing materials, electrical materials, amounts paid to subcontractors for labor and materials provided, concrete, labor, landscaping, appliances normally provided with a new home, heating and cooling equipment, millwork, drywall and drywall materials, nails, bolts, screws, and floor coverings.

New investment does not include the machinery, equipment, hand or power tools necessary to build or rehabilitate homes.

A taxpayer may claim on the taxpayer's corporation income tax return the pro-rata share of the Iowa eligible housing business tax credit from a partnership, limited liability company, estate, or trust. The portion of the credit claimed by the taxpayer shall be in the same ratio as the taxpayer's pro-rata share of the earnings of the partnership, limited liability company, or estate or trust.

Any Iowa eligible housing business tax credit in excess of the corporation's tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

If the eligible housing business fails to maintain the requirements of 1998 Iowa Acts, chapter 1179, to be an eligible housing business, the taxpayer may be required to repay all or a part of the tax incentives the business received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of 1998 Iowa Acts, chapter 1179. This is because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability.

This rule is intended to implement 1998 Iowa Acts, chapter 1179.

701—52.16(422) Franchise tax credit. For tax years beginning on or after January 1, 1998, a shareholder in a financial institution as defined in Section 581 of the Internal Revenue Code which has elected to have its income taxed directly to the shareholders may take a tax credit equal to the shareholder's pro-rata share of the Iowa franchise tax paid by the financial institution.

The credit must be computed by recomputing the amount of tax computed under Iowa Code section 422.33 by reducing the shareholder's taxable income by the shareholder's pro-rata share of the items of income and expenses of the financial institution and deducting from the recomputed tax the credits allowed by Iowa Code section 422.33. The recomputed tax must be subtracted from the amount of tax computed under Iowa Code section 422.33 reduced by the credits allowed in Iowa Code section 422.33.

The resulting amount, not to exceed the shareholder's pro-rata share of the franchise tax paid by the financial institution, is the amount of tax credit allowed the shareholder.

This rule is intended to implement Iowa Code section 422.33, as amended by 1999 Iowa Acts, chapter 95.

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c. Gross receipts or gross revenues from interstate toll services originating in this state and charged to an Iowa service address are attributable to this state.

d. Gross receipts or gross revenues from interstate toll services terminating in this state and charged to an Iowa service address are attributable to this state.

e. Gross receipts or gross revenues from the sale of phone cards in this state are attributable to this state.

f. Gross receipts or gross revenues from the sale of telecommunication services to resellers of telecommunication services for telecommunication services used for local service in this state are attributable to this state.

g. Gross receipts or gross revenues from the sale of telecommunication services to resellers of telecommunication services for telecommunication services used for toll services originating and terminating in this state are attributable to this state.

h. Gross receipts or gross revenues from the sale of telecommunication services to resellers of telecommunication services for telecommunication services used for interstate toll services originating in this state are attributable to this state.

i. Gross receipts or gross revenues from Internet access originating in this state and charged to an Iowa service address are attributable to this state.

j. Gross receipts or gross revenues from cellular phone services originating in this state and charged to an Iowa service address are attributable to this state.

k. Gross receipts or gross revenues from personal communication services originating in this state and charged to an Iowa service address are attributable to this state.

l. Gross receipts or gross revenues from paging services originating in this state and charged to an Iowa service address are attributable to this state.

m. Services originating in this state and charged to an Iowa service address are attributable to this state.

n. Gross receipts from cable television, satellite television, and community antenna television services, including gross receipts from providing Internet access, charged to an Iowa service address are attributable to this state.

o. Any other gross receipts or gross revenues from fees, access charges, toll services or other charges for communication services charged to an Iowa service address are attributable to this state. See *Goldberg v. Sweet*, 488 U.S. 252, 102 L.Ed. 2d 607, 109 S.Ct. 582 (1989).

p. All of the above classes of revenues shall be aggregated and combined with other gross receipts or gross revenues from sources within Iowa to compose the numerator. The denominator shall be computed in accordance with 701—subrule 54.2(2).

q. “Telecommunications” is an electronic mode of transmitting data, information, and audio and video signals and includes but is not limited to both one-way and two-way signals using land-line phones, cellular phones, paging devices, satellites, and microwave systems. Telecommunications is a medium or mode of delivery, not the actual content of the information transmitted over the medium. Telecommunications does not include broadcast radio and television. See subrule 54.7(5).

r. The term “telecommunication companies” includes but is not limited to: telephone companies; resellers of telephone services; cellular phone companies; personal communication service providers; paging service providers; radio communication providers; Internet access providers; cable television, satellite television, community antenna television companies; and other companies of a similar type.

If a taxpayer feels that the allocation and apportionment method as prescribed by Iowa Code subsection 422.33(2) and in this subrule, in the taxpayer’s case, results in an injustice, the taxpayer may petition the department for permission to determine the taxable net income, both allocable and apportionable, to this state on some other basis. See rule 701—54.9(422).

54.7(5) Radio and television companies doing business within and without Iowa shall determine their Iowa proportion of gross receipts or gross revenues derived from broadcasting operations by taking the proportion of the Iowa population served by broadcasting to the total population served by broadcasting. The population served by broadcasting shall be determined by a recognized market survey such as Arbitron. As used in this rule the term "population served by broadcasting" includes all of the residents of the broadcasting area, whether or not these residents individually elect to receive the broadcasts.

EXAMPLE: A television company has its studio and transmitter in state A. The activities of the employees and corporate officers of the television company in Iowa include solicitation of advertising, covering special news events and covering athletic events. The broadcast signal also reaches state B but the television company does not conduct any activities in state B. The population served by broadcasting is as follows: 100,000 in Iowa, 100,000 in state A, and 50,000 in state B for a total population served by broadcasting of 250,000. The television company's apportionment factor would be computed as follows: The numerator would be the Iowa population served by broadcasting and the denominator would be the total population served by broadcasting ($100,000 \div 250,000 = 40\%$).

Subrule 54.7(5) is effective for tax years beginning on or after January 1, 1988.

54.7(6) Corporations in the business of publishing, selling, licensing, or distributing newspapers, magazines, periodicals, trade journals, or other printed material, or which publish, sell, license or distribute in a filmed or microfilmed image, or in an electronic media, an electronic virtual storage system or broadcasts any of the above items which have been traditionally disseminated in a printed format shall determine the Iowa portion of gross receipts by the following methodology:

a. Gross receipts from the sale of tangible personal property including printed materials, electronic storage media, fees for use of an electronic virtual storage system or fees to receive a broadcast delivered, shipped or broadcast to a purchaser or a subscriber in this state.

b. Gross receipts from advertising shall be attributed to Iowa as determined by the taxpayer's circulation factor during the tax period. The circulation factor shall be determined for each individual publication of the taxpayer containing advertising and shall be equal to the ratio that the taxpayer's Iowa circulation to purchasers and subscribers of its printed material, electronic storage media, electronic virtual storage system or broadcasts containing advertising bears to its total circulation to purchasers and subscribers everywhere.

The circulation factor for an individual publication shall be determined by reference to the rating statistics as reflected in such sources as the Audit Bureau of Circulations or other comparable sources, provided that the source selected is consistently used from year to year for such purpose. If none of the foregoing sources are available, or, if available, none is in a form or content sufficient for such purposes, then the circulation factor shall be determined from the taxpayer's books and records.

c. When specific items of advertisement can be shown, upon clear and convincing evidence, to have been distributed solely to a limited regional or local geographic area of which this state is a part, the taxpayer may petition, or the director may require, that all or a portion of such receipts be attributed to this state on the basis of a regional or local geographic area circulation factor and not upon the basis of the circulation factor provided by "b" above.

Such attribution shall be based on the ratio that the taxpayer's circulation to purchasers and subscribers located in this state bears to its total circulation to purchasers and subscribers located within such regional or local geographic area. This alternative attribution method shall be permitted only on the condition that such receipts are not double counted or otherwise included in the numerator of any other state.

54.7(7) Utility companies shall determine their Iowa gross receipts or gross revenues from transporting natural or casinghead gas for others that is attributable to Iowa by the proportion of Iowa traffic units to total traffic units. The “traffic unit” is defined to be the transportation of 1,000 cubic feet or one dekatherm of natural or casinghead gas for a distance of one mile. Where the transportation is less than one mile, the taxpayer must accumulate the fractions of one mile into one-mile increments for purposes of computing “traffic units.” The taxpayer may use either 1,000 cubic feet or one dekatherm as a “traffic unit” as long as the numerator and denominator are computed on the same basis.

If a taxpayer feels that the allocation and apportionment method as prescribed by Iowa Code subsection 422.33(2) and in this subrule, in the taxpayer’s case, results in an injustice, the taxpayer may petition the department for permission to determine the taxable net income, both allocable and apportionable, to this state on some other basis. See rule 701—54.9(422).

54.7(8) Utility companies shall determine their Iowa gross receipts or gross revenues from transporting electricity for others that is attributable to Iowa by the proportion of Iowa traffic units to total traffic units. The “traffic unit” is defined to be the transportation of 1,000 kilowatt-hours of electricity for a distance of one mile. Where the transportation is less than one mile, the taxpayer must accumulate the fractions of one mile into one-mile increments for purposes of computing “traffic units.”

If a taxpayer feels that the allocation and apportionment method as prescribed by Iowa Code subsection 422.33(2) and in this subrule, in the taxpayer’s case, results in an injustice, the taxpayer may petition the department for permission to determine the taxable net income, both allocable and apportionable, to this state on some other basis. See rule 701—54.9(422).

This rule is intended to implement Iowa Code section 422.33.

701—54.8(422) Apportionment of income derived from more than one business activity carried on within a single corporate structure. Net income from corporations where more than one business activity is conducted within a single unitary corporate structure shall be apportioned by combining gross receipts or gross revenues of each business activity in the business activity ratio. Where necessary, formulas authorized by the department’s rules or statute shall be used to ascertain the gross receipts from such business activities.

EXAMPLE: The taxpayer is engaged in the business of both manufacture of tangible personal property and trucking. During the tax year, the taxpayer received \$1,000,000 in gross receipts, \$400,000 of which was from its manufacturing operations and \$600,000 of which was from its trucking operations. In its trucking operations, the taxpayer traveled 100,000 miles in Iowa and 400,000 everywhere, and in its manufacturing operations, \$300,000 of sales were attributable to this state. The numerator of the business activity ratio would be \$450,000, which includes \$300,000 from manufacturing operations and \$150,000 ($100,000/400,000 \times 600,000 = 150,000$) from trucking operations. See subrule 54.7(2). The denominator of the business activity ratio would be \$1,000,000.

This rule is intended to implement Iowa Code section 422.33.

701—54.9(422) Allocation and apportionment of income in special cases. If a taxpayer feels that the allocation and apportionment method as prescribed by Iowa Code subsection 422.33(2), or 701—Chapter 54, in the taxpayer’s case results in an injustice, the taxpayer may petition the department for permission to determine the taxable net income, both allocable and apportionable, to the state on some other basis.

This rule takes precedence over rule 701—7.60(17A) which implements the uniform waiver rule found in Executive Order Number Eleven issued by the governor.

The taxpayer must first file the return as prescribed by Iowa Code subsection 422.33(2), and pay the tax shown due thereon. If a change to some other method is desired, a statement of objections and schedules detailing such alternative method shall be submitted to the department. The department shall require detail and proof within such time as the department may reasonably prescribe. In addition, the alternative method of allocation and apportionment will not be allowed where the taxpayer fails to produce, upon request of the department, any information the department deems necessary to analyze the request for an alternative method of allocation and apportionment. Such petition must be in writing and shall set forth in detail the facts upon which the petition is based. The burden of proof will be on the taxpayer as to the validity of the method and its results. The mere fact that an alternative method of apportionment or allocation produces a lesser amount of income attributable to Iowa is, per se, insufficient proof that the statutory method of allocation and apportionment is invalid. *Moorman Manufacturing Company v. Bair*, 437 U.S. 267, 57 L.Ed.2d 197(1978). In essence, a comparison of the statutory method of apportionment with another formulary apportionment method is insufficient to prove that the taxpayer would be entitled to the alternative formulary apportionment method. *Moorman Manufacturing Company v. Bair*, supra.

One of the possible alternative methods of allocation and apportionment is separate accounting provided the taxpayer's activities in Iowa are not unitary with the taxpayer's activities outside Iowa. Any corporation deriving income from business operations partly within and partly without Iowa must determine that net business income attributable to this state by the prescribed formula for apportioning net income, unless the taxpayer proved by clear and cogent evidence that the statutory formula apportions income to Iowa out of all reasonable proportion to the business transacted within Iowa. *Moorman Manufacturing Company v. Bair*, supra.

The burden of proof that the statutory method of apportionment attributes to Iowa income out of all reasonable proportion to the business transacted within Iowa is on the taxpayer. In order to utilize separate accounting, the taxpayer's books and records must be kept in a manner that accurately depicts the exact geographical source of profits. In any petition to utilize separate accounting, the taxpayer must submit schedules which accurately depict net income by division or product line and the amount of income earned within Iowa.

Separate accounting is not allowable for a unitary business where the separate accounting method fails to consider factors of profitability resulting from functional integration, centralization of management, and economics of scale. *Shell Oil Company v. Iowa Department of Revenue*, 414 N.W.2d 113 (Iowa 1987).

There are alternative methods of separate accounting utilizing different accounting principles. A mere showing that one separate accounting method produces a result substantially different than the statutory method of apportionment is not sufficient to justify the granting of the separate accounting method shown. The taxpayer must not only show that the separate accounting method advocated by the taxpayer in comparison with the statutory method of apportionment produces a result which, if the statutory method of apportionment were used, would be out of all reasonable proportion to the business transacted within Iowa. The taxpayer must also show that all other conceivable reasonable separate accounting methods would show, when compared with the statutory method of apportionment, that the statutory method of apportionment substantially produces a distorted result.

As used in this rule "statutory method of apportionment" means the Iowa single sales factor formula set forth in Iowa Code section 422.33, subsection 2, paragraph "b," and the apportionment methods set forth in 701—Chapter 54.

All requests to use an alternative method of allocation and apportionment submitted to the department will be considered by the audit division if the request is the result of an audit or by the policy section of the technical services division if the request is received prior to audit. If the department concludes that the statutory method of allocation and apportionment is, in fact, both inapplicable and inequitable, the department shall prescribe a special method. The special method of allocation and apportionment prescribed by the department may be that requested by the taxpayer or some other method of allocation and apportionment which the department deems to equitably attribute income to business activities carried on within Iowa.

If the taxpayer disagrees with the determination of the department, the taxpayer may file a protest within 60 days of the date of the letter setting forth the department's determination and the reasons therefor in accordance with rule 701—7.41(17A). The department's determination letter shall set forth the taxpayer's rights to protest the department's determination.

If no protest is filed within the 60-day period, then no hearing will be granted on the department's determination under this rule. However, this does not preclude the taxpayer from subsequently raising this question in the event that the taxpayer protests an assessment or denial of a timely refund claim, but this issue will only be dealt with for the years involved in the assessment or timely refund claim.

The use of an alternative method of allocation and apportionment would only be applicable to the years under consideration at the time the special method of allocation and apportionment is prescribed. The taxpayer's continued use of a prescribed method of allocation and apportionment will be subject to review and change within the statutory or legally extended period(s).

If there is a material change in the business operations or accounting procedures from those in existence at the time the taxpayer was permitted to determine the net income earned within Iowa by an alternative method of allocation and apportionment, the taxpayer shall apprise the department of such changes prior to filing its return for the current year. After reviewing the information submitted, along with any other information the department deems necessary, the department will notify the taxpayer if the alternative method of allocation and apportionment is deemed applicable.

This rule is intended to implement Iowa Code section 422.33.

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CHAPTER 58
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST,
AND ALLOCATION OF TAX REVENUES

[Prior to 12/17/86, Revenue Department[730]]

701—58.1(422) Who must file. Every financial institution as defined in 701—subrule 57.1(2), regardless of net income, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer. If the financial institution was inactive or not doing business within Iowa, although qualified to do so, during the taxable year, the return must contain a statement to that effect.

58.1(1) *Income tax of financial institutions in liquidation.* When a financial institution is in the process of liquidation, or in the hands of a receiver, the franchise tax returns must be made under oath or affirmation of the persons responsible for the conduct of the affairs of such financial institutions, and must be filed at the same time and in the same manner as required of other financial institutions.

58.1(2) *Franchise tax returns for financial institutions dissolved.* Financial institutions which have been dissolved during the income year must file franchise tax returns for the period prior to dissolution which has not already been covered by previous returns. Officers and directors are responsible for the filing of the returns and for the payment of taxes, if any, for the audit period provided by law.

Where a financial institution dissolves and disposes of its assets without making provision for the payment of its accrued Iowa franchise tax, liability for the tax follows the assets so distributed and upon failure to secure the unpaid amount, suit to collect the tax may be instituted against the stockholders and other persons receiving the property, to the extent of the property received, except bona fide purchasers or others as provided by law.

This rule is intended to implement Iowa Code sections 422.60 and 422.61.

701—58.2(422) Time and place for filing return.

58.2(1) *Returns of financial institutions.* A return of income for all financial institutions must be filed on or before the delinquency date. The delinquency date for all financial institutions is the day following the last day of the fourth month following the close of the taxpayer's taxable year, whether the return be made on the basis of the calendar year or the fiscal year; or the day following the last day of the period covered by an extension of time granted by the director. When the last day prior to the delinquency date falls on a Saturday, Sunday or a legal holiday, the return will be timely if it is filed on the first business day following the Saturday, Sunday or legal holiday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the department on or before the delinquency date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Franchise Tax Processing, Hoover State Office Building, Des Moines, Iowa 50319.

58.2(2) *Short period returns.* Where under a provision of the Internal Revenue Code, a financial institution is required to file a tax return for a period of less than 12 months, a short period Iowa franchise tax return must be filed for the same period. The delinquency date for the short period return is 45 days after the federal due date not considering any federal extension of time to file.

58.2(3) *Extension of time for filing returns for tax years beginning on or after January 1, 1991.* See 701—subrule 39.2(4).

58.2(4) *Extension of time for filing returns for tax years beginning on or after January 1, 1986.* Rescinded IAB 3/15/95, effective 4/19/95.

This rule is intended to implement Iowa Code sections 422.24, 422.62, and 422.66.

701—58.3(422) Form for filing.

58.3(1) Use and completeness of prescribed forms. Returns shall be made by financial institutions on forms supplied by the department. Taxpayers not supplied with the proper forms shall make application for same to the department in ample time to have their returns made, verified and filed on or before the delinquency date. Taxpayers shall carefully prepare their returns so as to fully and clearly set forth the data required. For lack of a prescribed form, a statement made by a taxpayer disclosing the taxpayer's gross income and the deductions therefrom may be accepted as a tentative return, and if verified and filed within the prescribed time, will relieve the taxpayer from liability to penalties, provided that without unnecessary delay such a tentative return is replaced by a return made on the proper form. Each question shall be answered and each direction complied with in the same manner as if the forms and instructions were embodied in these rules.

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making any return required by the statute.

Returns received which are not completed, but merely state "see schedule attached" are not considered to be a properly filed return and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return being filed after the due date.

58.3(2) Form for filing—financial institutions. Financial institutions as defined by Iowa Code section 422.61(1) shall include a true and accurate copy of their federal corporation income tax return as filed with the Internal Revenue Service with the filing of their Iowa return. At a minimum this includes the following federal schedules: income statement, balance sheet, reconciliation of income per books with income per return, analysis of unappropriated retained earnings per books, dividend income and special deductions, capital gains, tax computation and tax deposits, investment credit computation and recapture, work incentive credit computation, foreign tax credit computation, minimum tax computation, and statements detailing other income and other deductions.

When a financial institution whose income is included in a consolidated federal income tax return files an Iowa return, federal consolidating income statements as properly computed for federal income tax purposes showing the income and expenses of each member of the consolidated group shall be required together with the following additional schedules on a separate basis:

- a. Capital gains.
- b. Investment credit computation.
- c. Investment credit recapture.
- d. Work incentive credit computation.
- e. Foreign tax credit computation.
- f. Holding company tax computation.
- g. Minimum tax computation.
- h. Schedules detailing other income and other deductions.

58.3(3) Amended returns. If it becomes known to the taxpayer that the amount of income reported to be federal net income or Iowa taxable income subject to franchise tax was erroneously stated on the Iowa return, or changed by Internal Revenue Service audit, or otherwise, the taxpayer shall file an amended Iowa return along with supporting schedules, to include the amended federal return and a copy of the federal revenue agent's report if applicable. A copy of the federal revenue agent's report and notification of final federal adjustments provided by the taxpayer will be acceptable in lieu of an amended return. The assessment or refund of tax shall be dependent on the statute of limitations as set forth in 701—subrule 57.2(1) and rule 701—60.3(422).

This rule is intended to implement Iowa Code sections 422.62, 422.66 and 422.73.

701—58.4(422) Payment of tax.

58.4(1) Quarterly estimated payments. Effective for taxable years beginning on or after July 1, 1977, financial institutions are required to make quarterly payments of estimated franchise tax. Rules pertaining to the estimated tax are contained in 701—Chapter 61.

58.4(2) Full estimated payment prior to original delinquency date. Rescinded IAB 3/15/95, effective 4/19/95.

58.4(3) Penalty and interest on unpaid tax. In computing penalty and interest on unpaid tax, refer to rule 701—10.66(422).

58.4(4) Payment of tax by uncertified checks. The department will accept uncertified checks in payment of franchise taxes, provided such checks are collectible for their full amount without any deduction for exchange or other charges. The date on which the department receives the check will be considered the date of payment, so far as the taxpayer is concerned, unless the check is dishonored. If one check is remitted to cover two or more financial institutions' taxes, the remittance must be accompanied by a letter of transmittal stating:

- a. The name of the drawer of the check;
- b. The amount of the check;
- c. The amount of any cash, money order or other instrument included in the same remittance;
- d. The name of each financial institution whose tax is to be paid by the remittance; and
- e. The amount of payment on account of each financial institution.

58.4(5) Procedure with respect to dishonored checks. If any check is returned unpaid, all expenses incidental to the collection thereof will be charged to the taxpayer. If any taxpayer whose check has been returned by the depository bank uncollected should fail at once to make the check good, the director will proceed to collect the tax as though no check had been given. A taxpayer who tenders a certified check in payment for taxes is not relieved from the taxpayer's obligation until the check has been paid.

This rule is intended to implement Iowa Code chapter 422.

701—58.5(422) Minimum tax.

58.5(1) Effective for tax years beginning on or after January 1, 1982, but before January 1, 1987, an Iowa minimum tax is imposed in addition to the tax computed under Iowa Code section 422.60. The Iowa minimum tax on tax preference items is a percentage of the federal minimum tax on tax preference items. "Federal minimum tax" means the federal minimum tax for tax preferences computed under Sections 56 through 58 of the Internal Revenue Code for the tax year.

When a financial institution joins with at least one other corporation in the filing of a consolidated federal income tax return, and files a separate Iowa franchise tax return, the consolidated federal minimum tax shall be allocated to the separate entities included in the consolidated federal return. The allocation of the consolidated federal minimum tax shall be determined as follows: The consolidated federal minimum tax is multiplied by a fraction, the numerator of which is the sum of the taxpayer's federal tax preference items and the denominator of which is the total of the federal tax preference items of each entity included in the consolidated federal income tax return.

For tax years beginning on or after January 1, 1982, and prior to January 1, 1983, the Iowa minimum tax is 25 percent of the state's apportioned share of the federal minimum tax on tax preference items.

For tax years beginning on or after January 1, 1983, the Iowa minimum tax is 70 percent of the state's apportioned share of the federal minimum tax on tax preference items.

58.5(2) For tax years beginning after 1997, a small business corporation or a new corporation, that is a financial institution, for its first year of existence, that through the operation of Internal Revenue Code Section 55(e) is exempt from the federal alternative minimum tax, is not subject to Iowa alternative minimum tax. A small business corporation that is a financial institution may apply any alternative minimum tax credit carryforward to the extent of its regular Iowa franchise tax liability.

For tax years beginning on or after January 1, 1987, the minimum tax is imposed only to the extent that it exceeds the taxpayer's regular tax liability computed under Iowa Code section 422.63. The minimum tax rate is 60 percent of the maximum franchise tax rate rounded to the nearest one-tenth of 1 percent or 3 percent. Minimum taxable income is computed as follows:

State taxable income as adjusted by Iowa Code sections 422.35 and 422.61(4)

Plus: Tax preference items, adjustments and losses added back

Less: Allocable income including allocable preference items

Subtotal

Times: Apportionment percentage

Result

Plus: Income allocable to Iowa including allocable preference items

Less: Iowa alternative tax net operating loss deduction
\$40,000 exemption amount

Equals: Iowa alternative minimum taxable income

For taxable years beginning on or after January 1, 1987, the items of tax preference are the same items of tax preference under Section 57 except for subsections (a)(1) and (a)(5) of the Internal Revenue Code used to compute federal alternative minimum taxable income. The adjustments to state taxable income are those adjustments required by Section 56 except for subsections (a)(4), (c)(1), (d), (f), and (g) of the Internal Revenue Code used to compute federal alternative minimum taxable income computed without adjustments, the \$40,000 exemption and the state alternative tax net operating loss deduction shall be substituted for the amounts in Sections 56(f)(1)(B) and 56(g)(1)(B) of the Internal Revenue Code. For tax years beginning on or after January 1, 1988, in making the adjustment under Section 56(c)(1) of the Internal Revenue Code, interest and dividends from state and other political subdivisions and from regulated investment companies exempt from federal income tax under the Internal Revenue Code shall be subtracted net of amortization of any discount or premium. Losses to be added are those losses required to be added by Section 58 of the Internal Revenue Code in computing federal alternative minimum taxable income.

- a. Tax preference items are:
 1. Intangible drilling costs;
 2. Incentive stock options;
 3. Reserves for losses on bad debts of financial institutions;
 4. Appreciated property charitable deductions;
 5. Accelerated depreciation or amortization on certain property placed in service before January 1, 1987.
- b. Adjustments are:
 1. Depreciation;
 2. Mining exploration and development;
 3. Long-term contracts;
 4. Iowa alternative minimum net operating loss deduction;
 5. Book income or adjusted earnings and profits.
- c. Losses added back are:
 1. Farm losses;
 2. Passive activity losses.

Computation of Iowa alternative minimum tax net operating loss deduction.

Net operating losses computed under rule 701—59.2(422) carried forward from tax years beginning before January 1, 1987, are deductible without adjustment.

Net operating losses from tax years beginning after December 31, 1986, which are carried back or carried forward to the current tax year shall be reduced by the amount of tax preferences and adjustments taken into account in computing the net operating loss prior to applying allocation and apportionment. The deduction for a net operating loss from a tax year beginning after December 31, 1986, which is carried back or carried forward shall not exceed 90 percent of the alternative minimum taxable income computed without regard for the net operating loss deduction.

The exemption amount shall be reduced by 25 percent of the amount that the alternative minimum taxable income computed without regard to the \$40,000 exemption exceeds \$150,000. The exemption shall not be reduced below zero.

EXAMPLE: The following example shows the computation of the alternative minimum tax when there are net operating loss carryforwards and carrybacks including an alternative minimum tax net operating loss.

For tax year 1987, the following information is available:

Federal taxable income before NOL	\$ 35,000
Interest exempt from federal tax	5,000
Tax preferences and adjustments	53,400
Iowa income tax expensed on federal	878
Iowa NOL carryforward	<25,000 >

For tax year 1988, the following information is available:

Federal taxable income before NOL	\$ <90,000 >
Interest exempt from federal tax	4,000
Tax preferences and adjustments	20,000
Iowa franchise tax refund reported on federal	878

The alternative minimum tax for 1987 before the 1988 net operating loss carryback should be computed as follows:

Regular Iowa Tax

Federal taxable income	\$ 35,000
Add interest exempt from federal tax	5,000
Add Iowa franchise tax expensed	878
Iowa taxable income before NOL carryforward	<u>\$ 40,878</u>
Less NOL carryforward	<25,000 >
Iowa taxable income	<u>\$ 15,878</u>
Iowa income tax	\$ 794

Alternative Minimum Tax

Iowa taxable income before NOL	\$ 40,878
Add preferences and adjustments	53,400
Total	<u>\$ 94,278</u>
Less NOL carryforward*	<25,000 >
Iowa alternative taxable income	<u>\$ 69,278</u>
Less exemption amount	<40,000 >
Total	<u>\$ 29,278</u>
Times 3%	878
Less regular tax	794
Alternative minimum tax	<u>\$ 84</u>

*Net operating loss carryforwards from tax years beginning before January 1, 1987, are deductible at 100 percent without reduction for items of tax preference or adjustments arising in the tax year.

The alternative minimum tax for 1987 after the 1988 net operating loss carryback should be computed as follows:

Regular Iowa Tax

Federal taxable income	\$ 35,000
Add interest exempt from federal tax	5,000
Add Iowa franchise tax expensed	878
Iowa taxable income before NOL carryforward	<u>\$ 40,878</u>
Less NOL carryforward	<25,000 >
	<u>\$ 15,878</u>
Less NOL carryback from 1988 ¹	<86,878 >
NOL carryforward	<u>\$ <71,000 ></u>

Alternative Minimum Tax

Iowa taxable income before NOL	\$ 40,878
Add preferences and adjustments	53,400
Total	<u>\$ 94,278</u>
Less NOL carryforward from pre-1987 tax year	<25,000 >
Total	<u>\$ 69,278</u>
Less alternative minimum tax NOL ²	<62,350 >
Total	<u>\$ 6,928</u>
Less exemption	<40,000 >
Alternative minimum taxable income after NOL	<u>\$ -0-</u>

¹Computation of 1988 Iowa NOL

Federal NOL	\$ <90,000 >
Add interest exempt from federal tax	4,000
Less Iowa refund in federal income	<878 >
Iowa NOL	<u>\$ <86,878 ></u>

²Computation of 1988 Alternative Minimum Tax NOL

Iowa NOL	\$ <86,878 >
Add preferences and adjustments	20,000
Total	<u>\$ <66,878 ></u>
NOL carryback limited to 90% of alternative minimum income before NOL and exemption*	\$ <62,350 >
Alternative minimum tax NOL carryforward	<u>\$ 4,528</u>

*For purposes of the alternative minimum tax, net operating loss carryforward or carryback from tax years beginning after December 31, 1986, must be reduced by items of tax preference and adjustments, and are limited to 90 percent of alternative minimum taxable income before deduction of the post-1986 NOL and the \$40,000 exemption amount ($\$69,278 \times 90\% = \$62,350$).

58.5(3) Penalty and interest. In computing penalty and interest for failure to file a timely return or to pay the minimum tax, refer to 701—subrules 10.66(2) and 10.66(3). Effective for tax years beginning on or after January 1, 1986, estimate payments are required for minimum tax.

58.5(4) Alternative minimum tax credit for minimum tax paid in a prior tax year. Minimum tax paid in prior tax years commencing with tax years beginning on or after January 1, 1987, by a taxpayer can be claimed as a tax credit against the taxpayer's regular income tax liability in a subsequent tax year. Therefore, 1988 is the first tax year that the minimum tax credit is available for use and the credit is based on the minimum tax paid by the taxpayer for 1987. However, only the portion of the minimum tax which is attributable to those adjustments and tax preferences which are "deferral items" qualifies for the minimum tax credit. "Deferral items" are those tax preferences and adjustments which result in a temporary change in a taxpayer's tax liability. An example of a "deferral item" is the tax preference for accelerated depreciation of real property placed in service before 1987. On the other hand, the portion of the minimum tax which is attributable to the "exclusion item" for appreciated property charitable deduction does not qualify for the minimum tax credit. The appreciated property charitable deduction tax preference is the only state "exclusion item," although there are several "exclusion items" which are used to compute federal minimum tax. The minimum tax credit may only be used against regular income tax for a tax year to the extent that the regular tax is greater than the tentative minimum tax for the tax year. If the minimum tax credit is not used up against the regular tax for a tax year the remaining credit is carried to the following tax year to be applied against the regular income tax liability for that period.

a. Computation of minimum tax credit on Form IA 8801C. The minimum tax credit is computed on Form IA 8801C from information on Form IA 4626 for the prior tax year, Form IA 1120 and Form IA 4626 for the current year and from Form IA 8801C for the prior year (applies in 1989 and in subsequent tax years).

Form IA 8801C is in three parts. In the first part, a calculation is made to determine the portion of the minimum tax paid in the prior year, if any, which is attributable to the exclusion item for appreciated property charitable deduction. In the second portion of Form IA 8801C, the minimum tax attributable to the appreciated property charitable deduction from Part I is subtracted from the total minimum tax paid for the prior year. The remaining amount of minimum tax is attributable to the deferral tax preference items and adjustment items. This remaining amount, if any, is added to the minimum tax carryover credit from Form IA 8801C for the prior tax year, if any. This total is compared to the regular income tax liability less nonrefundable credits, less the tentative minimum tax for the current year and the lesser amount is the allowable minimum tax credit for the current year.

The final part of Form IA 8801C is used to compute the minimum tax credit, if any, which will be carried over to the next tax year. The carryover credit is computed by subtracting the allowable credit for the current tax year from the total of the minimum tax credit attributable to deferral items and the carryover credit from the prior tax years.

b. Example. The taxpayer had a 1989 taxable income of \$450,000 and an accelerated depreciation tax preference of \$280,000. In 1988 the taxpayer had taxable income of \$500,000 and tax preferences of \$370,000 which consisted of \$320,000 of accelerated property charitable deduction and \$50,000 of appreciated property charitable deduction. The minimum tax credit for 1989 was computed on Form IA 8801C using data from Form IA 4626F for 1988 and from Form IA 4626F for 1989 and Form IA 1120 for 1989.

Form IA 8801C

Part I. Computation of Minimum Tax on Exclusion Items		
Line 11 - Gross tax on exclusion items		-0-
Line 12 - Less regular tax minus credits		\$33,900
Line 13 - Net minimum tax on exclusion items		-0-
 Part II. Computation of Allowable Credit for 1989		
Line 14 - Enter amount from line 18 IA 4626F for 1988		\$ 1,100
Line 15 - Enter amount from line 13 part I		-0-
Line 16 - Subtract line 15 from line 14		\$ 1,100
Line 17 - Enter credit carryforward from 1987		-0-
Line 18 - Add lines 16 and 17		\$ 1,100
Line 19 - Enter 1989 regular tax liability		\$22,500
Line 20 - Enter 1989 tentative minimum tax		\$21,600
Line 21 - Subtract line 20 from line 19		\$ 900
Line 22 - Allowable minimum tax credit for 1989. Enter smaller of line 18 or line 21		\$ 900
 Part III. Computation of Minimum Tax Credit Carryovers		
Line 23 - Enter amount from line 18 part II		\$ 1,100
Line 24 - Enter amount from line 22 part II		900
Line 25 - Carryforward of minimum tax credit to 1990. Subtract line 24 from line 23		\$ 200

This rule is intended to implement Iowa Code section 422.60.

701—58.6(422) Refunds and overpayments.

58.6(1) to 58.6(6) Reserved.

58.6(7) Computation of interest on refunds resulting from net operating losses or net capital losses for tax years or periods beginning on or after January 1, 1974, and ending after July 1, 1980. If the amount of tax for any year is reduced as a result of a net operating loss or net capital loss carryback from another year, interest shall accrue on the refund resulting from the loss carryback beginning at the close of the taxable year in which the net operating loss or net capital loss occurred or 30 days after payment of the tax, whichever is later. If the net operating loss or net capital loss carryback to a prior year eliminates or reduces an outstanding assessment or underpayment of tax for the prior year, the full amount of the outstanding assessment or underpayment shall bear interest at the statutory rate from the original due date of the tax for the prior year to the last day of the taxable year in which the net operating loss or net capital loss occurred.

58.6(8) Computation of interest on refunds resulting from net operating losses for tax years ending on or after April 30, 1981. If the amount of tax is reduced as a result of a net operating loss or net capital loss carryback, interest shall accrue on the refund resulting from the loss carryback beginning at the close of the taxable year in which the net operating loss occurred or the first day of the second calendar month following the actual payment date, whichever is later.

58.6(9) For refund claims received by the department after June 11, 1984. If the amount of tax is reduced as a result of a net operating loss or net capital loss, interest shall accrue on the refund resulting from the loss carryback beginning on the date a claim for refund or amended return carrying back the net operating loss or net capital loss is filed with the department or the first day of the second calendar month following the actual payment date, whichever is later.

58.6(10) Overpayment—interest accruing before July 1, 1980. If the amount of tax determined to be due by the department is less than the amount paid, and the date of payment occurred prior to April 30, 1980, interest shall accrue from 60 days after the date of payment at the statutory rate, to the date refunded.

58.6(11) Interest commencing on or after January 1, 1982. See rule 701—10.2(421) regarding the rate of interest charged by the department on delinquent taxes and the rate paid by the department on refunds commencing on or after January 1, 1982.

58.6(12) Overpayment—interest accruing on or after July 1, 1980, and before April 30, 1981. If the amount of tax determined to be due by the department is less than the amount paid, and the date of payment occurred on or after April 30, 1980, and before April 30, 1981, interest shall accrue from 30 days after the date of payment or due date of the return, whichever is later, at the statutory rate, to the date refunded. “Date of payment” means the date the return is filed.

58.6(13) Overpayment—interest accruing on overpayments resulting from returns due on or after April 30, 1981. If the amount of tax determined to be due by the department is less than the amount paid, the excess to be refunded will accrue interest from the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the later.

58.6(14) Renumbered as 701—subrule 10.66(5), IAB 1/23/91.

701—58.7(422) Allocation of franchise tax revenues. Each quarterly distribution shall be made up of the tax shown due on the franchise tax returns received during that quarter, net of all refunds of franchise tax established during that quarter. In determining the portion of franchise tax revenues to be distributed to cities and counties, each financial institution, as defined by Iowa Code section 422.61, is required to submit the appropriate allocation data with the filing of its Iowa franchise tax return. Each financial institution shall accumulate or maintain data to properly determine the business activity ratios as prescribed in subrules 58.7(1) and 58.7(2). The allocation shall be made on the basis of business activity for each office location. The word “office” shall mean a branch office, a drive-in bank depository or any other establishment whereby the business pertaining to the financial institution is carried on.

58.7(1) Business activity determination for a production credit association. A production credit association shall measure its business activity on the basis of loan volume. “Loan volume” shall mean total loans originated during the taxable period. The business activity for each office location shall be that percentage of loans originated by each office to total loans originated for all office locations during the taxable period.

58.7(2) Business activity determination for a financial institution other than a production credit association. A financial institution, other than a production credit association, shall measure its business activity on a basis of net deposits. The business activity of each office shall be that percentage of average “savings and demand deposits net of withdrawals” for each office location to the total average “savings and demand deposits net of withdrawals” for all office locations.

This rule is intended to implement Iowa Code section 422.61.

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l. Receipts (fees or charges) from the issuance of traveler's checks and money orders shall be attributed to the state where the taxpayer's office is located that issued the traveler's checks. If the traveler's checks are issued by an independent representative or agent of the taxpayer, the fees or charges shall be attributed to the state where the independent representative or agent issued the traveler's checks.

m. Fees, commissions, or other compensation for financial services rendered within this state.

n. Any other gross receipts resulting from the operation as a financial organization within the state to the extent the items do not represent a recapture of an expense.

o. Receipts from management services if the recipient of the management services is located in this state.

This rule is intended to implement Iowa Code section 422.63.

701—59.29(422) Allocation and apportionment of income in special cases. If a taxpayer feels that the allocation and apportionment method as prescribed by rule 701—59.28(422) in the taxpayer's case results in an injustice, the taxpayer may petition the department for permission to determine the taxable net income, both allocable and apportionable, to the state on some other basis.

This rule takes precedence over rule 701—7.60(17A) which implements the uniform waiver rule found in Executive Order Number Eleven issued by the governor.

The taxpayer must first file the return as prescribed by rule 701—59.28(422) and pay the tax shown due thereon. If a change to some other method is desired, a statement of objections and schedules detailing the alternative method shall be submitted to the department. The department shall require detail and proof within the time as the department may reasonably prescribe. In addition, the alternative method of allocation and apportionment will not be allowed where the taxpayer fails to produce, upon request of the department, any information the department deems necessary to analyze the request for an alternative method of allocation and apportionment. The petition must be in writing and shall set forth in detail the facts upon which the petition is based. The burden of proof will be on the taxpayer as to the validity of the method and its results. The mere fact that an alternative method of apportionment or allocation produces a lesser amount of income attributable to Iowa is, per se, insufficient proof that the statutory method of allocation and apportionment is invalid. *Moorman Manufacturing Company v. Bair*, 437 U.S. 267, 57 L.Ed.2d 197 (1978). In essence, a comparison of the statutory method of apportionment with another formulary apportionment method is insufficient to prove that the taxpayer would be entitled to the alternative formulary apportionment method. *Moorman Manufacturing Company v. Bair*, supra.

One of the possible alternative methods of allocation and apportionment is separate accounting provided the taxpayer's activities in Iowa are not unitary with the taxpayer's activities outside Iowa. Any corporation deriving income from business operations partly within and partly without Iowa must determine that net business income attributable to this state by the prescribed formula for apportioning net income, unless the taxpayer proved by clear and cogent evidence that the statutory formula apportions income to Iowa out of all reasonable proportion to the business transacted within Iowa. *Moorman Manufacturing Company v. Bair*, supra.

Separate accounting is not allowable for a unitary business where the separate accounting method fails to consider factors of profitability resulting from functional integration, centralization of management, and economics of scale. *Shell Oil Company v. Iowa Department of Revenue*, 414 N.W.2d 113 (Iowa 1987).

The burden of proof that the statutory method of apportionment attributes to Iowa income out of all reasonable proportion to the business transacted within Iowa is on the taxpayer. In order to utilize separate accounting, the taxpayer's books and records must be kept in a manner that accurately depicts the exact geographical source of profits. In any petition to utilize separate accounting, the taxpayer must submit schedules which accurately depict net income by division or product line and the amount of income earned within Iowa.

There are alternative methods of separate accounting utilizing different accounting principles. A mere showing that one separate accounting method produces a result substantially different than the statutory method of apportionment is not sufficient to justify the granting of the separate accounting method shown. The taxpayer must not only show that the separate accounting method advocated by the taxpayer in comparison with the statutory method of apportionment produces a result which, if the statutory method of apportionment were used, would be out of all reasonable proportion to the business transacted within Iowa. The taxpayer must also show that all other conceivable reasonable separate accounting methods would show, when compared with the statutory method of apportionment, that the statutory method of apportionment substantially produces a distorted result.

As used in this rule, "statutory method of apportionment" means the apportionment factor set forth in rule 701—59.28(422).

All requests to use an alternative method of allocation and apportionment submitted to the department will be considered by the audit and compliance division if the request is the result of an audit or by the policy section of the technical services division if the request is received prior to audit. If the department concludes that the statutory method of allocation and apportionment is, in fact, both inapplicable and inequitable, the department shall prescribe a special method. The special method of allocation and apportionment prescribed by the department may be that requested by the taxpayer or some other method of allocation and apportionment which the department deems to equitably attribute income to business activities carried on within Iowa.

If the taxpayer disagrees with the determination of the department, the taxpayer may file a protest within 60 days of the date of the letter setting forth the department's determination and the reasons therefor in accordance with rule 701—7.41(17A). The department's determination letter shall set forth the taxpayer's rights to protest the department's determination.

If no protest is filed within the 60-day period, then no hearing will be granted on the department's determination under this rule. However, this does not preclude the taxpayer from subsequently raising this question in the event that the taxpayer protests an assessment or denial of a timely refund claim, but this issue will only be dealt with for the years involved in the assessment or timely refund claim.

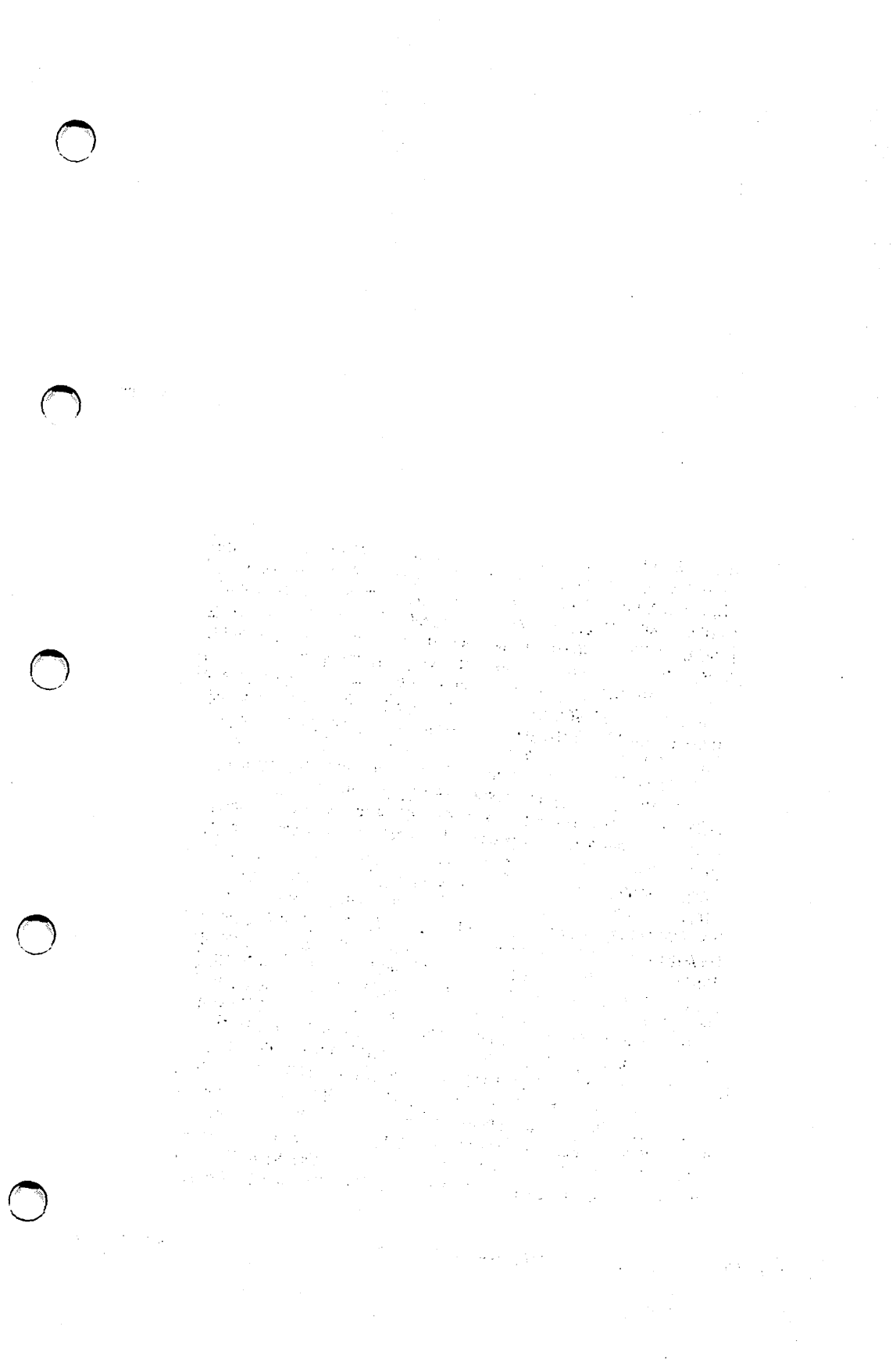
The use of an alternative method of allocation and apportionment would only be applicable to the years under consideration at the time the special method of allocation and apportionment is prescribed. The taxpayer's continued use of a prescribed method of allocation and apportionment will be subject to review and change within the statutory, or legally extended period(s).

If there is a material change in the business operations or accounting procedures from those in existence at the time the taxpayer was permitted to determine the net income earned within Iowa by an alternative method of allocation and apportionment, the taxpayer shall apprise the department of such changes prior to filing the taxpayer's return for the current year. After reviewing the information submitted, along with any other information the department deems necessary, the department will notify the taxpayer if the alternative method of allocation and apportionment is deemed applicable.

This rule is intended to implement Iowa Code section 422.63.

Rules 701—59.25(422) to 701—59.29(422) are effective for tax years beginning on or after June 1, 1989.

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21.800(3) Notice of local sales and services tax election.

a. Not less than 60 days before the date that a local sales and services tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include sample ballots, but shall include all of the information that will appear on the ballot for each city and for the voters in the unincorporated areas of the county.

b. The city councils and the supervisors shall provide to the county commissioner the following information to be included in the notice and on the ballots:

(1) The rate of the tax.

(2) The date the tax will be imposed (which shall be the next implementation date provided in Iowa Code section 422B.9 following the date of the election and at least 90 days after the date of the election, except that an election to impose a local option tax on a date immediately following the scheduled repeal date of an existing similar tax may not be held more than 14 months or less than 90 days before the scheduled repeal date). The imposition date shall be uniform in all areas of the county voting on the tax at the same election.

(3) The approximate amount of local option tax revenues that will be used for property tax relief in the jurisdiction.

(4) A statement of the specific purposes other than property tax relief for which revenues will be expended in the jurisdiction.

c. The information to be included in the notice shall be provided to the commissioner by the city councils of each city in the county not later than 67 days before the date of the election. If a jurisdiction fails to provide the information in 21.4(3)“b”(3) and 21.4(3)“b”(4) above, the following information shall be substituted in the notice and on the ballot:

(1) Zero percent (0%) for property tax relief.

(2) The specific purpose for which the revenues will otherwise be expended is: Any lawful purpose of the city (or county).

d. The notice of election provided for in Iowa Code section 49.53 shall also be published at the time and in the manner specified in that section.

21.800(4) Definitions.

“*Abstract of ballot*” means abstract of votes.

This rule is intended to implement Iowa Code sections 422B.1 and 422B.9.

721—21.801(422B) Form of ballot for local option tax elections. If questions pertaining to more than one of the authorized local option taxes are submitted at a single election, all of the public measures shall be printed on the same ballot. The form of ballots to be used throughout the state of Iowa for the purpose of submitting questions pertaining to local option taxes shall be as follows:

21.801(1) Local sales and services tax propositions. Sales and services tax propositions shall be submitted to the voters of an entire county. If the election is being held for the voters to decide whether to impose the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of imposition shall be voted upon in all parts of the county where the tax has not been approved. If the election is being held for the voters to decide whether to repeal the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of repeal shall be voted upon in all parts of the county where the tax was previously imposed. If the election is being held for the voters to decide whether to change the rate or use of the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of rate or use change shall be voted upon in all parts of the county where the tax was previously imposed.

The ballot submitted to the voters of each incorporated area and the unincorporated area of the county shall show the intended uses for that jurisdiction. The ballot submitted to the voters in contiguous cities within a county shall show the intended uses for each of the contiguous cities. The ballots shall be in substantially the following form:

a. Imposition question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
NO

Summary: To authorize imposition of a local sales and services tax in the [city of _____] [unincorporated area of the county of _____], at the rate of _____ percent (_____ %) to be effective on _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

A local sales and services tax shall be imposed in the [city of _____] [unincorporated area of the county of _____] at the rate of _____ percent (_____ %) to be effective on _____ (month and day), _____ (year).

Revenues from the sales and services tax shall be allocated as follows:

(Choose one or more of the following:)

[_____ for property tax relief (insert percentage or dollar amount)]
[_____ for property tax relief (insert percentage or dollar amount)]
in the unincorporated area of the county of _____
[_____ for property tax relief (insert percentage or dollar amount)]
in the county of _____

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

21.803(4) *Notice to the department of revenue and finance.* Within ten days after an election where a local sales and services tax for school infrastructure projects has been adopted, repealed or where the rate of the tax has been changed, the county auditor shall provide written notice by sending a copy of the abstract of votes to the director of the department of revenue and finance.

This rule is intended to implement 1998 Iowa Acts, House File 2282.

721—21.804 to 21.809 Reserved.

721—21.810(34A) **Referendum on enhanced 911 emergency telephone communication system funding.**

21.810(1) *Form of ballot.* The ballot for the E911 referendum shall be in substantially the following form:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
NO

Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a monthly surcharge of (an amount to be determined by the local joint E911 service board of up to one dollar) on each telephone access line collected as part of each telephone subscriber’s monthly phone bill if provided within (description of the proposed service area).

A map may be used to show the proposed E911 service area. If a map is used the public measure shall read as follows:

“Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a monthly surcharge of (an amount to be determined by the local joint E911 service board of up to one dollar) on each telephone access line collected as part of each telephone subscriber’s monthly phone bill if provided within the proposed E911 service area shown on the map below.”

21.810(2) *Cost of election.* The E911 service board shall pay the costs of the referendum election.

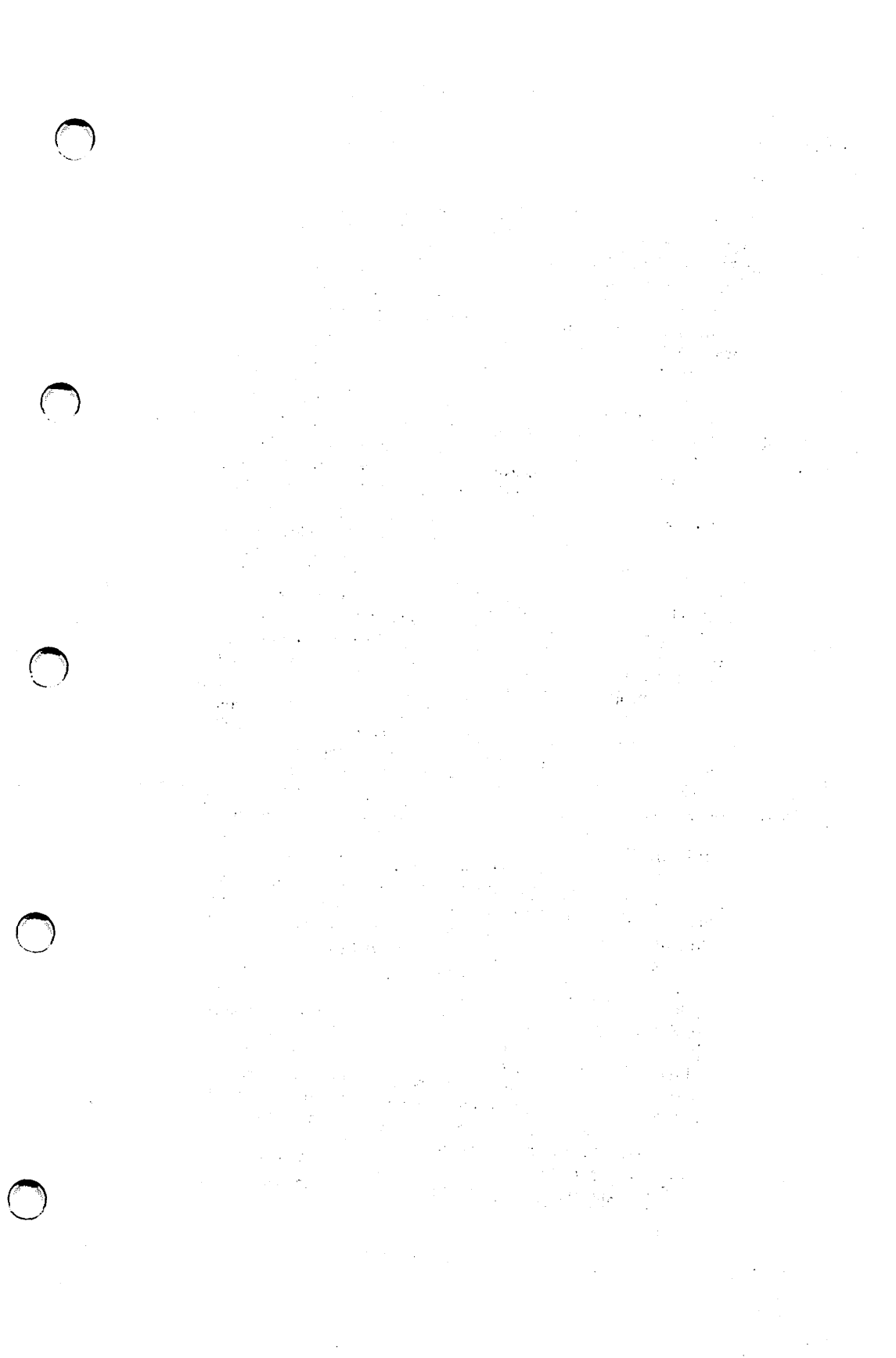
21.810(3) *Enhanced 911 emergency service funding referendum held in conjunction with a scheduled election.*

a. Notice to commissioner. The joint E911 service board shall notify the commissioner in writing, no later than the last day upon which nomination papers may be filed, of their intention to conduct the referendum with the scheduled election. The notice shall contain the complete text of the referendum question including the description of the proposed E911 service area. If a map is to be used on the ballot to describe the proposed E911 service area, the map shall be included. If the E911 service area includes more than one county, the service board shall notify the commissioner of each of the counties.

b. Conduct of election. All qualified electors in a precinct which is to be served, in whole or in part, by the proposed E911 service area, shall be permitted to vote on the question. The results of the referendum shall be canvassed by the board of supervisors at the time of the canvass of the scheduled election. The commissioner shall immediately certify the results to the joint E911 board.

c. Service board duties. If subscribers from more than one county are included within the proposed service area, the E911 service board shall meet as a board of canvassers to compile the results from the counties. The canvass shall be held on the tenth day following the election at a time established by the E911 service board. The service board shall prepare an abstract showing in words and numbers the number of votes cast for and against the question and, if a simple majority of those voting on the question has voted in the affirmative, the board shall declare that the surcharge has been adopted. Votes cast and not counted as a vote for or against the question shall not be used in computing the total vote cast for and against the question.

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