

**REVENUE DEPARTMENT[701]**

**Notice of Intended Action**

**Proposing rule making related to research activities credit for individual and corporate income tax and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” and Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 421.17.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 15.335, 422.10 and 422.33 as amended by 2018 Iowa Acts, Senate File 2417.

*Purpose and Summary*

This proposed rule making amends the Department’s rules relating to the research activities credit (RAC) for both individual and corporate income tax. 2018 Iowa Acts, Senate File 2417, amends the corresponding Iowa Code sections. This rule making reflects those legislative changes and also removes unnecessary or outdated language from the rules. The Department sought input from a variety of stakeholders and incorporated several suggestions into these amendments and will continue to look for ways to incorporate feedback submitted either in writing or during the public hearing.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. The statutory change underlying this rule making was estimated in the Legislative Services Agency’s fiscal note for 2018 Iowa Acts, Senate File 2417, to increase General Fund revenues by \$4.5 million in FY 2019, \$7.2 million in FY 2020, \$7.5 million in FY 2021, \$7.8 million in FY 2022, \$8.1 million in FY 2023, and \$8.4 million in FY 2024.

*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 rule 701—7.28(17A).

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 17, 2018. Comments should be directed to:

Tim Reilly  
Department of Revenue  
Hoover State Office Building  
P.O. Box 10457  
Des Moines, Iowa 50306  
Phone: 515.725.2294  
Email: [tim.reilly@iowa.gov](mailto:tim.reilly@iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 17, 2018

Auditorium

10 to 11 a.m.

Wallace State Office Building  
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*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).

The following rule-making actions are proposed:

ITEM 1. Amend rule 701—42.11(15,422) as follows:

~~701—42.11(15,422) Research activities credit. Effective for tax years beginning on or after January 1, 1985, taxpayers are allowed a credit equal to 6½ percent of the state's apportioned share of qualified expenditures for increasing research activities. Effective for tax years beginning on or after January 1, 1991, the Iowa research activities credit will be computed on the basis of the qualifying expenditures for increasing research activities as allowable under Section 41 of the Internal Revenue Code in effect on January 1, 1999. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in Iowa to the total qualified research expenditures. The Iowa research activities credit is made permanent for tax years beginning on or after January 1, 1991, even though there may no longer be a research activities credit for federal income tax purposes. The taxes imposed on individual income shall be reduced by a state tax credit for increasing research activities in this state. For individual income tax, the requirements of the research activities credit are described in Iowa Code section 422.10. This rule explains terms not defined in the statute and procedures for claiming the credit.~~

~~42.11(1) Qualified expenditures in Iowa are:~~

- ~~a. Wages for qualified research services performed in Iowa.~~
- ~~b. Cost of supplies used in conducting qualified research in Iowa.~~
- ~~c. Rental or lease cost of personal property used in Iowa in conducting qualified research. Where personal property is used both within and without Iowa in conducting qualified research, the rental or lease cost must be prorated between Iowa and non-Iowa use by the ratio of days used in Iowa to total days used both within and without Iowa.~~
- ~~d. Sixty five percent of contract expenses paid by a corporation to a qualified organization for basic research performed in Iowa.~~

~~42.11(2) Total qualified expenditures are:~~

- ~~a. Wages paid for qualified research services performed everywhere.~~
- ~~b. Cost of supplies used in conducting qualified research everywhere.~~
- ~~c. Rental or lease cost of personal property used in conducting qualified research everywhere.~~
- ~~d. Sixty five percent of contract expenses paid by a corporation to a qualified organization for basic research performed everywhere.~~

~~“Qualifying expenditures for increasing research activities” is the smallest of the amount by which the qualified research expenses for the taxable year exceed the base period research expenses or 50 percent of the qualified research expenses for the taxable year.~~

~~A taxpayer may claim on the taxpayer's individual income tax return the pro rata share of the credit for qualifying research expenditures incurred in Iowa by a partnership, subchapter S corporation, or estate or trust. The portion of the credit claimed by the individual must be in the same ratio as the individual's pro rata share of the earnings of the partnership, subchapter S corporation, or estate or trust.~~

~~Any research credit in excess of the individual's tax liability, less the nonrefundable credits authorized in Iowa Code chapter 422, division II, may be refunded to the taxpayer or may be credited~~

to the estimated tax of the taxpayer for the following year.

**42.11(1) Definitions.**

“Accountant” means a person authorized under Iowa Code chapter 542 to engage in the practice of public accounting in Iowa as defined in Iowa Code section 542.3(23) or authorized to engage in such practice in another state under a similar law of another state.

“Architect” means a person licensed under Iowa Code chapter 544A or a similar law of another state.

“Aviation and aerospace” means the design, development or production of aircraft, rockets, missiles, spacecraft and other machinery and equipment that operate in aerospace.

“Collection agency” means a person primarily engaged in the business of collecting debt, including but not limited to consumer debt collection subject to the provisions of the federal Fair Debt Collections Practices Act in 15 U.S.C. §1692 et seq., the Iowa debt collection practices Act in Iowa Code sections 537.7101 through 537.7103, or other similar state law.

“Finance or investment company” means a person primarily engaged in finance or investment activities broadly consisting of the holding, depositing, or management of a customer’s money or assets for investment purposes, or the provision of loans or other similar financing or credit to customers. “Finance or investment company” includes but is not limited to a person organized or licensed under Iowa Code chapter 524, 533, or 533D or other similar state or federal law, or an investment company as defined in 15 U.S.C. §80a-3.

“Life sciences” means the sciences concerned with the study of living organisms, including agriscience, biology, botany, zoology, microbiology, physiology, biochemistry, and related subjects.

“Manufacturing” means the same as defined in 2018 Iowa Acts, Senate File 2417, section 182.

“Publisher” means a person whose primary business is the publishing of books, periodicals, newspapers, music, or other works for sale in any format.

“Real estate company” means a person licensed under Iowa Code chapter 543B or otherwise primarily engaged in acts constituting dealing in real estate as described in Iowa Code section 543B.6.

“Retailer” means a person that primarily engages in sales of personal property as defined in 2018 Iowa Acts, Senate File 2417, section 158, or services directly to an ultimate consumer. A business that primarily makes sales for resale is not a retailer.

“Software engineering” means the detailed study of the design, development, operation, and maintenance of software.

“Transportation company” means a person whose primary business is the transportation of persons or property from one place to another.

“Wholesaler” means a person that primarily engages in buying large quantities of goods and reselling them in smaller quantities to retailers or other merchants who in turn sell those goods to the ultimate consumer.

**42.11(2) Requirement that the business claim and be allowed the federal credit.** To claim this credit, a taxpayer’s business must claim and be allowed a research credit for such qualified research expenses under Section 41 of the Internal Revenue Code for the same taxable year as the taxpayer’s business is claiming the credit.

**a. Being “allowed” the federal credit.** For purposes of this subrule, a federal credit is “allowed” if the taxpayer meets all requirements to claim the credit under Section 41 of the Internal Revenue Code and any applicable federal regulation and Internal Revenue Service guidance and such credit has not been disallowed by the Internal Revenue Service.

**b. Applicability of requirement to pass-throughs.** If the individual received the Iowa credit through a pass-through entity, the pass-through entity that conducted the research must have claimed and been allowed the federal credit in order for the individual to claim the Iowa credit.

**c. Impact of federal audit.** If the Internal Revenue Service audits or otherwise reviews the return and disallows the credit, the taxpayer shall file an amended Iowa return along with supporting schedules, including an amended federal return or a copy of the federal revenue agent’s report and notification of final federal adjustments, to add back the Iowa credit to the extent not previously disallowed by the department.

**d. Authority of the department.** Nothing in this subrule shall limit the department’s authority to

review, examine, audit, or otherwise challenge an Iowa tax credit claim under Iowa Code section 422.10, regardless of inaction, a settlement, or a determination by the Internal Revenue Service under Section 41 of the Internal Revenue Code.

~~42.11(3) Research activities credit for tax years beginning in 2000. Effective for tax years beginning on or after January 1, 2000, the taxes imposed for individual income tax purposes will be reduced by a tax credit for increasing research activities in this state.~~

~~a. The credit equals the sum of the following:~~

~~(1) Six and one half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.~~

~~(2) Six and one half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research activities.~~

~~b. In lieu of the credit computed under paragraph 42.11(3) "a," a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative incremental credit described in Section 41(e)(4) of the Internal Revenue Code for tax years beginning on or after January 1, 2000, but beginning before January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer's federal income tax return. The election made under this paragraph is for the tax year, and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative incremental research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(e)(4)(A) of the Internal Revenue Code are 1.65 percent, 2.20 percent, and 2.75 percent, respectively.~~

~~c. In lieu of the credit computed under paragraph 42.11(3) "a," a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative simplified credit described in Section 41(e)(5) of the Internal Revenue Code for tax years beginning on or after January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer's federal income tax return. The election made under this paragraph is for the tax year, and the taxpayer may use another method or this same method for any subsequent tax year.~~

~~For purposes of this alternative simplified research credit computation, the credit percentages applicable to qualified research expenses described in Section 41(e)(5)(A) and clause (ii) of Section 41(e)(5)(B) of the Internal Revenue Code are 4.55 percent and 1.95 percent, respectively.~~

~~d. For purposes of this subrule, the terms "base amount," "basic research payment," and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 42.11(3) "b" and the alternative simplified credit described in paragraph 42.11(3) "c," such amounts are limited to research activities conducted within this state. For purposes of this subrule, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2014.~~

~~e. An individual may claim a research activities credit incurred by a partnership, S corporation, limited liability company, estate, or trust electing to have the income of the business entity taxed to the individual. The amount claimed by an individual from the business entity shall be based upon the pro rata share of the individual's earnings from a partnership, S corporation, estate or trust. Any research credit in excess of the individual's tax liability, less the nonrefundable credits authorized in Iowa Code chapter 422, division II, may be refunded to the individual or may be credited to the individual's tax liability for the following tax year.~~

~~f. An eligible business approved under the new jobs and income program prior to July 1, 2005, is eligible for an additional research activities credit as described in 701—subrule 52.7(4). An eligible business approved under the enterprise zone program is eligible for an additional research activities credit as described in 701—subrules 52.7(5) and 52.7(6).~~

~~g. Tax years ending on or after July 1, 2005, but before July 1, 2009. For eligible businesses approved under the enterprise zone program and the high quality job creation program, research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa. These expenses are not eligible for the federal credit for increasing research activities. These innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity. The research activities credit related to renewable energy generation components under the enterprise zone program and the high quality job creation program shall not exceed \$1 million in the aggregate.~~

~~These expenses are available only for the additional research activities credit set forth in subrule 42.11(3), paragraph “f,” for businesses in enterprise zones and the additional research activities credit set forth in subrule 42.29(1) for businesses approved under the high quality job creation program. These expenses are not available for the research activities credit set forth in subrule 42.11(3), paragraphs “a,” “b” and “c.”~~

~~h. Tax years ending on or after July 1, 2009. For eligible businesses approved under the enterprise zone program prior to July 1, 2014, research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities. The enterprise zone program was repealed on July 1, 2014. However, any research activities credit earned by businesses approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014.~~

~~(1) For purposes of this paragraph, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity.~~

~~(2) The research activities credit related to renewable energy generation components under the enterprise zone program and the high quality jobs program described in subrule 42.42(1) shall not exceed \$2 million for the fiscal year ending June 30, 2010, and \$1 million for the fiscal year ending June 30, 2011.~~

~~(3) These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in subrule 42.11(3), paragraph “f,” for businesses in enterprise zones and the additional research activities credit set forth in subrule 42.42(1) for businesses approved under the high quality jobs program, and are not applicable to the research activities credit set forth in subrule 42.11(3), paragraphs “a,” “b” and “c.”~~

~~42.11(4) Reporting of research activities credit claims. Beginning with research activities credit claims filed on or after July 1, 2009, the department shall issue an annual report to the general assembly of all research activities credit claims in excess of \$500,000. The report, which is due by February 15 of each year, will contain the name of each claimant and the amount of the research activities credit for all claims filed during the previous calendar year in excess of \$500,000.~~

~~42.11(3) *Calculating the credit.* For information on how the credit is calculated, see Iowa Code section 422.10.~~

~~42.11(4) *Claiming the tax credit.*~~

~~a. *Forms.* The credit must be claimed on the forms provided on the department’s website and must include all information required by the forms.~~

~~b. *Allocation to the individual owners of an entity or beneficiaries of an estate or trust.* An individual may claim a research activities credit incurred by a partnership, S corporation, limited liability company, estate, or trust electing to have the income of the business entity taxed to the individual. The amount claimed by an individual from the business entity shall be based upon the pro rata share of the individual’s earnings from a partnership, S corporation, estate or trust.~~

~~c. *Refundability.* Any research credit in excess of the individual’s tax liability, less the nonrefundable credits authorized in Iowa Code chapter 422, division II, may be refunded to the individual or may be credited to the individual’s tax liability for the following tax year.~~

d. Transferability. Tax credit certificates shall not be transferred to any other person.

e. Enterprise zone claimants. The enterprise zone program was repealed on July 1, 2014. However, any supplemental research activities credit earned by businesses pursuant to Iowa Code section 15.335 and approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014.

This rule is intended to implement Iowa Code sections 15.335 and 422.10 as amended by 2014 Iowa Acts, House File 2435 2018 Iowa Acts, Senate File 2417.

ITEM 2. Amend rule 701—52.7(422) as follows:

~~701—52.7(422) Research activities credit.~~ Effective for tax years beginning on or after January 1, 1985, taxpayers are allowed a tax credit equal to 6.5 percent of the state's apportioned share of qualifying expenditures for increasing research activities. For purposes of this credit, "qualifying expenditures" means the qualifying expenditures for increasing research activities as defined for purposes of the federal credit for increasing research activities computed under Section 41 of the Internal Revenue Code. For tax years beginning on or after January 1, 1991, "qualifying expenditures" means the qualifying expenditures for increasing research activities as defined for purposes of the federal credit for increasing research activities computed under Section 41 of the Internal Revenue Code as in effect on January 1, 1998. The Iowa research activities credit is made permanent for tax years beginning on or after January 1, 1991, even though there may no longer be a research activities credit for federal income tax purposes. The "state's apportioned share of qualifying expenditures for increasing research activities" must be the ratio of the qualified expenditures in Iowa to total qualified expenditures times total qualifying expenditures for increasing research activities. The taxes imposed on corporate income shall be reduced by a state tax credit for increasing research activities in this state. For corporate income tax, the requirements of the research activities credit are described in Iowa Code section 422.33. This rule explains terms not defined in the statute and procedures for claiming the credit.

~~52.7(1) Qualified expenditures in Iowa are:~~

- ~~a. Wages for qualified research services performed in Iowa.~~
- ~~b. Cost of supplies used in conducting qualified research in Iowa.~~
- ~~c. Rental or lease cost of personal property used in Iowa in conducting qualified research. Where personal property is used both within and without Iowa in conducting qualified research, the rental or lease cost must be prorated between Iowa and non-Iowa use by the ratio of days used in Iowa to total days used both within and without Iowa.~~
- ~~d. Sixty five percent of contract expenses paid by a corporation to a qualified organization for basic research performed in Iowa.~~

~~52.7(2) Total qualified expenditures are:~~

- ~~a. Wages paid for qualified research services performed everywhere.~~
- ~~b. Cost of supplies used in conducting qualified research everywhere.~~
- ~~c. Rental or lease cost of personal property used in conducting qualified research everywhere.~~
- ~~d. Sixty five percent of contract expenses paid by a corporation to a qualified organization for basic research performed everywhere.~~

Qualifying expenditures for increasing research activities is the smallest of the amount by which the qualified research expenses for the taxable year exceed the base period research expenses or 50 percent of the qualified research expenses for the taxable year.

A shareholder in an S corporation may claim the pro rata share of the Iowa credit for increasing research expenditures on the shareholder's individual income tax return. The S corporation must provide each shareholder with a schedule showing the computation of the corporation's Iowa credit for increasing research expenditures and the shareholder's pro rata share. The shareholder's pro rata share of the Iowa credit for increasing research activities must be in the same ratio as the shareholder's pro rata share in the earnings of the S corporation.

Any research credit in excess of the corporation's tax liability less the credits authorized in Iowa Code sections 422.33, 422.91 and 422.111 may be refunded to the taxpayer or credited to the estimated tax of the taxpayer for the following year.

~~52.7(3) Research activities credit for tax years beginning in 2000.~~ Effective for tax years

~~beginning on or after January 1, 2000, the taxes imposed for corporate income tax purposes will be reduced by a tax credit for increasing research activities.~~

~~a. The credit equals the sum of the following:~~

~~(1) Six and one half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.~~

~~(2) Six and one half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.~~

~~The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures.~~

~~b. In lieu of the credit computed under paragraph 52.7(3)"a," a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative incremental credit described in Section 41(e)(4) of the Internal Revenue Code for tax years beginning on or after January 1, 2000, but beginning before January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer's federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year.~~

~~For purposes of this alternative incremental research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(e)(4)(A) of the Internal Revenue Code are 1.65 percent, 2.20 percent, and 2.75 percent, respectively.~~

~~c. In lieu of the credit computed under paragraph 52.7(3)"a," a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative simplified credit described in Section 41(e)(5) of the Internal Revenue Code for tax years beginning on or after January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer's federal income tax return. The election made under this paragraph is for the tax year, and the taxpayer may use another method or this same method for any subsequent tax year.~~

~~For purposes of this alternative simplified research credit computation, the credit percentages applicable to qualified research expenses described in Section 41(e)(5)(A) and clause (ii) of Section 41(e)(5)(B) of the Internal Revenue Code are 4.55 percent and 1.95 percent, respectively.~~

~~d. For purposes of this subrule, the terms "base amount," "basic research payment," and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3)"b" and the alternative simplified credit described in paragraph 52.7(3)"c," such amounts are limited to research activities conducted within this state. For purposes of this subrule, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2014.~~

~~e. A shareholder in an S corporation may claim the pro rata share of the Iowa credit for increasing research activities on the shareholder's individual return. The S corporation must provide each shareholder with a schedule showing the computation of the corporation's Iowa credit for increasing research activities and the shareholder's pro rata share. The shareholder's pro rata share of the Iowa credit for increasing research activities must be in the same ratio as the shareholder's pro rata share in the earnings of the S corporation.~~

~~Any research credit in excess of the corporation's tax liability less the credits authorized in Iowa Code sections 422.33, 422.91 and 422.111 may be refunded to the taxpayer or credited to the estimated tax of the corporation for the following year.~~

**52.7(1) Definitions.**

"Accountant" means a person authorized under Iowa Code chapter 542 to engage in the practice of public accounting in Iowa as defined in Iowa Code section 542.3(23) or authorized to engage in such practice in another state under a similar law of another state.

"Architect" means a person licensed under Iowa Code chapter 544A or a similar law of another

state.

“Aviation and aerospace” means the design, development or production of aircraft, rockets, missiles, spacecraft and other machinery and equipment that operate in aerospace.

“Collection agency” means a person primarily engaged in the business of collecting debt, including but not limited to consumer debt collection subject to the provisions of the federal Fair Debt Collections Practices Act in 15 U.S.C. §1692 et seq., the Iowa debt collection practices Act in Iowa Code sections 537.7101 through 537.7103, or other similar state law.

“Finance or investment company” means a person primarily engaged in finance or investment activities broadly consisting of the holding, depositing, or management of a customer’s money or assets for investment purposes, or the provision of loans or other similar financing or credit to customers. “Finance or investment company” includes but is not limited to a person organized or licensed under Iowa Code chapter 524, 533, or 533D or other similar state or federal law, or an investment company as defined in 15 U.S.C. §80a-3.

“Life sciences” means the sciences concerned with the study of living organisms, including agriscience, biology, botany, zoology, microbiology, physiology, biochemistry, and related subjects.

“Manufacturing” means the same as defined in 2018 Iowa Acts, Senate File 2417, section 182.

“Publisher” means a person whose primary business is the publishing of books, periodicals, newspapers, music, or other works for sale in any format.

“Real estate company” means a person licensed under Iowa Code chapter 543B or otherwise primarily engaged in acts constituting dealing in real estate as described in Iowa Code section 543B.6.

“Retailer” means a person that primarily engages in sales of personal property as defined in 2018 Iowa Acts, Senate File 2417, section 158, or services directly to an ultimate consumer. A business that primarily makes sales for resale is not a retailer.

“Software engineering” means the detailed study of the design, development, operation, and maintenance of software.

“Transportation company” means a person whose primary business is the transportation of persons or property from one place to another.

“Wholesaler” means a person that primarily engages in buying large quantities of goods and reselling them in smaller quantities to retailers or other merchants who in turn sell those goods to the ultimate consumer.

**52.7(2) Requirement that the business claim and be allowed the federal credit.** To claim this credit, a taxpayer’s business must claim and be allowed a research credit for such qualified research expenses under Section 41 of the Internal Revenue Code for the same taxable year as the taxpayer’s business is claiming the credit.

*a. Being “allowed” the federal credit.* For purposes of this subrule, a federal credit is “allowed” if the taxpayer meets all requirements to claim the credit under Section 41 of the Internal Revenue Code and any applicable federal regulation and Internal Revenue Service guidance and such credit has not been disallowed by the Internal Revenue Service.

*b. Applicability of requirement to pass-throughs.* If the individual received the Iowa credit through a pass-through entity, the pass-through entity that conducted the research must have claimed and been allowed the federal credit in order for the individual to claim the Iowa credit.

*c. Impact of federal audit.* If the Internal Revenue Service audits or otherwise reviews the return and disallows the credit, the taxpayer shall file an amended Iowa return along with supporting schedules, including an amended federal return or a copy of the federal revenue agent’s report and notification of final federal adjustments, to add back the Iowa credit to the extent not previously disallowed by the department.

*d. Authority of the department.* Nothing in this subrule shall limit the department’s authority to review, examine, audit, or otherwise challenge an Iowa tax credit claim under Iowa Code section 422.33, regardless of inaction, a settlement, or a determination by the Internal Revenue Service under Section 41 of the Internal Revenue Code.

**52.7(3) Calculating the credit.** For information on how the credit is calculated, see Iowa Code section 422.33.

**52.7(4) Research activities credit for an eligible business.** Claiming the tax credit. Effective for

~~tax years beginning on or after January 1, 2000, an eligible business may claim a tax credit for increasing research activities in this state during the period the eligible business is participating in the new jobs and income program with the Iowa department of economic development. An eligible business must meet all the conditions listed under Iowa Code section 15.329, which include requirements to make an investment of \$10 million as indexed for inflation and the creation of a minimum of 50 full time positions. The research credit authorized in this subrule is in addition to the research activities credit described in 701—subrule 42.11(3) or the research credit described in subrule 52.7(3).~~

~~a. The additional research activities credit for an eligible business is computed under the criteria for computing the research activities credit under 701—subrule 42.11(3) or under subrule 52.7(3), depending on which of those subrules the initial research credit was computed. The same qualified research expenses and basic research expenses apply in computation of the research credit for an eligible business as were applicable in computing the credit in 701—subrule 42.11(3) or 52.7(3). In addition, if the alternative incremental credit method was used to compute the initial research credit under 701—subrule 42.11(3) or 52.7(3), that method would be used to compute the research credit for an eligible business. Therefore, if a taxpayer that met the qualifications of an eligible business had a research activities credit of \$200,000 as computed under subrule 52.7(3), the research activities credit for the eligible business would result in an additional credit for the taxpayer of \$200,000.~~

~~a. Forms. The credit must be claimed on the forms provided on the department’s website and must include all information required by the forms.~~

~~b. Allocation to the individual owners of an entity or beneficiaries of an estate or trust. If the eligible business is a partnership, S corporation, limited liability company, estate or trust where the income from the eligible business is taxed to the individual owners of the business, these individual owners may claim the additional research activities credit allowed to the eligible business. The research credit is allocated to each of the individual owners of the eligible business on the basis of the pro rata share of that individual’s earnings from the eligible business.~~

~~c. Refundability. Any research credit in excess of the corporation’s tax liability for the taxable year may be refunded to the taxpayer or credited to the corporation’s tax liability for the following year.~~

~~d. Transferability. Tax credit certificates shall not be transferred to any other person.~~

~~e. Enterprise zone claimants. The enterprise zone program was repealed on July 1, 2014. Any supplemental research activities credit earned by businesses pursuant to Iowa Code section 15.335 and approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014.~~

~~**52.7(5) Corporate tax research credit for increasing research activities within an enterprise zone.** Effective for tax years beginning on or after January 1, 2000, for awards made by the Iowa department of economic development prior to July 1, 2010, the taxes imposed for corporate income tax purposes will be reduced by a tax credit for increasing research activities within an area designated as an enterprise zone. This credit for increasing research activities is in lieu of the research activities credit described in 701—subrule 42.11(3) or the research activities credit described in subrule 52.7(3). For the amount of the credit for increasing research activities within an enterprise zone for awards made by the economic development authority on or after July 1, 2010, see subrule 52.7(6).~~

~~a. The credit equals the sum of the following:~~

~~(1) Thirteen percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for research activities.~~

~~(2) Thirteen percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities. The state’s apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in the enterprise zone to total qualified research expenditures.~~

~~b. In lieu of the credit computed under paragraph 52.7(5)“a,” a taxpayer may elect to compute the credit amount for qualified research expenses incurred in the enterprise zone in a manner~~

consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code for tax years beginning prior to January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer's federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 3.30 percent, 4.40 percent, and 5.50 percent, respectively.

~~e.~~ In lieu of the credit computed under paragraph 52.7(5) "a," a taxpayer may elect to compute the credit amount for qualified research expenses incurred in the enterprise zone in a manner consistent with the alternative simplified credit described in Section 41(c)(5) of the Internal Revenue Code for tax years beginning on or after January 1, 2010. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer's federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in Section 41(c)(5)(A) and clause (ii) of Section 41(c)(5)(B) are 9.10 percent and 3.90 percent, respectively.

~~d.~~ For purposes of this subrule, the terms "base amount," "basic research payment," and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3) "b" and the alternative simplified credit described in paragraph 52.7(3) "e" of this rule, such amounts are limited to research activities conducted within the enterprise zone. For purposes of this rule, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2014.

~~e.~~ Any research credit in excess of the corporation's tax liability for the taxable year may be refunded to the taxpayer or credited to the corporation's tax liability for the following year.

~~52.7(6) Research activities credit for awards made by the economic development authority on or after July 1, 2010, but before July 1, 2014.~~ For eligible businesses approved under the enterprise zone program prior to July 1, 2014, by the economic development authority when an award is made on or after July 1, 2010, but before July 1, 2014, the taxes imposed for corporate income tax purposes will be reduced by a tax credit for increasing research activities within an area designated as an enterprise zone. The enterprise zone program was repealed on July 1, 2014. Any research activities credit earned by businesses approved under the enterprise zone program prior to July 1, 2014, remains valid and can be claimed on tax returns filed after July 1, 2014. This credit for increasing research activities is in lieu of the research activities credit described in 701—subrule 42.11(3) or the research activities credit described in subrule 52.7(3). The amount of the credit depends upon the gross revenues of the eligible business.

~~a.~~ The credit equals the sum of the following for eligible businesses with gross revenues of less than \$20 million:

~~(1) Sixteen and one half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for research activities.~~

~~(2) Sixteen and one half percent of the basic research payments determined under Section 41(c)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percentage equal to the ratio of qualified research expenditures in the enterprise zone to total qualified research expenditures.~~

~~b.~~ The credit equals the sum of the following for eligible businesses with gross revenues of \$20 million or more:

~~(1) Nine and one half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for research activities.~~

~~(2) Nine and one half percent of the basic research payments determined under Section~~

~~41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percentage equal to the ratio of qualified research expenditures in the enterprise zone to total qualified research expenditures.~~

~~e.— In lieu of the credit computed under paragraphs 52.7(6) “a” and “b,” a taxpayer may elect to compute the credit amount for qualified research expenses incurred in the enterprise zone in a manner consistent with the alternative simplified credit described in Section 41(e)(5) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer's federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in Section 41(e)(5)(A) and clause (ii) of Section 41(e)(5)(B) of the Internal Revenue Code depend upon the gross revenues of the eligible business.~~

~~(1) The percentages are 7 percent and 3 percent, respectively, for eligible businesses with gross revenues of less than \$20 million.~~

~~(2) The percentages are 2.1 percent and 0.9 percent, respectively, for eligible businesses with gross revenues of \$20 million or more.~~

~~d.— For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative simplified credit described in paragraph 52.7(3) “e” of this rule, such amounts are limited to research activities conducted within the enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2014.~~

~~e.— Any research credit in excess of the corporation's tax liability for the taxable year may be refunded to the taxpayer or credited to the corporation's tax liability for the following year.~~

~~**52.7(7) Reporting of research activities credit claims.** Beginning with research activities credit claims filed on or after July 1, 2009, the department shall issue an annual report to the general assembly of all research activities credit claims in excess of \$500,000. The report, which is due by February 15 of each year, will contain the name of each claimant and the amount of the research activities credit for all claims filed during the previous calendar year in excess of \$500,000.~~

~~This rule is intended to implement Iowa Code sections 15.335 and 422.33 as amended by 2014 Iowa Acts, House File 2435 2018 Iowa Acts, Senate File 2417.~~