



701—38.17(422) Resident determination. For Iowa individual income tax purposes, an individual is a “resident” if: (1) the individual maintains a permanent place of abode within the state, or (2) the individual is domiciled in the state. An individual who is determined to be a “resident” of Iowa is subject to Iowa income tax on all the individual’s income for the taxable year, no matter whether the income is earned within Iowa or outside of Iowa, except when an item of income is specifically exempted from taxation by a provision of federal or Iowa law.

38.17(1) *Permanent place of abode.* The establishment of a permanent place of abode requires the maintenance of a place of abode over a sufficient period of time to create a well-settled physical connection with a given locality. Significant factors, among others, to be considered in determining whether an individual maintains such a permanent place of abode are: (1) the amount of time the individual spends in the locality; (2) the nature of the individual’s place of abode; (3) the individual’s activities in the locality; and (4) the individual’s intentions with regard to the length and nature of the individual’s stay.

There is a rebuttable presumption that an individual is maintaining a “permanent place of abode” if the individual maintains a place of abode within this state and spends more than 183 days of the tax year within this state. The term “place of abode” includes a house, apartment, condominium, mobile home, or other dwelling place maintained or occupied by the individual whether or not owned or rented by the individual.

Situations where presence in the state for 183 days of the tax year may not cause an individual to be considered to be maintaining a “permanent place of abode” would include situations where presence in the state is not voluntary, such as confinement to a correctional facility or an extended hospital stay.

38.17(2) *Domicile.* An individual is “domiciled” in this state if the individual intends to permanently or indefinitely reside in Iowa and intends to return to Iowa whenever the individual may be absent from this state. Individuals who have moved into this state are domiciled in Iowa if the following three elements exist: (1) a definite abandonment of a former domicile; (2) actual removal to, and physical presence in this state; and (3) a bona fide intention to change domicile and to remain in this state permanently or indefinitely. *Julson v. Julson*, 255 Iowa 301, 122 N.W.2d 329, 331 (1963).

Every person has one and only one domicile. Domicile, for purposes of determining when an individual is “domiciled in this state,” is largely a matter of intention which must be freely and voluntarily exercised. The intention to change one’s domicile must be present and fixed and not dependent upon the happening of some future or contingent event. Because it is essentially a matter of intent, precedents are of slight assistance and the determination of the place of domicile depends upon all the facts and circumstances in each case.

Once an individual is domiciled in Iowa, that status is retained until such time as the individual takes positive action to become domiciled in another state or country, relinquishes the rights and privileges of residency in Iowa, and meets the criteria set forth from *Julson v. Julson*, 255 Iowa 301, 122 N.W.2d, 329, 331 (1963). The director may require an individual claiming domicile outside the state of Iowa to provide documentation supporting establishment of another domicile. Absence from the state for 183 days of the tax year or for any other extended period of time does not alone show abandonment of an Iowa domicile.

a. There is a rebuttable presumption that an individual is domiciled in Iowa if the individual meets the following factors:

- (1) Maintains a residence or place of abode in Iowa, whether owned, rented, or occupied, even if the individual is in Iowa less than 183 days of the tax year, and either
- (2) Claims a homestead credit or military tax exemption on a home in Iowa, or
- (3) Is registered to vote in Iowa, or
- (4) Maintains an Iowa driver's license, or
- (5) Does not reside in an abode in any other state for more days of the tax year than the individual resides in Iowa.

b. There is a rebuttable presumption that an individual is not domiciled in Iowa if the individual meets all of the following factors:

- (1) Does not claim a homestead credit or military exemption on a home in Iowa,
- (2) Is not registered to vote in Iowa,
- (3) Does not maintain an Iowa driver's license,
- (4) Is in Iowa less than 183 days of the tax year; and
- (5) The individual maintains a place of abode outside of Iowa where the individual resides for at least 183 days of the tax year.

c. In addition to the factors listed for the above rebuttable presumptions for "permanent place of abode" or "domicile," some of the nonexclusive factors to consider in determining whether an individual is a resident of Iowa are as follows:

- (1) Maintains a place of abode in Iowa, whether owned, rented, or occupied.
- (2) Maintains an Iowa driver's license.
- (3) Maintains active membership in an Iowa church, club, or professional organization and participates as a result of such membership.
- (4) Documents, such as tax forms, legal documents, and correspondence, initiated during tax periods use an Iowa address. Legal documents could include wills, deeds, or other contracts.
- (5) Immediate family members residing in Iowa who are claimed as dependents or rely, in whole or in part, on the taxpayer for their support.
- (6) Vehicles registered in Iowa.
- (7) Location of employment or active participation in a business within Iowa.
- (8) Active checking or savings accounts or use of safe deposit boxes located in Iowa.
- (9) Claims a benefit on the federal income tax return based upon an Iowa home being the principal place of residence. Examples include mortgage interest on principal residence and travel expenses while away from the principal place of residence.
- (10) Receives a number of services in Iowa from doctors, dentists, attorneys, CPAs or other professionals.

Unless shown to the contrary, married persons are presumed to have the same residence. Ordinarily, the residence of a minor is that of the person who has permanent custody over the minor.

An individual may qualify as a part-year resident of Iowa by: (1) not maintaining a permanent place of abode; and (2) not having a domicile in Iowa for the entire tax year. In determining part-year resident status, whether an individual is in or out of Iowa for 183 days may not be a factor.

38.17(3) *Resident determination for individuals on active duty military service.* The Soldiers and Sailors Civil Relief Act provides in 50 U.S.C. Appx § 574(1) that members of the armed forces of the United States shall not be deemed to have lost a residence or domicile in any state, solely by being absent from that state in compliance with military or naval orders, or to have acquired a residence or domicile in another state while being absent from the state of residence. Thus, residents of Iowa who enter military service will retain their Iowa residence during the tenure of their military service or until they take positive action to change their state of residence.

Residents of Iowa in military service will have Iowa income tax withheld from their military pay except when the military pay is earned in a combat zone and is totally or partially exempt from both federal and state income tax. An Iowa resident in military service can change state of residence for purposes of withholding of state income tax by completing Form DD2058 and designating a state other than Iowa as the individual's new state of residence. The military payroll officer of the service person will accept the DD2058 form and stop withholding Iowa income tax from the service person's military pay and start withholding the state income tax of the state of new residence of the service person (assuming the new state of residence has an income tax and assuming the new state of residence requires withholding of income tax from wage payments to its residents in military service). However, the completion of the DD2058 form by the "former Iowa resident" will not be considered as a valid change of residence for Iowa income tax purposes unless the service person was physically residing in the new state of residence at the time the DD2058 form was completed and the service person took other actions to show intent to change state of residence. Other actions to show intent to change state of residence would include: (1) registering to vote in the new state; (2) purchasing real property in the new state; (3) titling and registering vehicles in the new state; (4) notifying the state of previous residence of the state of residence change; (5) preparing a new last will and testament which indicates the new residence; and (6) complying with the tax laws of the state of new residence.

Military personnel who are residents of other states and who come to Iowa as a result of military or naval orders, but who later decide to become legal or actual residents of Iowa, or military personnel who purchase residential property in Iowa and claim homestead credits or the military exemption for the property for property tax purposes are presumed to be residents of Iowa for income tax purposes.

Military personnel who are not residents of the state of Iowa and who receive military pay for service in Iowa shall not be considered to have received this income for services performed within Iowa or from sources within Iowa. These nonresidents of Iowa will be taxable on nonmilitary wages for personal services in Iowa they receive while stationed in Iowa. These individuals will also be taxable to Iowa on incomes they receive from businesses, trades, professions, or occupations operated in Iowa during the time they are stationed in Iowa as well as on nonmilitary incomes from any other sources within Iowa. Since military nonresidents of Iowa cannot be taxed on their military pay while they are stationed in Iowa, the military pay cannot be considered for purposes of Iowa's taxation of nonresidents in accordance with the Servicemembers Civil Relief Act, Public Law 108-189. The military pay of the nonresident of Iowa must be excluded from the computation of the nonresident credit set forth in 701-subrule [42.3](#)(1).

Spouses of military personnel who earn wages and other incomes from Iowa sources are taxed on these incomes similarly to other nonresidents of Iowa. Spouses of Iowa resident military personnel who were nonresidents of Iowa at the time of the marriages with the Iowa residents will not be considered to be residents of Iowa until they actually reside in Iowa with their husbands or wives.

38.17(4) *Examples of resident determination.*

a. Fred and Mary were domiciled in Iowa when Fred retired in 1994. They have a house in Iowa and a condominium in Florida. Prior to 1994, Fred and Mary spent approximately four months in Florida and the remaining eight months in Iowa. Fred owned a small business when he retired and was retained as a consultant and remained a member of the board of directors after retirement. Fred and Mary have friends and family in both Iowa and Florida. They are also involved in the activities of the local country club as well as other civic and service organizations in both locations. When Fred retired, he and Mary decided to spend more time in Florida, especially during the winter months. They usually leave for Florida in late October and return to Iowa in early April. They have transferred their automobile registrations to Florida and they have acquired Florida driver's licenses. They have registered to vote in Florida and have voted in Florida elections. They visit doctors and dentists in both locations as the

need arises. They maintain bank accounts in both locations and have mail sent to the location at which they are physically residing. Fred and Mary usually return to Iowa for the Thanksgiving and Christmas holidays and Fred returns once a month to attend board meetings. They do not claim a homestead credit or military tax exemption on their Iowa home, but they do use their Iowa address on most of their legal documents and on their federal tax return. They also travel and vacation during the winter months and oftentimes leave Florida to vacation.

Fred and Mary would be considered Iowa residents because they have retained a permanent abode in Iowa.

b. Susan takes an apartment in Des Moines when her employer assigns her to the region office of a large accounting firm for a temporary period. She spends more than 183 days in Iowa, but she returns to her apartment in Ohio once a month to visit her friends and to check her mail. She intends to return to Ohio when her assignment in Des Moines is terminated. She has retained her Ohio driver's license and she is registered to vote in Ohio.

Susan would not be considered to be an Iowa resident because she has not established a "permanent" place of abode in Iowa, even though she is present in Iowa for more than 183 days. Also, she has not had a definite abandonment of her former domicile. Susan would be taxed on her Iowa income as a nonresident. However, if Susan was assigned to Des Moines on a permanent basis, she may be considered an Iowa resident even though she retains her apartment in Ohio.

c. John is an over-the-road truck driver and his job takes him out of Iowa for approximately 240 days a year. He is married and his wife, Mary, lives in Marshalltown, Iowa. His two school-age children attend school in that community and Mary also has a part-time job as a nurse for the neighborhood clinic. John gets home for most weekends and for the holidays. He is registered to vote in Iowa and utilizes the Iowa homestead and military tax exemptions. He does not own any other real property except a lakeside cabin in Minnesota, where the family vacations during the summer.

John would be considered an Iowa resident even though he is not present in the state for more than 183 days because John intends to return to Iowa whenever he is absent and has not taken any steps to establish residency in any other state.

d. Wilber, who is a resident of Idaho, has a heart attack while vacationing in Iowa. He is hospitalized in the University Hospitals in Iowa City. While there, the doctors also discover that he has a rare blood disorder and Wilber is confined to the hospital for nearly nine months, during which time he receives treatment.

Wilber's presence in Iowa is for a medical emergency. When an individual suffers a medical emergency while present in this state for other purposes and cannot be realistically moved from the state or in situations where an individual is confined to an institution as a result of seeking treatment, the time spent in Iowa would not count toward the 183-day rule. Also, Wilber's hospital room would not be considered a permanent place of abode.

e. Chuck and Linda both worked for a major manufacturing company in Iowa and both of them decided to take advantage of an early retirement package offered by their employer. They do not have any children, but Chuck has a brother who lives in Davenport, Iowa, and Linda has a sister who lives in Phoenix, Arizona. After retirement, Chuck and Linda sell their house and purchase a motor home. They spend their time traveling the United States and Canada. They do not have a place of abode in any state as they live in their new vehicle. They do not spend more than 183 days in any state during the year. They retained their Iowa driver's licenses and their motor home is registered in Iowa. They also have bank accounts in both Iowa and Arizona, and they have their mail sent to Chuck's brother as well as Linda's sister. They show Iowa as their state of residence for federal income tax purposes. They are not registered to vote in any state.

Chuck and Linda would be considered residents of Iowa. They have not shown an intention to change domicile and remain in another state permanently or indefinitely.

This rule is effective for tax years beginning on or after January 1, 1995.

This rule is intended to implement Iowa Code sections [422.3](#), [422.4](#) and [422.16](#).

701—38.18(422) Tax treatment of income repaid in current tax year which had been reported on prior Iowa individual income tax return. For tax years beginning on or after January 1, 1992, if a taxpayer repays in the current tax year an amount of income that had been reported on the taxpayer's Iowa individual income tax return for a prior year that had been filed with the department and the taxpayer would have been eligible for a tax benefit under similar circumstances under Section 1341 of the Internal Revenue Code, the taxpayer will be eligible for a tax benefit on the Iowa return for the current tax year. The tax benefit will be either the reduced tax on the Iowa return for the current tax year due to the deduction of the repaid income or the reduction in tax on the Iowa return or returns for the prior year(s) due to the exclusion of the repaid income. The reduction in tax from the return for the prior year may be claimed as a refundable credit on the return for the current tax year.

Example A: A taxpayer reported \$7,000 in unemployment benefits on the taxpayer's 1994 Iowa return that the taxpayer had received in 1994. In early 1995 the taxpayer was notified that \$4,000 of the unemployment benefits had to be repaid. The benefits were repaid by the end of 1995. The taxpayer claimed a deduction on the 1995 Iowa return for the amount of unemployment benefits repaid during 1995 which had been reported on the taxpayer's 1994 Iowa return as that action gave the taxpayer a greater reduction in Iowa income tax liability than the taxpayer would have received from a reduction in tax on the 1994 return by recomputing the liability by excluding the repaid income.

Example B: A taxpayer had received a \$5,000 bonus in 1994 which was reported on the taxpayer's 1994 Iowa return. In 1995 the taxpayer's employer advised the employee that the bonus was awarded in error and to be repaid. The \$5,000 bonus was repaid to the employer by the end of 1995. The taxpayer claimed a credit of \$440 on the 1995 Iowa return for repayment of the bonus in 1995. This represented the reduction in tax for 1994 from recomputing the tax liability for that year without the \$5,000 bonus. This provided the taxpayer a greater tax benefit than the taxpayer would have received from claiming a deduction on the 1995 Iowa return from repayment of the bonus.

This rule is intended to implement Iowa Code section [422.5](#) as amended by 1996 Iowa Acts, Senate File 2168.

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chapter 39

FILING RETURN AND PAYMENT OF TAX

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701—39.1(422) Who must file.

39.1(1) Residents of Iowa.

a. Tax years beginning on or after January 1, 1993. For each taxable year, every resident of Iowa, except any resident claimed as a dependent on another person's return, whose net income is greater than \$13,500 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses or greater than \$9,000 in the case of single persons must make, sign, and file a return. Each resident who is claimed as a dependent on another person's return and whose net income is \$4,000 or more, or whose net income is \$5,000 or more for tax years beginning on or after January 1, 2001, must make, sign, and file a return. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax, along with the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), is included in net income to determine if a person must file a return. In addition, for tax years beginning on or after January 1, 2007, the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) for residents who are younger than 65 years of age on December 31 of the tax year is included in net income to determine if a person must file a return.

b. Tax years beginning on or after January 1, 2007, but before January 1, 2009, for residents 65 years of age or older. For these taxable years, every resident of Iowa, except any resident claimed as a dependent on another person's return, who is at least 65 years of age or older on December 31 of the tax year, whose net income is greater than \$24,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses or greater than \$18,000 in the case of single persons must make, sign, and file a return. For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. Each resident who is claimed as a dependent on another person's return and whose net income is \$5,000 or more must make, sign, and file a return.

For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), and the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) are included in net income to determine if a person must file a

return.

c. Tax years beginning on or after January 1, 2009, for residents 65 years of age or older. For each taxable year, every resident of Iowa, except any resident claimed as a dependent on another person's return, who is at least 65 years of age or older on December 31 of the tax year, whose net income is greater than \$32,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses or greater than \$24,000 in the case of single persons must make, sign, and file a return. For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be at least 65 years of age or older on December 31 of the tax year. Each resident who is claimed as a dependent on another person's return and whose net income is \$5,000 or more must make, sign, and file a return.

For purposes of this subrule, the portion of a lump sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), and the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) are included in net income to determine if a person must file a return.

39.1(2) *Nonresidents of Iowa.*

a. *Tax years beginning on or after January 1, 1993.* For each taxable year, every nonresident of Iowa must make, sign, and file an Iowa return if the nonresident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$13,500 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses, (2) has a net income from all sources greater than \$9,000 in the case of single persons, or (3) is claimed as a dependent on another person's return and has a net income from all sources of \$4,000 or more or has a net income from all sources of \$5,000 or more if the tax year begins on or after January 1, 2001. For purposes of this paragraph, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the nonresident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, along with the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), is included in net income to determine if a person must file a return. In addition, for tax years beginning on or after January 1, 2007, the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) for nonresidents who are under 65 years of age on December 31 of the tax year is included in determining net income from all sources to determine if a person must file a return.

b. Tax years beginning on or after January 1, 2007, but before January 1, 2009, for nonresidents 65 years of age or older. For these taxable years, every nonresident of Iowa must make, sign, and file an Iowa return if the nonresident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$24,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses, (2) has a net income from all sources greater than \$18,000 in the case of single persons, or (3) is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000. For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the nonresident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), and the phase-out exclusion for social

security benefits described in 701—subrule [40.23](#)(3) are included in net income to determine if a person must file a return.

c. Tax years beginning on or after January 1, 2009, for nonresidents 65 years of age or older. For these taxable years, every nonresident of Iowa must make, sign, and file an Iowa return if the nonresident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$32,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses, (2) has a net income from all sources greater than \$24,000 in the case of single persons, or (3) is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000. For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the nonresident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), and the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) are included in net income to determine if a person must file a return.

d. *Nonresidents with net incomes of less than \$1,000 that are subject to Iowa alternative minimum tax.* For tax years beginning on or after January 1, 2000, every nonresident of Iowa who has a net income from Iowa sources of less than \$1,000 must make, sign, and file a return if the nonresident is subject to Iowa alternative minimum tax.

39.1(3) *Part-year residents of Iowa.*

a. *Tax years beginning on or after January 1, 1993.* For each taxable year, every part-year resident of Iowa must make, sign, and file a return if the individual has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$13,500 in the case of married persons filing jointly, filing separately on a combined return form or filing separate returns, heads of household and surviving spouses, (2) has a net income from all sources that is greater than \$9,000 in the case of a single person, or (3) is claimed as a dependent on another person's return and had a net income from all sources of \$4,000 or more. For purposes of this paragraph, the portion of a lump sum distribution that is allocable to Iowa is included in net income to determine if the person has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, along with the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), is included in net income to determine if a person must file a return. In addition, for tax years beginning on or after January 1, 2007, the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) for part-year residents who are younger than 65 years of age on December 31 of the tax year is included in determining net income from all sources to determine if a person must file a return.

b. Tax years beginning on or after January 1, 2007, but before January 1, 2009, for nonresidents 65 years of age or older. For these taxable years, every part-year resident of Iowa must make, sign, and file an Iowa return if the part-year resident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$24,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses, (2) has a net income from all sources greater than \$18,000 in the case of single persons, or (3) is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000. For married persons filing jointly, filing separately on a combined return or filing separate

returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the part-year resident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), and the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) are included in net income to determine if a person must file a return.

c. Tax years beginning on or after January 1, 2009, for part-year residents 65 years of age or older. For these taxable years, every part-year resident of Iowa must make, sign, and file an Iowa return if the part-year resident has a net income of \$1,000 or more from Iowa sources and meets one or more of the following conditions: (1) has a net income from all sources that is greater than \$32,000 in the case of married persons filing jointly, filing separately on a combined return or filing separate returns, heads of household and surviving spouses, (2) has a net income from all sources greater than \$24,000 in the case of single persons, or (3) is claimed as a dependent on another person's return and has a net income from all sources of at least \$5,000. For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year. For purposes of this subrule, the portion of a lump-sum distribution subject to separate federal tax that is allocable to Iowa is included in net income to determine if the part-year resident has sufficient net income from Iowa sources to make and file a return. In determining net income from all sources, the portion of a lump-sum distribution subject to separate federal tax, the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), and the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) are included in net income to determine if a person must file a return.

d. *Part-year residents with net incomes of less than \$1,000 that are subject to Iowa alternative minimum tax.* For tax years beginning on or after January 1, 2000, every part-year resident of Iowa who has a net income from Iowa sources of less than \$1,000 must make, sign and file a return if the part-year resident is subject to Iowa alternative minimum tax.

39.1(4) *Returns of the handicapped.* If a taxpayer is physically or mentally unable to make a return, the return shall be made by a duly authorized agent, guardian or other person charged with the care of the person or property of such taxpayer. A power of attorney must accompany a return made by an agent or guardian.

39.1(5) *Minimum income requirement.* See rules [701—40.1](#)(422) to 40.52(422) and any subsequent rules in Chapter 40 for the computation of net income to determine if a taxpayer meets the minimum filing requirements described in subrules 39.1(1), 39.1(2), and 39.1(3).

39.1(6) *Final return.* If a taxpayer has died during the year, see paragraph 39.4(2)"d."

39.1(7) *Returns filed for refund.* A taxpayer whose Iowa source net income or all source net income is less than the amount for which the filing of an Iowa individual income tax return is required must file a return to receive a refund of Iowa income tax withheld or Iowa estimated tax paid in the tax year or to receive a refund from an Iowa refundable tax credit. Refundable tax credits include the child and dependent care credit, the early childhood development tax credit, the research activities credit, the motor vehicle fuel tax credit, the claim of right credit (if elected in accordance with rule 701—[38.18](#)(422)) the assistive device credit, the historic preservation and cultural and entertainment district tax credit, the ethanol blended gasoline tax credit, the investment tax credit for value-added agricultural products or biotechnology-related processes, the soy-based cutting tool oil tax credit, the wage-benefit tax credit, the soy-based transformer fluid tax credit, the E-85 gasoline promotion tax credit, and the biodiesel

blended fuel tax credit.

This rule is intended to implement Iowa Code sections [422.5](#) and [422.13](#).

701—39.2(422) Time and place for filing.

39.2(1) *Returns of individuals.* A return of income must be filed on or before the due date. The due date is 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 for a fiscal year, or the last day of the period covered by an extension of time granted by the department. When the due date falls on Saturday, Sunday or a legal holiday, the return will be due 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 due date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Income Tax Return Processing, Department of Revenue and Finance, Hoover State Office Building, Des Moines, Iowa 50319.

Farmers and fishermen have the same filing due date as other individual taxpayers, however, those farmers and fishermen who have elected not to file a declaration of estimated tax shall file their returns and pay the tax due, on or before March 1, to avoid penalty for underpayment of estimated tax.

39.2(2) Rescinded IAB 9/29/04, effective 12/29/04.

39.2(3) Rescinded IAB 9/29/04, effective 12/29/04.

39.2(4) *Extension of time for returns for tax years beginning on or after January 1, 1991.* The taxpayer is required to file the taxpayer's individual income tax return on or before the due date of the return with payment in full of the amount required to be shown due with the return. However, in any instance where the taxpayer is unable to file the return by the due date because of illness or death in the taxpayer's immediate family, unavoidable absence of the taxpayer, or other legitimate reason, the director may grant a six-month extension of time to file the return.

If the taxpayer has paid at least 90 percent of the tax required to be shown due by the due date and has not filed a return by the due date, the director will consider that the taxpayer has requested an extension of time to file the return and will automatically grant an extension of up to six months to file the return. The taxpayer does not have to file an application for extension form with the department to get the automatic extension to file the return within the six-month period after the due date and not be subject to penalty. However, if the taxpayer wants to make a tax payment to ensure that at least 90 percent of the tax has been paid on or before the due date, the payment should be made with the Iowa tax voucher form. This form can be requested from the Taxpayer Services Section, P.O. Box 10457, Des Moines, Iowa 50306, or by telephone at (515)281-3114.

To determine whether or not at least 90 percent of the tax was "paid" on or before the due date, the aggregate amount of tax credits applicable on the return plus the tax payments made on or before the due date are divided by the tax required to be shown due on the return. The tax required to be shown on the return is the sum of the income tax, lump-sum tax, minimum tax, school district income surtax, and the emergency medical services income surtax. The tax credits applicable are the credits set out in Iowa Code chapter 422, division II, and section [422.111](#). The tax payments to be considered for purposes of determining if 90 percent of the tax was paid are the withholding tax payments, estimate payments, and the payments made with the Iowa income tax voucher form to ensure that 90 percent of the tax was paid timely.

If the aggregate of the tax credits and the tax payments are equal to or greater than 90 percent of the tax required to be shown due, the taxpayer will have met the "90 percent" test and no penalty will be assessed. However, the taxpayer will still be subject to statutory interest on any tax due when the return is filed.

Any tax elections, such as the election to carry forward a net operating loss occurring in the tax year, will be considered to be valid in instances when the return is filed within the six-month extended period after the due date. The fact that the taxpayer has paid less than 90 percent of the tax required to be shown due will not invalidate any tax elections made on the return, if the return is filed within the six-month extended period.

a. Extensions for taxpayers with tax homes outside the United States and Puerto Rico. Taxpayers with tax homes outside the United States and Puerto Rico may, in some situations, be granted additional time to file their federal income tax returns beyond the six-month period after the federal due date. In some cases, this additional time is needed to meet residency time requirements in a foreign country so the taxpayer will be eligible for the foreign income exclusion which is also applicable to filing Iowa income tax returns. In cases where the taxpayer's tax home is outside the United States and the taxpayer has been granted additional time to file the federal income tax return which is greater than six months from the due date, the taxpayer will be deemed to have the same additional time to file the Iowa return and not be subject to penalty for late filing if 90 percent of the tax required to be shown due on the return was paid by the due date. Taxpayers with tax elections filing returns under these circumstances will be considered to have made these elections timely. However, the taxpayers should attach to their Iowa return documentation showing they were granted additional time after the six-month period from the due date to file their federal returns.

b. Payment of interest on refunds from income tax returns filed in the six-month period after the due date. The following information applies only to Iowa individual income tax returns that are filed for tax years beginning on or after January 1, 1999. In the case of Iowa returns that have overpayments of income tax that are filed in the six-month period after the due date and where at least 90 percent of the tax shown due was paid by the due date, interest at the statutory rate will be paid on the overpayments determined on the returns, starting on the first day of the second month after the end of the six-month extended period and ending in the month in which the refund is issued.

For taxpayers filing Iowa individual income tax returns for calendar-year tax years, the six-month extended period starts May 1 of the year following the end of the tax year and ends on October 31 of the year following the end of the tax year. However, if April 30 falls on a Sunday as it does in the year 2000 for 1999 Iowa individual returns filed in that year, the due date is moved to Monday, May 1. The extended period in this instance starts on Tuesday, May 2, 2000, and ends on October 31, 2000.

EXAMPLE. A husband and wife file their 1999 Iowa return on September 15, 2000. This return has an overpayment of tax of \$200. Because the return is filed in the six-month period after the May 1, 2000, due date, and because the refund is issued in January 2001, interest accrues on the overpayment for the months of December 2000 and January 2001.

This rule is intended to implement Iowa Code section [422.21](#) and Iowa Code Supplement section [422.25](#).

701—39.3(422) Form for filing.

39.3(1) *Use of and completeness of prescribed forms.* Returns shall, in all cases, be made by residents and nonresidents on forms supplied by the department of revenue and finance. Taxpayers not supplied with the proper forms shall make application for the forms to the department, in ample time to have their returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare a return so as to fully and clearly set forth the data required. For lack of a prescribed form, a statement made by a taxpayer disclosing gross income and the deductions from gross income 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 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 regulations. Individual resident taxpayers shall

enter the name of the school district of residence on the return. If the school district is not supplied, the return shall be deemed incomplete.

A return not signed by the taxpayer or the taxpayer's agent or guardian, shall not be deemed completely executed and filed as required by law.

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

39.3(2) *Optional method of filing.* The front and back page of the Iowa individual income tax return, if properly completed, may be filed as an optional return, if a complete facsimile or photocopy of the federal return and supporting schedules are attached.

39.3(3) *Copy of federal income tax return to be filed by nonresident.* A nonresident taxpayer must file a copy of their federal income tax return for the current tax year with their Iowa income tax return. The copy shall include full and complete copies of all farm, business, capital gains and other schedules that were filed with the federal return.

39.3(4) *Amended returns.* If it becomes known to the taxpayer that the amount of income reported to be federal net income or Iowa taxable income was erroneously stated on the Iowa return, or changed by an Internal Revenue Service audit, or otherwise, the taxpayer shall file an amended Iowa return along with supporting schedules, to include the amended federal return 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 [38.2\(1\)](#) and rule [701—43.3\(422\)](#).

39.3(5) *Voter's registration forms in income tax booklets and income tax return instructions.* Effective for tax years beginning on or after January 1, 1989, income tax return booklets and income tax return instructions shall include two voter registration forms. The voter registration forms to be inserted into the income tax return instruction forms and booklets are to be designed by the voter registration commission. However, effective July 1, 1992, the voter registration forms are to be inserted in the income tax return booklets and income tax return instructions only for odd-numbered tax years. Thus, the voter registration forms will not be included in the income tax return booklets for the 1992 tax year but are to be included in the booklets for 1993.

Effective July 1, 2004, the requirement that voter registration forms be included in the income tax booklets and income tax instructions has been eliminated. The official Web site of the department includes the official electronic state of Iowa voter registration form and a link to the Iowa secretary of state's official Web site.

This rule is intended to implement Iowa Code sections [422.13](#), [422.21](#) and [422.22](#), and Iowa Code sections 48A.24 and [421.17](#) as amended by 2004 Iowa Acts, Senate File 2296 .

701—39.4(422) Filing status.

39.4(1) *Single taxpayers.* The term “single person” includes, for income tax purposes, an unmarried person, a person legally separated under a decree of divorce or separate maintenance or any other person not properly classified under subrules 39.4(2) through 39.4(8).

39.4(2) *Married taxpayers.* A taxpayer is considered married for the entire year if on the last day of the tax year the taxpayer is (a) married and living together with the taxpayer's spouse, (b) married and living apart from the spouse, but not legally separated under a decree of divorce or separate maintenance, (c) living together with the spouse in a common law marriage that is recognized by the state where the common law marriage exists or (d) widowed but the spouse died during the year.

39.4(3) *Common law marriage.* A common law marriage is a social relationship between a man and a woman that meets all the necessary requisites of a marriage except that it was not solemnized, performed or witnessed by an official authorized by law to perform marriages. The necessary elements of a common law marriage are: (a) a present intent of both parties freely given to become married, (b) a public declaration by the parties or a holding out to the public that they are husband and wife, (c) continuous cohabitation together as husband and wife (this means consummation of the marriage), and (d) both parties must be capable of entering into the marriage relationship. No special time limit is necessary to establish a common law marriage. Iowa recognizes, for income tax purposes, all valid common law marriages.

39.4(4) *Married filing jointly.* Married taxpayers who file a joint return with the Internal Revenue Service may file a joint return with the Iowa department of revenue and finance.

39.4(5) *Married filing separately on the same form.* Married taxpayers may file separately on the same form. This return is also known as the combined return. If a married taxpayer files a combined return with his or her spouse, any refund will be issued in both names.

39.4(6) *Married filing separately.* Married taxpayers, each having income in his or her own right, may file separate returns if they do not wish to file separately on the same form.

39.4(7) *Head of household.* The term “head of household” shall have the same meaning as defined in the Internal Revenue Code. An individual who is claiming “surviving spouse” status for federal income tax purposes may not claim “head of household” on the Iowa individual income tax return.

39.4(8) *Surviving spouse.* The term “surviving spouse” shall have the same meaning as defined in the Internal Revenue Code. Individuals who qualify and file as a qualifying widow(er) with a dependent child on the federal return may file using the same filing status on the Iowa return.

This rule is intended to implement Iowa Code section [422.12](#).

701—39.5(422) Payment of tax.

39.5(1) *Payment of tax for wage earners.* Withholding of tax on wage earners is required under Iowa Code section [422.16](#). See 701—Chapter 46.

39.5(2) *Payment of tax on income not subject to withholding.* Those taxpayers with income not subject to withholding which will produce a tax liability of \$200 or more shall file and pay a declaration of estimated tax. See 701—Chapter 49.

39.5(3) *Full estimated payment on original due date.* When an extension is requested as provided by Iowa Code section [422.21](#), the total amount of estimated tax must be paid on or before the due date for filing the return.

39.5(4) *Balance of tax due.* If the computation on the tax return shows additional tax due, it shall be paid in full with the filing of the return.

39.5(5) *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. 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 returned dishonored. If one check is remitted to cover two or more individuals' 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 individual whose tax is to be paid by the remittance; and (e) the amount of payment on account of each individual.

39.5(6) *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 that check good, the director will proceed to collect the tax as though no check has been given. A taxpayer who tenders a certified check in payment for taxes is not relieved from obligation until the check has been paid.

39.5(7) *Penalty and interest.* In computing penalty and interest for failing to file a timely return or to pay the tax, refer to 701—Chapter 44.

39.5(8) Rescinded IAB 9/29/04, effective 12/29/04.

39.5(9) Rescinded IAB 9/29/04, effective 12/29/04.

39.5(10) *Thirteen thousand five hundred dollar exemption.* For tax years beginning on or after January 1, 1993, all taxpayers except single taxpayers described in subrule [39.4\(1\)](#), whose net income as computed under Iowa Code section [422.7](#), plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, is \$13,500 or less are exempt from paying Iowa individual income tax subject to the following conditions:

a. In the case of married taxpayers, the incomes of both spouses are considered in order to determine if the taxpayers qualify for exemption from tax. However, in the case of married taxpayers where one spouse has a net operating loss and the taxpayers file separate Iowa returns or separately on the combined return form, the taxpayers cannot receive the benefit of the exemption from tax if the spouse with the loss elects to carry back or carry forward that loss.

b. An individual claimed as a dependent on another person's return with an income of at least \$5,000 (\$4,000 for tax years beginning in 1993 but before 2001), but not more than \$13,500, will be exempt from Iowa tax if:

(1) The person on whose return the dependent is claimed is filing as a single individual and has a net income of \$9,000 or less, or

(2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less.

(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less.

c. If the payment of tax would reduce the net income to less than \$13,500, the tax shall be reduced to an amount which would allow the taxpayer to retain a net income of \$13,500. Example: If a taxpayer's net income was \$13,600 and the computed tax after personal exemptions and other credits was \$300, the payment of \$300 would reduce the income below \$13,500; therefore, the amount of tax is reduced to \$100 so the taxpayer can retain a net income of \$13,500.

39.5(11) *Nine thousand dollar exemption.* For tax years beginning on or after January 1, 1993, single taxpayers described in subrule [39.4\(1\)](#), whose net income as computed under Iowa Code section [422.7](#), plus the amount of a lump sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes is \$9,000 or less, are exempt from paying Iowa individual income tax subject to the following conditions:

a. An individual claimed as a dependent on another person's return with an income of at least \$5,000 (\$4,000 for tax years beginning in 1993 but before 2001) but not more than \$9,000 will be exempt from tax if:

(1) The person on whose return the dependent is claimed has a net income of \$9,000 or less, or

(2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less.

(3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less.

b. If the payment of tax would reduce the net income to less than \$9,000, the tax is reduced to an amount which will allow the taxpayer to retain a net income of \$9,000.

39.5(12) Exemptions for taxpayers 65 years of age or older for tax years beginning on or after January 1, 2007, but before January 1, 2009.

a. All taxpayers except single taxpayers described in subrule 39.4(1) who are 65 years of age or older on December 31 of the tax year and whose net income as computed under Iowa Code section [422.7](#), plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), and the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) is \$24,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth below:

(1) In the case of married taxpayers, the incomes of both spouses are considered in order to determine if the taxpayers qualify for exemption from tax. For purposes of this subrule, only one spouse is required to be 65 years of age or older by December 31 of the tax year. However, in the case of married taxpayers when one spouse has a net operating loss and the taxpayers file separate Iowa returns or separately on the combined return, the taxpayers cannot receive the benefit of the exemption from tax if the spouse with the loss elects to carry back or carry forward that loss.

(2) An individual claimed as a dependent on another person's return with an income of at least \$5,000, but not more than \$24,000, will be exempt from Iowa tax if:

1. The person on whose return the dependent is claimed is filing as a single individual with a net income of \$9,000 or less (\$18,000 or less if the person is 65 years of age or older); or
2. The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less (\$24,000 or less of the combined income of the person and the person's spouse if at least one spouse is 65 years of age or older); or
3. The person on whose return the dependent is claimed is filing as a head of household and has a net income of \$13,500 or less (\$24,000 or less if the person is 65 years of age or older).

(3) If the payment of tax would reduce the net income to less than \$24,000, the tax shall be reduced to an amount which would allow the taxpayer to retain a net income of \$24,000.

Example: If a taxpayer's net income was \$24,100 and the computed tax after personal exemptions and other credits was \$300, the payment of \$300 would reduce the income below \$24,000; therefore, the amount of tax is reduced to \$100 in order for the taxpayer to retain a net income of \$24,000.

b. Single taxpayers described in subrule 39.4(1) whose net income, as computed under Iowa Code section [422.7](#), plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), and the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) is \$18,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth in paragraphs "c" and "d" below:

c. An individual claimed as a dependent on another person's return with an income of at least \$5,000, but not more than \$18,000, will be exempt from tax if:

- (1) The person on whose return the dependent is claimed has a net income of \$9,000 or less (\$18,000 or less if the person is 65 years of age or older); or
- (2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less (\$24,000 or less of the combined income of the person and the person's spouse if at least one spouse is 65 years of age or older); or
- (3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less (\$24,000 or less if the person is 65 years of age or older).

d. If the payment of tax would reduce the net income to less than \$18,000, the tax is reduced to an amount which will allow the taxpayer to retain a net income of \$18,000.

39.5(13) Exemptions for taxpayers 65 years of age or older for tax years beginning on or after January 1, 2009.

a. All taxpayers except single taxpayers described in subrule 39.4(1) who are at least 65 years of age or older on December 31 of the tax year and whose net income as computed under Iowa Code section [422.7](#), plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), and the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) is \$32,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth below:

(1) In the case of married taxpayers, the incomes of both spouses are considered in order to determine if the taxpayers qualify for exemption from tax. For purposes of this subrule, only one spouse is required to be 65 years of age or older by December 31 of the tax year. However, in the case of married taxpayers when one spouse has a net operating loss and the taxpayers file separate Iowa returns or separately on the combined return form, the taxpayers cannot receive the benefit of the exemption from tax if the spouse with the loss elects to carry back or carry forward that loss.

(2) An individual claimed as a dependent on another person's return with an income of at least \$5,000, but not more than \$32,000, will be exempt from Iowa tax if:

1. The person on whose return the dependent is claimed is filing as a single individual with a net income of \$9,000 or less (\$24,000 or less if the person is 65 years of age or older); or
2. The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less (\$32,000 or less of the combined income of the person and the person's spouse if at least one spouse is 65 years of age or older); or
3. The person on whose return the dependent is claimed is filing as a head of household and has a net income of \$13,500 or less (\$32,000 or less if the person is 65 years of age or older).

(3) If the payment of tax would reduce the net income to less than \$32,000, the tax shall be reduced to an amount which would allow the taxpayer to retain a net income of \$32,000.

Example: If a taxpayer's net income was \$32,100 and the computed tax after personal exemptions and other credits was \$300, the payment of \$300 would reduce the income below \$32,000; therefore, the amount of tax is reduced to \$100 in order for the taxpayer to retain a net income of \$32,000.

b. Single taxpayers described in subrule 39.4(1) whose net income, as computed under Iowa Code section [422.7](#), plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—[40.47](#)(422), and the phase-out exclusion for social security benefits described in 701—subrule [40.23](#)(3) is \$24,000 or less are exempt from paying Iowa individual income tax subject to the conditions set forth in paragraphs "c" and "d" below:

c. An individual claimed as a dependent on another person's return with an income of at least \$5,000, but not more than \$24,000, will be exempt from tax if:

- (1) The person on whose return the dependent is claimed has a net income of \$9,000 or less (\$24,000 or less if the person is 65 years of age or older); or
- (2) The person on whose return the dependent is claimed and the person's spouse have a combined net income of \$13,500 or less (\$32,000 or less of the combined income of the person and the person's spouse if at least one spouse is 65 years of age or older); or
- (3) The person on whose return the dependent is claimed is filing as a head of household or as a surviving spouse and has a net income of \$13,500 or less (\$32,000 or less if the person is 65 years of age or older).

d. If the payment of tax would reduce the net income to less than \$24,000, the tax is reduced to an amount which will allow the taxpayer to retain a net income of \$24,000.

This rule is intended to implement Iowa Code section [422.5](#) as amended by 2006 Iowa Acts, Senate File 2408, and sections [422.16](#), [422.17](#), [422.21](#), [422.24](#), and [422.25](#).

701—39.6(422) Minimum tax.

39.6(1) Rescinded IAB 9/29/04, effective 12/29/04.

39.6(2) Rescinded IAB 9/29/04, effective 12/29/04.

39.6(3) *Minimum tax for tax years beginning on or after January 1, 1987.*

a. Method for computation of the minimum tax. For tax years beginning on or after January 1, 1987, the minimum tax is imposed only to the extent that the minimum tax exceeds the taxpayer's regular income tax liability. The minimum tax rate is 75 percent of the maximum regular tax rate for individual income tax. For tax years beginning on or after January 1, 1987, through December 31, 1997, the tax rate is 7.5 percent of the taxpayer's minimum taxable income. For tax years beginning on or after January 1, 1998, the tax rate is 6.7 percent of the taxpayer's minimum taxable income. Minimum taxable income is computed as follows:

Iowa Taxable Income

Plus: *Applicable Adjustments and **Tax Preference Items (from Form IA 6251)

Subtotal

Less: ***Applicable Exemption Amount

Minimum Taxable Income

IAC 10/8/97

(1) *The federal adjustments that are also applicable in computing state minimum taxable income are:

1. Depreciation of property placed in service after 1986.
2. Circulation and research and experimental expenditures paid or incurred after 1986.
3. Mining, exploration, and development costs paid or incurred after 1986.
4. Long-term contracts entered into after 2-28-86.
5. Pollution control facilities placed in service after 1986.
6. Installment sales of certain property.
7. Basis adjustment.
8. Certain loss limitations.
9. Tax shelter farm loss.
10. Passive activity loss.
11. Adjustments related to beneficiaries of estates and trusts.

(2) **The federal tax preference items which are also applicable in computing state minimum taxable income are:

1. Accelerated depreciation of real property placed in service before 1987.
2. Accelerated depreciation on leased personal property placed in service before 1987.
3. Amortization of certified pollution control facilities placed in service before 1987.
4. Appreciated property charitable deduction.
5. Incentive stock options.
6. Reserves for losses on bad debts of financial institutions.

For tax periods ending on or after September 10, 2001, any federal adjustments or tax preference items that are determined based on a percentage of taxpayer's federal adjusted gross income may have to be adjusted for Iowa alternative minimum tax purposes. These adjustments and preferences for Iowa alternative minimum tax purposes are based on federal adjusted gross income as adjusted by the disallowance of the additional first-year depreciation allowance authorized in Section 168(k) of the Internal Revenue Code as described in rule 701—[40.60\(422\)](#).

(3) ***Exemption amounts are: \$17,500 for a married person filing a separate return or separately on the combined return form or for an estate or trust; \$26,000 for a single person or a head of household or qualifying widow(er); \$35,000 for a married couple filing a joint return. However, the applicable exemption amounts will be reduced, but not below zero, by 25 percent of the amount by which the minimum taxable income of the taxpayer determined without the exemption amount exceed the following amounts: \$75,000 for a married taxpayer filing separate returns or separately on the combined return or for an estate or a trust; \$112,500 for a single person, a head of household, or a surviving spouse (qualifying widow(er)); \$150,000 for a married couple that files a joint state return.

The following two examples illustrate how the minimum tax is computed for tax years beginning on or after January 1, 1987:

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Example 1. Taxpayers A had an Iowa income tax liability of \$9,375 from a taxable income of \$100,000 in 1987. The A's were filing a joint return and had tax preferences of \$60,000 from an appreciated property charitable deduction. The A's minimum tax liability is shown below:

Iowa Taxable Income	\$100,000
Plus: Tax Preference Items and Adjustments	<u>60,000</u>
Subtotal	160,000
Less: Exemption Amount	<u>35,000</u>
Minimum Taxable Income	\$125,000
	× .075
Computed Minimum Tax	\$ 9,375
Less: Regular Tax	<u>8,648</u>
Minimum Tax Liability	\$ 727

Since the A's minimum tax liability exceeded their regular tax by \$727, they had a minimum tax liability of \$727 in 1987.

Example 2. Ms. B was a single taxpayer in 1987. She had a regular income tax liability of \$9,375 on taxable income of \$100,000. She had an adjustment of \$50,000 from a passive activity loss. Ms. B's minimum tax liability is shown below:

	<u>Iowa Taxable Income</u>	\$100,000
Plus:	Tax Preference Items and Adjustments	<u>50,000</u>
	Subtotal	150,000
Less:	Exemption Amount	<u>35,000</u>
	Subtotal	\$115,000
Plus:	Reduction in Exemption Amount (25% of \$37,500)	9,375
	Minimum Taxable Income	\$124,375
		× .075
	Computed Minimum Tax	\$ 9,328
Less:	Regular Tax	<u>8,648</u>
	Minimum Tax Liability	\$ 680

Ms. B had a minimum tax liability of \$680 in 1987 because the minimum tax exceeded the regular tax for 1987 by \$680.

b. Net operating loss computed for a year beginning after 1982 which is carried back or carried forward to the current taxable year. In the case of a net operating loss computed for a tax year beginning after December 31, 1982, which is carried back or carried forward to the current tax year, the net operating loss shall be reduced by the amount of tax preferences and adjustments arising in the current tax year.

c. Net operating loss deduction for tax years beginning after December 31, 1986. The deduction for a net operating loss for a tax year beginning after December 31, 1986, which is carried back or carried forward to another tax year shall not exceed 90 percent of the minimum taxable income computed for the tax year without the net operating loss. The computation of minimum taxable income is described in paragraph "a" of this subrule.

d. Apportionment of minimum tax for nonresidents and part-year residents and nonresident and part-year resident estates or trusts. In the case of resident taxpayers, including estates or trusts domiciled in Iowa for the entire tax year, the taxpayers are subject to 100 percent of the minimum tax computed as described in paragraph "a" of this subrule. In the case of nonresidents of Iowa including nonresident estates and trusts and individuals, including estates and trusts domiciled in Iowa for less than the entire tax year, the minimum tax computed according to paragraph "a" of this subrule less applicable credits against tax is allocated to Iowa as shown below:

$$\begin{array}{r}
 \text{State Minimum Tax Less} \\
 \text{Credits}
 \end{array}
 \times
 \begin{array}{r}
 \text{Iowa Source Net Income Plus Tax} \\
 \text{Preferences, Adjustments and} \\
 \text{Losses Attributable to Iowa} \\
 \\
 \text{Total Net Income Plus All Tax} \\
 \text{Preferences, Adjustments and Losses}
 \end{array}$$

For purposes of this computation, only those adjustments, tax preferences, and losses shown on Form IA 6251 are applicable for determining which items shall be included in the numerator and the denominator.

e. *Allocation of the state minimum tax between married couples filing separate returns or separately on the combined return form.* Married taxpayers electing to file separate returns or separately on the combined return form must allocate the minimum tax between them in the proportion that each spouse's respective preference items,

adjustments, and losses relate to the preference items, adjustments and losses of both spouses.

This rule is intended to implement Iowa Code section [422.5](#) as amended by 2003 Iowa Acts, Senate File 442.

701—39.7(422) Tax on lump-sum distributions. For tax years beginning on or after January 1, 1982, Iowa Code section [422.5](#) provides that in addition to the tax computed on the taxable income, a tax shall also be imposed on the amount of a lump-sum distribution for which the taxpayer has elected under Section 402(e) of the Internal Revenue Code to be separately taxed for federal income tax purposes for the tax year. The rate of this tax is 25 percent of the separate federal tax imposed on the amount of the lump-sum distribution.

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39.7(1) Exemption amounts.

a. An exemption of \$9,000 for single taxpayers and an exemption of \$13,000 for all other taxpayers. To be eligible for the \$9,000 or less exemption for single taxpayers and the \$13,500 or less exemption for all other taxpayers as provided in Iowa Code section [422.5](#), subsection 2, the total amount of a lump-sum distribution subject to the separate federal tax must be included in the net income. If this net income (including the lump-sum distribution income) is less than \$9,000 for single taxpayers and less than \$13,500 for all other taxpayers, then no tax (other than Iowa minimum tax) is due. The Iowa tax on lump-sum distributions and the computed tax may be limited to the amount of income tax that exceeds \$9,000 for single taxpayers and \$13,500 for all other taxpayers (including the lump-sum distribution income).

Example: If the net income of a single taxpayer including a lump-sum distribution was \$9,030 and the computed tax and lump-sum tax was \$50 after personal exemptions and out-of-state credit, the payment of \$50 tax would reduce the income below \$9,000; therefore, the amount of tax due is reduced to \$30 in order for the taxpayer to retain a net income of \$9,000.

b. An exemption of \$18,000 for single taxpayers and an exemption of \$24,000 for other taxpayers who are 65 years of age or older. These exemption amounts apply for tax years beginning on or after January 1, 2007, but before January 1, 2009. To be eligible for the \$18,000 or less exemption for single taxpayers and the \$24,000 or less exemption for all other taxpayers as provided in Iowa Code section [422.5](#), subsection 2A, the total amount of a lump-sum distribution subject to the separate federal tax must be included in the net income. If this net income (including the lump-sum distribution income) is less than \$18,000 for single taxpayers and less than \$24,000 for all other taxpayers, then no tax (other than Iowa minimum tax) is due. The Iowa tax on lump-sum distributions and the computed tax may be limited to the amount of income tax that exceeds \$18,000 for single taxpayers and \$24,000 for all other taxpayers (including the lump-sum distribution income).

Example: If the net income of a single taxpayer including a lump-sum distribution was \$18,200 and the computed tax and lump-sum tax was \$300 after personal exemptions and out-of-state credit, the payment of \$300 tax would reduce the income below \$18,000; therefore, the amount of tax due is reduced to \$200 in order for the taxpayer to retain a net income of \$18,000.

For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year.

c. An exemption of \$24,000 for single taxpayers and an exemption of \$32,000 for all other taxpayers who are 65 years of age or older. These exemption amounts apply for tax years beginning on or after January 1, 2009. To be eligible for the \$24,000 or less exemption for single taxpayers and the \$32,000 or less exemption for all other taxpayers as provided in Iowa Code section [422.5](#), subsection 2B, the total amount of a lump-sum distribution subject to the separate federal tax must be included in the net income. If

this net income (including the lump-sum distribution income) is less than \$24,000 for single taxpayers and less than \$32,000 for all other taxpayers, then no tax (other than Iowa minimum tax) is due. The Iowa tax on lump-sum distributions and the computed tax may be limited to the amount of income tax that exceeds \$24,000 for single taxpayers and \$32,000 for all other taxpayers (including the lump-sum distribution income).

Example: If the net income of a single taxpayer including a lump-sum distribution was \$24,300 and the computed tax and lump-sum tax was \$500 after personal exemptions and out-of-state credit, the payment of \$500 tax would reduce the income below \$24,000; therefore, the amount of tax due is reduced to \$300 in order for the taxpayer to retain a net income of \$24,000.

For married persons filing jointly, filing separately on a combined return or filing separate returns, only one spouse is required to be 65 years of age or older on December 31 of the tax year.

39.7(2) *Nonresidents.* A nonresident is liable for tax on a lump-sum distribution or a portion of a lump-sum distribution attributable to services performed within Iowa. If a distribution to a nonresident is attributable to services performed both within and outside Iowa, the tax must be allocated in the ratio of the income from services performed within Iowa to the total income from all services performed relating to the lump-sum distribution unless it can be shown that another method of proration would result in a more equitable amount of tax on the distribution.

39.7(3) *Penalty and interest.* In computing penalty and interest for failing to file a timely return or to pay the lump-sum tax, refer to 701—Chapter 44.

39.7(4) *Personal exemption credits.* Personal and dependent exemption credits may be applied against the separate lump-sum tax to the extent that the credits are not fully applied against the computed tax on income reported under Iowa Code section [422.7](#).

39.7(5) *Out-of-state tax credit.* When computing an out-of-state tax credit for a year in which tax on a lump-sum distribution has been computed separately, the amount of the lump-sum distribution on which the separate tax has been computed must be included on the Iowa gross income.

This rule is intended to implement Iowa Code section [422.5](#) as amended by 2006 Iowa Acts, Senate File 2408.

701—39.8(422) State income tax limited to taxpayer's net worth immediately before the distressed sale. Taxpayers whose net incomes include gains or losses from distressed sales may limit their state income tax liabilities for the tax years in which the distress sales occurred to their net worths immediately before the distressed sales. The state income tax liability of a taxpayer is the aggregate of the taxpayer's income tax plus the taxpayer's minimum tax plus the taxpayer's lump-sum tax. For purposes of this provision, a distressed sale is the forfeiture of an installment real estate contract, the transfer of real or personal property securing a debt to a creditor in cancellation of that debt, or from the sale or exchange of property as a result of actual notice of foreclosure. Proof of forfeiture of the installment real estate contract, proof of transfer of property to a creditor in cancellation of a debt, or a copy of the notice of foreclosure will constitute documentation of the distressed sale and must be made a part of the return. A copy of the balance sheet showing the taxpayer's net worth immediately before the distressed sale must also be provided with the return.

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The balance sheet supporting the taxpayer's net worth must include the taxpayer's personal assets and liabilities as well as the assets of the taxpayer's farm or other business. In the case of married taxpayers, except in the case of a husband and wife who lived apart at all times during the tax year, the assets and liabilities of both spouses must be considered in determining the taxpayers' net worth immediately before the distressed sale.

This rule is intended to implement Iowa Code section [422.5](#).

701—39.9(422) Special tax computation for all low-income taxpayers except single taxpayers. For tax years beginning on or after January 1, 1987, a special tax computation is available for determining the state income tax liability for all low-income taxpayers except single taxpayers described in subrule [39.4\(1\)](#). Under this provision, the taxpayer multiplies the net income for the tax year in excess of \$13,500 for tax years beginning on or after January 1, 1993, by the maximum individual income tax rate. The tax amount computed by this procedure is then compared to the tax amount on the individual's taxable income from the tax tables or the tax-rate schedule. The taxpayer is subject to the lesser of the two tax amounts. In the case of married taxpayers electing to file separate returns or separately on the combined return form, the incomes of both spouses must be considered for purposes of determining the tax liability from the special tax computation. For purposes of this rule, the partial exclusion of pension and other retirement benefits described in rule 701—[40.47\(422\)](#) and the phase-out exclusion for social security benefits described in 701—subrule [40.23\(3\)](#) must be included in the net income amounts when determining the tax liability from the special tax computation. The tax liability calculated from the special tax computation is allocated between the spouses in the ratio of each spouse's net income to the combined net income of both spouses. In determining the special tax computation for taxpayers who are 65 years of age or older for tax years beginning on or after January 1, 2007, see rule 701—39.15(422).

For example, a married couple's net income in 1987 was \$8,200. The taxpayers elected to file separately on the combined return form for 1987. One spouse had a net income of \$6,000, the second spouse had a net income of \$2,200. There was no federal income tax withheld on the wages earned by either of the taxpayers. The spouse with the net income of \$6,000 had a regular income tax liability of \$105. The spouse with the net income of \$2,200 had a regular income tax liability of \$4. The special tax computation of these taxpayers is shown below:

Taxpayers' combined net income		\$8,200
	(\$6,000 + \$2,200)	
Less: Income not subject to special tax		<u>7,500</u>
	Income subject to special tax	700
		<u>× 9.98%</u>
Special tax liability for 1987		\$ 70

The taxpayers' special tax liability for 1987 was \$70. The special tax is imposed since it is less than the taxpayers' regular tax liability of \$109. This special tax liability is allocated to each spouse on the following basis:

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<u>Spouse 1</u>				<u>Spouse 2</u>
<u>\$6,000</u>				<u>\$2,200</u>
—	×	70 = \$51		—
\$8,200				\$8,200

The special tax computation for low-income taxpayers is not available to married taxpayers filing separate state returns or to married taxpayers filing separately on the combined return form in instances where one of the spouses has a net operating loss described in Iowa Code section [422.9](#), subsection 3, and the spouse elects to carry back or carry forward the net operating loss. Also, the special tax computation for low-income taxpayers is not available if the taxpayer is required to annualize the taxpayer's income as described in rule 701—[41.9\(422\)](#).

This rule is intended to implement Iowa Code section [422.5](#).

701—39.10(422) Election to report excess income from sale or exchange of livestock due to drought in the next tax year. For tax years beginning on or after January 1, 1990, a taxpayer may elect to report excess income from the sale or exchange of livestock due to drought on the Iowa return for the next tax year if the taxpayer qualified for similar treatment of the excess income under Section 451(e) of the Internal Revenue Code. This election is available only to a taxpayer on the cash receipts and disbursements method of accounting whose principal trade or business is farming as described in Section 6420(c)(3) of the Internal Revenue Code. For purposes of this rule the election applies to all livestock held for sale or exchange, whether raised or purchased for resale. This election also applies to livestock used for draft, breeding, dairy, or sporting purposes which were held less than two years in the case of cattle and horses and less than one year in the case of other livestock. For purposes of this election, livestock does not include poultry.

The area in which the livestock was sold or exchanged must have been declared a disaster area due to drought. However, the sale or exchange can take place before or after the area is declared a disaster area as long as the same disaster (the drought) caused the livestock sale. In order for the election to report excess income in the following tax year to be valid, the election must be made by the due date of the return, including extensions. Additional information about computing the excess income as well as information needed on the statement for making the election is described in Treasury Regulation §1.451-7.

This rule is intended to implement Iowa Code section [422.5](#).

701—39.11(422) Forgiveness of tax for an individual whose federal income tax was forgiven because the individual was killed outside the United States due to military or terroristic action. For tax years ending on or after August 2, 1990, an individual's Iowa income tax is forgiven if the person's federal income tax was forgiven because the individual was killed in a combat zone, the individual was missing in action and presumed dead, or the individual was killed outside the United States due to terrorist or military action while the person was a military or civilian employee of the United States. The Iowa income tax is forgiven on the return for the tax year in which the individual was killed or was missing and was presumed dead, and is forgiven on the return for the tax year prior to the year of death. In a situation where the person that was killed was married at the time of death, no tax will be due on the return filed for the year of death if a joint state return or a married filing separately on the combined state return is filed for that tax year. In the case of the return for the tax year prior to the year of death for the person killed in military or terrorist action, all the tax will be forgiven on the return if the person was married at the time of death and a joint state return or a married filing separate state return was filed for this prior year. However, if the person that was killed had filed a return using the married filing separately on the combined return form status, only the state income tax attributable to the person that was killed will be forgiven. The department will not honor an amended return for the prior year to change the filing status from separately on the combined return form to joint return so all the state income tax for both spouses will be forgiven.

When a state income tax return or claim for refund is filed for forgiveness of tax for an individual who was killed in military or terrorist action, a notation should be entered at the top of the return "Forgiveness of Tax—Killed in Military Action" or "Forgiveness of Tax—Killed in Terrorist Action" depending on how the individual was killed. In addition, a copy of the death certificate, or other evidence of the person's death or evidence establishing that the individual is missing in action and presumed dead, should be attached to the claim for refund or the tax return. A refund claim for forgiveness of tax will be honored only if the claim is made within the statute of limitations for refund provided in Iowa Code subsection [422.73\(2\)](#).

This rule is intended to implement Iowa Code sections [422.5](#) and [422.73](#).

701—39.12(422) Tax benefits for persons in the armed forces serving in a combat zone or a qualified hazardous duty area or deployed outside the United States in a contingency operation. For tax years ending after August 2, 1990, a number of state tax benefits are authorized for persons in the armed forces who serve in an area designated by the President and the Congress as a combat zone. Similar state tax benefits are also authorized for persons who serve in an area designated by the President and the Congress as a qualified hazardous duty area for tax years beginning on or after January 1, 1999. In addition, uniform state tax benefits are authorized for persons in the armed forces of the United States who were deployed outside the United States in an operation designated by the Secretary of Defense as a contingency operation as defined in 10 U.S.C. § 101(a)(13), or which became a contingency operation by the operation of law. Persons who were deployed in a contingency operation who ceased to participate in such operation on or after May 21, 2003, are considered to be eligible individuals for purposes of being granted additional time to perform certain acts with the department to the extent the period for performing an act did not expire prior to May 21, 2003, or a later date if the person ceased to participate in the contingency operation on a date after May 21, 2003. Those persons who were serving in support of the armed forces personnel in a combat zone or those persons who were serving in support of armed forces personnel in a qualified hazardous duty area are also eligible for the state tax benefits. The eligible individuals are given the same additional time period to file state income tax returns and perform other acts related to the department of revenue as would constitute timely filing of returns or timely performance of other acts as described in Section 7508(a) of the Internal Revenue Code. “Other acts related to the department” includes filing claims for refund for any type of tax administered by the department, making tax payments other than withholding payments, filing appeals on tax matters, filing returns for taxes other than income tax, and performing other acts such as making timely contributions to individual retirement accounts. The additional time period for filing returns and performing other acts applies to the spouse of the person who was in the combat zone or the qualified hazardous duty area or the spouse of a person who was serving in support of persons in the combat zone or the hazardous duty area to the extent the spouse files jointly or separately on the combined return with the person who was in the combat zone or the hazardous duty area, or when the spouse is a party with the person who was serving in support of persons in the combat zone or hazardous duty area to any tax matter with the department for which the additional time period is allowed. The additional time period for filing state returns and performing other acts is 180 days after the person leaves the combat zone or hazardous duty area or ceases to participate in the contingency operation which is the same time period as allowed in federal income tax law. However, a person who was hospitalized because of illness or injury in the combat zone or the hazardous duty area has up to five years to file returns or perform certain acts with this department after leaving the combat zone or hazardous duty area.

For tax years beginning on or after January 1, 1995, certain persons performing peacekeeping duties in a location designated by Congress as a qualified hazardous duty area or other individuals performing military duties overseas in support of the persons in the hazardous duty area are eligible for the tax benefits described above. See rule [39.14\(422\)](#) for additional information on the Bosnia-Herzegovina hazardous duty area.

This rule is intended to implement Iowa Code sections [422.3](#) and [422.21](#) as amended by 2003 Iowa Acts, House File 674.

