

REVENUE DEPARTMENT[701]

DRAFT ONLY: Dates herein may not comply with Schedule for Rule Making.

Adopted and Filed Emergency

Rule making related to _____

The Revenue Department hereby amends Chapter 40, "Determination Of Net Income," Chapter 53, "Determination Of Net Income," and Chapter 59, "Determination Of Net Income," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 422.68 and 2021 Iowa Acts, SF 619, sections 5-7.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, SF 619, section 5-7.

Purpose and Summary

The purpose of this rule making is to implement the Iowa income tax exclusion for qualifying COVID-19 grants enacted in 2021 Iowa Acts, SF 619, division III, and identify state grant programs that qualify for the exclusion. That legislation requires the department to identify, through rule, state grant programs that meet the definition of "qualifying COVID-19 grant" and thus qualify for the exclusion.

Reason for Adoption of Rule Making Without
Prior Notice and Opportunity for Public Participation

Pursuant to Iowa Code section 17A.4(3), the Revenue Department finds that notice and public participation are unnecessary or impractical because emergency adoption was approved by the Administrative Rules Review Committee. This new income tax exclusion for qualifying COVID-19 grants is effective immediately and retroactive to tax years ending on or after March 17, 2020. This means that taxpayers who have already filed their 2019 and 2020 Iowa income tax returns may be eligible for an additional adjustment to income. The legislation restricts the exclusion to the COVID-19 grant programs identified by the Department through rule, so making the rule effective immediately will enable taxpayers to rely on the rule and file amended Iowa income tax returns to take advantage of this new income tax exclusion in a timely manner and without additional delay.

In compliance with Iowa Code section 17A.4(3)"a," the Administrative Rules Review Committee at its July 13, 2021, meeting reviewed the Revenue Department's determination and this rule making and approved the emergency adoption.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b) the Revenue Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on July 13, 2021, because the rule confers a benefit to the public by identifying COVID-19 grant programs that qualify for the income tax exclusion. This will allow taxpayers to take advantage of the exclusion as described above before the normal effective date.

Adoption of Rule Making

This rule making was adopted by the Revenue Department on July 13, 2021.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as to allow for AR public comment.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the legislation it is implementing. The final fiscal note for Senate File 619, Division III, estimated a reduction of \$9.2 million in FY 2021 and \$1.0 million in FY 2022.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Revenue Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's regular monthly meeting meetings are open to the public and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on July 13, 2021.

The following rule-making action is adopted:

Item 1. Adopt the following **new** rule 701—40.86(422):

701—40.86(422) COVID-19 grant exclusion.

40.86(1) Definitions. For purposes of this rule,

“*Administering agency*” means the economic development authority, the Iowa finance authority, or the department of agriculture and land stewardship.

“*Grant recipient*” means a person who applies for and is issued a qualifying COVID-19 grant by an administering agency.

“*Issued*” means the approval of the grant recipient’s application and amount for a qualifying COVID-19 grant by an administering agency, regardless of when the grant funds were paid by the administering agency.

40.86(2) Qualifying COVID-19 grant programs.

a. The department is responsible for determining whether a grant program provides “qualifying COVID-19 grants” as defined in Iowa Code section 422.7(62). In making this determination, and for purposes of the definition of “qualifying COVID-19 grant,” a grant program is “created to primarily provide COVID-19 related financial assistance to economically impacted individuals and businesses located in this state” if that grant program, at the time of its inception, was intended by the administering agency to provide a majority (more than 50 percent) of its financial assistance to or for the benefit of either or both of the following persons economically affected by the COVID-19 pandemic:

(1) Individuals living in Iowa.

(2) Businesses that are doing business in Iowa or are deriving income from sources within

Iowa.

b. The administering agency shall notify the director of the existence of any grant program it believes may be a qualifying COVID-19 grant program. Upon such notification, the department will request from the administering agency the information necessary to determine whether that program is a qualifying COVID-19 grant as defined in Iowa Code section 422.7(62) and this rule. The administering agency shall provide the department with the requested information within the timeframe prescribed by the department in its request. Failure to provide the requested information to the department shall prevent the department from determining that the grant program is a qualifying COVID-19 grant. Grant programs not specifically listed below in paragraph 40.86(2) “*c*” are not qualifying COVID-19 grants and are not eligible for the exclusion provided in this rule, even if that program may otherwise meet the definition of “qualifying COVID-19 grant” in Iowa Code section 422.7(62).

c. The following is an exhaustive list of programs that have been identified by the department as qualifying COVID-19 grants, including a general description of each program’s grant recipients, that may qualify for the exclusion from Iowa net income under subrule 40.86(3):

(1) Beef Up Iowa program administered by the department of agriculture and land stewardship.

Grant recipient is Iowa State University.

(2) Iowa Beginning Farmer Debt Relief Fund administered by the Iowa Finance Authority.

Grant recipients include Iowa beginning farmers.

(3) Iowa Biofuels Relief Program administered by the economic development authority. Grant recipients include Iowa biodiesel and ethanol producers.

(4) Iowa County Fairs Relief Fund administered by the economic development authority. Grant

recipients include Iowa county or district fairs.

- (5) Iowa COVID-19 Business Disruption Relief Program administered by the economic development authority. Grant recipients include Iowa bars, taverns, breweries, distilleries, wineries, and other similar drinking establishments.
- (6) Iowa COVID-19 Targeted Small Business Sole Operator Fund administered by the economic development authority. Grant recipients include Iowa targeted small businesses.
- (7) Iowa Disposal Assistance Program administered by the department of agriculture and land stewardship. Grant recipients include Iowa pork and egg producers.
- (8) Iowa Eviction and Foreclosure Prevention Program administered by the Iowa finance authority. Grant recipients include Iowa residential renters and homeowners.
- (9) Iowa Homeowner Foreclosure Prevention Program administered by the Iowa finance authority. Grant recipients include Iowa residential homeowners.
- (10) Iowa Hospital COVID-19 Relief Fund administered by the economic development authority. Grant recipients include Iowa hospitals.
- (11) Iowa Livestock Producer Relief Fund administered by the economic development authority. Grant recipients include Iowa livestock producers.
- (12) Iowa Movie Theatre Relief Grant Program administered by economic development authority. Grant recipients include Iowa movie theaters.
- (13) Iowa Nonprofit Recovery Fund administered by the economic development authority. Grant recipients include Iowa nonprofit organizations.
- (14) Iowa Renewable Fuel Retail Recovery Program administered by the department of agriculture and land stewardship. Grant recipients include Iowa fuel retailers.
- (15) Iowa Rent and Utility Assistance Program administered by the Iowa finance authority.

Grant recipients include Iowa residential renters.

- (16) Iowa Residential Utility Disruption Prevention Program administered by the economic development authority. Grant recipients include Iowa residential renters and homeowners.
- (17) Iowa Restaurant and Bar Relief Grant Program administered by the economic development authority. Grant recipients include Iowa bars, breweries, brewpubs, distilleries, wineries, and restaurants.
- (18) Iowa Small Business Relief Grant program administered by the economic development authority. Grant recipients include Iowa small businesses.
- (19) Iowa Small Business Utility Disruption Prevention Program administered by the economic development authority. Grant recipients include Iowa small businesses and small nonprofit organizations.
- (20) Local Produce and Protein Program administered by the department of agriculture and land stewardship. Grant recipients include Iowa schools, early childcare centers, specialty crop producers, and food hubs.
- (21) Meat Processing Expansion and Development Program administered by the department of agriculture and land stewardship. Grant recipients include Iowa meat and poultry processing businesses and employees, and Iowa livestock producers.
- (22) Pack the Pantry program administered by the department of agriculture and land stewardship. Grant recipients include Iowa food pantries.
- (23) Pass the Pork program administered by the department of agriculture and land stewardship. Grant recipients include Iowa food banks.
- (24) Turkey to Table program administered by the department of agriculture and land

stewardship. Grant recipients include Iowa food banks.

40.86(3) *Excluding qualifying COVID-19 grants from Iowa net income.*

a. Generally. A grant recipient may subtract a qualifying COVID-19 grant when calculating Iowa net income if all of the following apply:

- (1) The grant was issued as part of a qualifying COVID-19 grant program identified in paragraph 40.86(2) “c.”
- (2) The grant was issued on or after March 17, 2020, and on or before December 31, 2021.
- (3) The grant funds were included in the grant recipient’s net income for a tax year ending on or after March 17, 2020, but beginning before January 1, 2024. The grant may only be subtracted to the extent it is included in the grant recipient’s net income for that qualifying tax year. A qualifying COVID-19 grant that is exempt from federal income tax, and thus not included in the grant recipient’s Iowa net income, does not qualify for an additional subtraction on the grant recipient’s Iowa return.

b. Third-party payee of grant funds. A third-party payee of qualifying COVID-19 grant funds is not eligible for this exemption from Iowa income. If the proceeds of a qualifying COVID-19 grant are paid to someone other than the grant recipient, only the grant recipient on whose behalf the grant proceeds were paid may qualify for this exemption from Iowa income.

c. Repayment. Grant funds that were repaid to the administering agency for any reason are not eligible for this exemption from Iowa income.

d. Reporting requirements. A grant recipient who received qualifying COVID-19 grant funds and who excludes those funds when calculating Iowa net income should retain documentation to support the claimed exclusion. A grant recipient must provide such

documentation to the department if requested. The required documentation may include, but is not limited to, documentation to support that the grant recipient was issued and received the grant within the qualifying periods.

Item 2. Adopt the following **new** rule 701—53.30(422):

701—53.30(422) COVID-19 grant exclusion.

53.30(1) Definitions. For purposes of this rule,

“*Administering agency*” means the economic development authority, the Iowa finance authority, or the department of agriculture and land stewardship.

“*Grant recipient*” means a person who applies for and is issued a qualifying COVID-19 grant by an administering agency.

“*Issued*” means the approval of the grant recipient’s application and amount for a qualifying COVID-19 grant by an administering agency, regardless of when the grant funds were paid by the administering agency.

53.30(2) Qualifying COVID-19 grant programs.

a. The department is responsible for determining whether a grant program provides “qualifying COVID-19 grants” as defined in Iowa Code section 422.7(62). In making this determination, and for purposes of the definition of “qualifying COVID-19 grant,” a grant program is “created to primarily provide COVID-19 related financial assistance to economically impacted individuals and businesses located in this state” if that grant program, at the time of its inception, was intended by the administering agency to provide a majority (more than 50 percent) of its financial assistance to or for the benefit of businesses that are doing business in Iowa or are deriving income from sources within Iowa, and that are economically affected by the COVID-19 pandemic.

b. The administering agency shall notify the director of the existence of any grant program it believes may be a qualifying COVID-19 grant program. Upon such notification, the department will request from the administering agency the information necessary to determine whether that program is a qualifying COVID-19 grant as defined in Iowa Code section 422.7(62) and this rule. The administering agency shall provide the department with the requested information within the timeframe prescribed by the department in its request. Failure to provide the requested information to the department shall prevent the department from determining that the grant program is a qualifying COVID-19 grant. Grant programs not specifically listed below in paragraph 53.30(2)“*c*” are not qualifying COVID-19 grants and are not eligible for the exclusion provided in this rule, even if that program may otherwise meet the definition of “qualifying COVID-19 grant” in Iowa Code section 422.7(62).

c. The following is an exhaustive list of programs that have been identified by the department as qualifying COVID-19 grants, including a general description of each program’s grant recipients, that may qualify for the exclusion from Iowa net income under subrule 53.30(3):

- (1) Beef Up Iowa program administered by the department of agriculture and land stewardship. Grant recipient is Iowa State University.
- (2) Iowa Beginning Farmer Debt Relief Fund administered by the Iowa Finance Authority. Grant recipients include Iowa beginning farmers.
- (3) Iowa Biofuels Relief Program administered by the economic development authority. Grant recipients include Iowa biodiesel and ethanol producers.
- (4) Iowa County Fairs Relief Fund administered by the economic development authority. Grant recipients include Iowa county or district fairs.
- (5) Iowa COVID-19 Business Disruption Relief Program administered by the economic

development authority. Grant recipients include Iowa bars, taverns, breweries, distilleries, wineries, and other similar drinking establishments.

- (6) Iowa COVID-19 Targeted Small Business Sole Operator Fund administered by the economic development authority. Grant recipients include Iowa targeted small businesses.
- (7) Iowa Disposal Assistance Program administered by the department of agriculture and land stewardship. Grant recipients include Iowa pork and egg producers.
- (8) Iowa Hospital COVID-19 Relief Fund administered by the economic development authority. Grant recipients include Iowa hospitals.
- (9) Iowa Livestock Producer Relief Fund administered by the economic development authority. Grant recipients include Iowa livestock producers.
- (10) Iowa Movie Theatre Relief Grant Program administered by economic development authority. Grant recipients include Iowa movie theaters.
- (11) Iowa Nonprofit Recovery Fund administered by the economic development authority. Grant recipients include Iowa nonprofit organizations.
- (12) Iowa Renewable Fuel Retail Recovery Program administered by the department of agriculture and land stewardship. Grant recipients include Iowa fuel retailers.
- (13) Iowa Restaurant and Bar Relief Grant Program administered by the economic development authority. Grant recipients include Iowa bars, breweries, brewpubs, distilleries, wineries, and restaurants.
- (14) Iowa Small Business Relief Grant program administered by the economic development authority. Grant recipients include Iowa small businesses.
- (15) Iowa Small Business Utility Disruption Prevention Program administered by the

economic development authority. Grant recipients include Iowa small businesses and small nonprofit organizations.

- (16) Local Produce and Protein Program administered by the department of agriculture and land stewardship. Grant recipients include Iowa schools, early childcare centers, specialty crop producers, and food hubs.
- (17) Meat Processing Expansion and Development Program administered by the department of agriculture and land stewardship. Grant recipients include Iowa meat and poultry processing businesses and employees, and Iowa livestock producers.
- (18) Pack the Pantry program administered by the department of agriculture and land stewardship. Grant recipients include Iowa food pantries.
- (19) Pass the Pork program administered by the department of agriculture and land stewardship. Grant recipients include Iowa food banks.
- (20) Turkey to Table program administered by the department of agriculture and land stewardship. Grant recipients include Iowa food banks.

53.30(3) *Excluding qualifying COVID-19 grants from Iowa net income.*

a. Generally. A grant recipient may subtract a qualifying COVID-19 grant when calculating Iowa net income if all of the following apply:

- (1) The grant was issued as part of a qualifying COVID-19 grant program identified in paragraph 53.30(2) “c.”
- (2) The grant was issued on or after March 17, 2020, and on or before December 31, 2021.
- (3) The grant funds were included in the grant recipient’s net income for a tax year ending on or after March 17, 2020, but beginning before January 1, 2024. The grant may only be subtracted to the extent it is included in the grant recipient’s net income for that

qualifying tax year. A qualifying COVID-19 grant that is exempt from federal income tax, and thus not included in the grant recipient's Iowa net income, does not qualify for an additional subtraction on the grant recipient's Iowa return.

b. Third-party payee of grant funds. A third-party payee of qualifying COVID-19 grant funds is not eligible for this exemption from Iowa income. If the proceeds of a qualifying COVID-19 grant are paid to someone other than the grant recipient, only the grant recipient on whose behalf the grant proceeds were paid may qualify for this exemption from Iowa income.

c. Repayment. Grant funds that were repaid to the administering agency for any reason are not eligible for this exemption from Iowa income.

d. Reporting requirements. A grant recipient who received qualifying COVID-19 grant funds and who excludes those funds when calculating Iowa net income should retain documentation to support the claimed exclusion. A grant recipient must provide such documentation to the department if requested. The required documentation may include, but is not limited to, documentation to support that the grant recipient was issued and received the grant within the qualifying periods.

Item 3. Adopt the following **new** rule 701—59.32(422):

701—59.32(422) COVID-19 grant exclusion.

59.32(1) Definitions. For purposes of this rule,

“*Administering agency*” means the economic development authority, the Iowa finance authority, or the department of agriculture and land stewardship.

“*Grant recipient*” means a person who applies for and is issued a qualifying COVID-19

grant by an administering agency.

“Issued” means the approval of the grant recipient’s application and amount for a qualifying COVID-19 grant by an administering agency, regardless of when the grant funds were paid by the administering agency.

59.32(2) *Qualifying COVID-19 grant programs.*

a. The department is responsible for determining whether a grant program provides “qualifying COVID-19 grants” as defined in Iowa Code section 422.7(62). In making this determination, and for purposes of the definition of “qualifying COVID-19 grant,” a grant program is “created to primarily provide COVID-19 related financial assistance to economically impacted individuals and businesses located in this state” if that grant program, at the time of its inception, was intended by the administering agency to provide a majority (more than 50 percent) of its financial assistance to or for the benefit of businesses that are doing business in Iowa or are deriving income from sources within Iowa, and that are economically affected by the COVID-19 pandemic.

b. The administering agency shall notify the director of the existence of any grant program it believes may be a qualifying COVID-19 grant program. Upon such notification, the department will request from the administering agency the information necessary to determine whether that program is a qualifying COVID-19 grant as defined in Iowa Code section 422.7(62) and this rule. The administering agency shall provide the department with the requested information within the timeframe prescribed by the department in its request. Failure to provide the requested information to the department shall prevent the department from determining that the grant program is a qualifying COVID-19 grant. Grant programs not specifically listed below in paragraph 59.32(2) “*c*” are not qualifying COVID-19 grants and are not eligible for the

exclusion provided in this rule, even if that program may otherwise meet the definition of “qualifying COVID-19 grant” in Iowa Code section 422.7(62).

c. For an exhaustive list of programs that have been identified by the department as qualifying COVID-19 grants, including a general description of each program’s grant recipients, that may qualify for the exclusion from Iowa net income under subrule 59.32(3), see 701—paragraph 53.30(2) “c.”

59.32(3) *Excluding qualifying COVID-19 grants from Iowa net income.*

a. Generally. A grant recipient may subtract a qualifying COVID-19 grant when calculating Iowa net income if all of the following apply:

- (1) The grant was issued as part of a qualifying COVID-19 grant program identified in 701—paragraph 53.30(2) “c.”
- (2) The grant was issued on or after March 17, 2020, and on or before December 31, 2021.
- (3) The grant funds were included in the grant recipient’s net income for a tax year ending on or after March 17, 2020, but beginning before January 1, 2024. The grant may only be subtracted to the extent it is included in the grant recipient’s net income for that qualifying tax year. A qualifying COVID-19 grant that is exempt from federal income tax, and thus not included in the grant recipient’s Iowa net income, does not qualify for an additional subtraction on the grant recipient’s Iowa return.

b. Third-party payee of grant funds. A third-party payee of qualifying COVID-19 grant funds is not eligible for this exemption from Iowa income. If the proceeds of a qualifying COVID-19 grant are paid to someone other than the grant recipient, only the grant recipient on whose behalf the grant proceeds were paid may qualify for this exemption from Iowa income.

c. Repayment. Grant funds that were repaid to the administering agency for any reason are

not eligible for this exemption from Iowa income.

d. Reporting requirements. A grant recipient who received qualifying COVID-19 grant funds and who excludes those funds when calculating Iowa net income should retain documentation to support the claimed exclusion. A grant recipient must provide such documentation to the department if requested. The required documentation may include, but is not limited to, documentation to support that the grant recipient was issued and received the grant within the qualifying periods.