

BEFORE THE IOWA DEPARTMENT OF REVENUE  
HOOVER STATE OFFICE BUILDING  
DES MOINES, IOWA

IN THE MATTER OF  ROBERT PAILTHORPE 3332 280 <sup>TH</sup> ST ELBERON IA 52225  INDIVIDUAL INCOME TAX	<b>REFUSAL TO ISSUE DECLARATORY ORDER</b>  DOCKET NO. 757938
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Pursuant to a Petition for Declaratory Order (“Petition”) filed with the Iowa Department of Revenue (“Department”) by Robert Pailthorpe (“Petitioner”) on December 9, 2024, and in accordance with Iowa Code section 17A.9(2024) and Iowa Administrative Code rule 701—7.24(17A)(2024)<sup>1</sup>, “Declaratory order-in general,” the Director issues the following order.

**I. FACTS**

Petitioner describes the thrift savings plan as a retirement savings program for federal government employees. Pet. for Declaratory Order, p.1 (Dec. 9, 2024). Petitioner states that the thrift savings plan is not explicitly covered in the Iowa law that excludes certain retirement income from Iowa individual taxable income. *Id.* Petitioner did not state whether or not he received income from a thrift savings plan. The Department requested additional information on February 25, 2025 to determine whether Petitioner received the income described and whether the Petitioner would otherwise meet the requirements for the exclusion. Petitioner did not respond to the Department’s request for additional information.

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<sup>1</sup> Effective March 26, 2025, this rule was moved to Iowa Administrative Code rule 4.7. This Order will refer to the version of the rule in effect at the time the Petition was submitted to the Department.

## II. ISSUE PRESENTED

Petitioner presents a single issue: whether distributions or withdrawals from a thrift savings plan account qualifies as retirement income for the purposes of the exclusion under Iowa Code section 422.7(19).<sup>2</sup>

## III. STANDARD OF REVIEW

Iowa's Administrative Procedure Act ("IAPA") was enacted "to provide a minimum procedural code for the operation of all state agencies when they take action affecting the rights and duties of the public." Iowa Code § 17A.1(2). Under the IAPA, "[a]ny person may petition an agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency." *Id.* § 17A.9(1)(a). The IAPA also describes agency rights and responsibilities with respect to declaratory order proceedings. *Id.* § 17A.9(8). Pursuant to Iowa Code section 17A.9(2), the Department adopted Iowa Administrative Code rule 701—7.24, which outlines department-specific rules governing declaratory orders.

The purpose of a declaratory order is to provide a "generally available means for persons to obtain reliable information about agency administered law as it applies to their particular circumstances." *Sierra Club Iowa Chapter v. Iowa Dep't of Transp.*, 832 N.W.2d 636, 647 (2013) (citing Arthur Earl Bonfield, Amendments to Iowa Administrative Procedure Act, Report on Selected Provisions to Iowa State Bar Association and Iowa State Government, 1–8 (1998)). Declaratory orders are not contested cases that "entitle[] parties affected by the agency action to an adversarial hearing" in order to "adjudicate disputed facts pertaining to particular individuals in specific circumstances." *Greenwood Manor v. Iowa Dep't of Pub. Health, State Health Facilities Council*, 641 N.W.2d 823, 834 (Iowa 2002); *see also* Iowa Code § 17A.12.

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<sup>2</sup> Petitioner refers to the bill that modified the existing retirement income exclusion to be a full exclusion assuming the taxpayer met the requirements. H.F. 2317, 89th Gen. Assemb., (Iowa 2022). This was codified in Iowa Code section 422.7(19). *See* Iowa Code § 422.7(19)(2024).

Instead, the IAPA “contemplates declaratory rulings by administrative agencies on purely hypothetical sets of facts.” *City of Des Moines v. Pub. Emp’t Rels. Bd.*, 275 N.W.2d 753, 758 (1979). As such, “[t]he procedure established by section 17A.9 allows persons to seek formal opinions on the effect of future transactions and arrange their affairs accordingly.” *Bennett v. Iowa Dep’t of Nat. Res.*, 573 N.W.2d 25, 26 (Iowa 1997). Declaratory orders issued by an administrative agency do, however, have “the same status and binding effect as any final order issued in a contested case proceeding.” Iowa Code § 17A.9(7). The Department’s rule governing declaratory orders is consistent with this understanding of the role of declaratory orders in administrative procedure. See Iowa Admin. Code r. 701—7.24 (2024).

#### IV. **DISCUSSION**

When the Department receives a petition for declaratory order, it is required to issue an order “unless the agency determines that issuance of the order under the circumstances would be contrary to a rule adopted in accordance with subsection 2.” Iowa Code § 17A.9(1)(b)(1). Under the Department’s rule adopted pursuant to Iowa Code section 17A.9, the Department refuses to issue a declaratory order in response to the Petition for the following reason:

(2) The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department to issue an order.

Iowa Admin. Code r. 701—7.24(9)“a”(2).

As stated above, Petitioner included facts about the thrift savings plan in the Petition but did not provide any facts about Petitioner’s relationship to the thrift savings plan. Namely, Petitioner did not state that he received withdrawals or distributions from the thrift savings plan that may be subject to Iowa individual income tax. Petitioner also did not provide facts sufficient to determine if Petitioner would meet the other requirements for the retirement income exclusion found in Iowa Code section 422.7(19). The Department requested additional information on

these two points but has received no response from Petitioner. Without these facts, the Petitioner has not demonstrated that he would be aggrieved or adversely affected by the failure of the Department to issue an order with a determination as to whether these withdrawals or distributions are subject to Iowa individual income tax.

**ORDER**

THEREFORE, based on the facts presented, foregoing reasoning, and applicable provisions of the law, the Director refuses to issue a Declaratory Order in this matter.

Issued at Des Moines, Iowa this 22nd day of April, 2025.

IOWA DEPARTMENT OF REVENUE

By Mary Mosiman  
Mary Mosiman, Director