

## **Revenue [701]**

### **Adopted and Filed Emergency**

The department of revenue hereby amends 701—chapters 7 and 8, Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 17A.3, 421.14, 422.13, 422.14, 422.16, 422.36, 423.31, 450.53, 452A.60, and 453A.14.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 17A.3, 421.14, 422.13, 422.14, 422.16, 422.36, 423.31, 450.53, 452A.60, and 453A.14.

#### *Purpose and Summary*

The purpose of this filing is to move selected language related to electronic return filings in general from chapter 7 to chapter 8. Chapter 8 is a more appropriate location for this information. The amendments to rule 8.2 also expand options for signatures on paper filings to include copies and facsimiles of signatures.

#### *Reason for Adoption of Rule Making Without*

#### *Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the department finds that notice and public participation are unnecessary or impractical because the current Covid-19 pandemic necessitates the department to expediently expand options for taxpayers and practitioners to interact with each other and the department by electronic means. Over the past several months, it became clear that permitting copies of signatures on paper filings would be beneficial to members of the public as they continue to observe state and federal guidelines related to Covid-19.

#### *Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)"b", the department also finds that the normal effective date of rule making, thirty-five days after publication, should be waived and the rule making made effective immediately upon publication because it confers a benefit to the public that will aid in the protection of public health.

#### *Adoption of Rule Making*

This rule making was adopted by the department on 11/10/2020.

### *Fiscal Impact*

This rule making has no fiscal impact to the state of Iowa.

### *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 **ARC** to allow for public comment.

### *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 department for a waiver of the discretionary provisions, if any, pursuant to 701—7.28(17A).

### *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 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 11/10/2020.

The following rule-making action is adopted:

Item 1. Amend rule 701—7.5, subrule(3) as follows:

**7.5(3)** The signature of the petitioner, party, or authorized representative submitting the filing shall be ~~subscribed in writing~~ affixed to the original of all pleadings, petitions, briefs, or motions and shall be an individual's, and not a firm's entity's, name except that the signature of a corporation shall be the name of the corporation by one of its active officers. The name and mailing address of the party or the party's representative actually signing shall be typed or printed immediately beneath the written signature. The signature shall constitute a certification that the signer has read the document; that to the best of the signer's knowledge, information, and belief, every statement contained in the document is true; and that no such statement is misleading.

a. ~~A taxpayer or the taxpayer's representative using email or other electronic means to submit an income tax return, a sales tax or use tax return, a return for any other tax administered by the department, an application for a sales tax permit or other permit, a deposit form for remitting withholding tax or other taxes administered by the department, or any other a document described in this rule to the department may use an electronic signature, or a signature designated by the department in lieu of a handwritten signature. To the extent that a taxpayer or the taxpayer's representative submits to the department a tax return, deposit document, application or other document by email or other electronic means with an electronic signature or signature designated by the department, the taxpayer should include in the record of the document the taxpayer's federal identification number so that the taxpayer's identity is established. For purposes of this rule, "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a tax return, deposit document, or other document filed with the department and executed or adopted by a person with the intent to sign the return, deposit document, or other document filed with the department. For purposes of this rule, "signature designated by the department" means a symbol or other information that is provided by the department to the taxpayer or the taxpayer's representative and is to serve instead of the handwritten signature of the taxpayer. Electronic signatures appear in many forms and may be created by many different technologies.~~

b. ~~In a situation where~~ If the taxpayer or the taxpayer's representative has submitted a ~~return or other~~ document to the department by email, the taxpayer should include the taxpayer's email address in the record of the document.

c. The department will accept either the original document, an electronically scanned and transmitted document, a facsimile, or a copy. All copies, facsimiles, and electronically scanned and transmitted documents must include a valid signature of the taxpayer or taxpayer's representative, as applicable.

d. However, notwithstanding the above information, a taxpayer may not submit a ~~tax return or other~~ document to the department with an electronic signature when a handwritten signature is required with the ~~return or~~ document by federal or state law.

Item 2. Amend rule 701—8.2 as follows:

### **701—8.2 (17A,421) Department forms.**

**8.2(1) Generally.** The department and the director have developed and provide or prescribe department forms designed to help persons exercise their rights and discharge their duties under the tax laws and rules, to explain tax laws and rules, to assist in the administration of tax laws and rules, and to assist in general financial administration. Department forms may be available in electronic format, on paper, or in other formats as prescribed by the director. Communications with the department, for which department forms have been created, shall be

carried out using those forms or substitute forms. Each direction of every instruction contained within or accompanying department forms shall be followed, and each question within or accompanying every form shall be answered as if the instructions and forms were contained in these rules.

**8.2(2) *Obtaining department forms.*** Department forms and instructions may be obtained from the Taxpayer Services, Iowa Department of Revenue, Policy and Communications Division, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; by telephoning (800)367-3388 or (515)281-3114; or on the department's Web site at <https://tax.iowa.gov/tax.iowa.gov>.

**8.2(3) *Filing department forms.*** A department form may be filed with the department as directed on the department form or in the corresponding instructions. Filing a department form using any other method requires prior approval from the department. Attempting to file a department form using an unapproved method may, at the discretion of the director, result in the rejection of the form and all information contained therein.

**8.2(4) *Removable media and electronic reporting.*** Submitting a department form on removable media, such as compact disc, requires prior approval from the department. ~~No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy.~~ Any electronic reporting of a department form requires department approval, unless otherwise authorized. ~~Additional information regarding electronic reporting is available at Processing Services, P.O. Box 10413, Des Moines, Iowa 50306; or by e-mail at [IDRSubForms@iowa.gov](mailto:IDRSubForms@iowa.gov).~~

**8.2(5) *Electronic Reporting.*** No prior approval is necessary for electronic reporting when the reporting is in accordance with department policy. Any other electronic reporting of a department form requires department approval, unless otherwise authorized. Additional information regarding electronic reporting is available at [iowaforms.gov](http://iowaforms.gov).

**8.2(6) *Signatures.***

*a. Paper filings.* Unless expressly prohibited by state or federal law, a return, application, or other form may be submitted using an original signature, or a copy or facsimile of a signature. For purposes of this rule "copy or facsimile of a signature" may be a copy or facsimile of an original signature or a copy or facsimile of an electronic signature.

*b. Electronic filings.* For income tax returns submitted through the IRS e-file program, see rule 8.5. For all other returns, applications, or other documents, the following applies. Unless expressly prohibited by state or federal law, a return, application or other form accepted by the department as filed by e-mail or other electronic means may be submitted using an electronic signature or a signature designated by the department in lieu of a handwritten signature. For purposes of this rule, "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a tax return, application, or other document filed with the department and executed or adopted by a person with the intent to sign the return, application, or other document filed with the department. Electronic signatures appear in many forms and

may be created by many different technologies. No specific technology is required. For purposes of this rule, “signature designated by the department” means a symbol or other information that is provided by the department to the taxpayer or the taxpayer’s representative and is to serve instead of the handwritten signature of the taxpayer. In a situation where the taxpayer or the taxpayer’s representative has submitted a return, application, or other document to the department by email, the taxpayer should include the taxpayer’s email address in the record of the document. To the extent that a document is submitted by email or other electronic means with an electronic signature or signature designated by the department, the taxpayer should include in the record of the document the taxpayer’s federal identification number so that the taxpayer’s identity is established.

This rule is intended to implement Iowa Code sections 17A.3(1) “b” and 421.14, 422.13, 422.14, 422.16, 422.36, 423.31, 450.53, 452A.60, and 453A.14.