

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

<p>IN THE MATTER OF</p> <p>SANJEEV AND RAJSHRI AGARWAL 3320 GOLDENROD CIR AMES IA 50014-4577</p> <p>TAX CREDITS</p>	<p>DIRECTOR’S ORDER ON PETITION FOR WAIVER OR VARIANCE FROM A DISCRETIONARY RULE</p> <p>DOCKET NUMBER: 887764</p>
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Pursuant to a Petition for Waiver filed with the Iowa Department of Revenue (“Department”) by Sanjeev and Rajshri Agarwal (“Petitioners”), and in accordance with Iowa Code section 17A.9A and Iowa Administrative Code rule 701–7.28¹, the Director issues the following order.

I. **FACTS**

All facts provided below are based upon the Petition.

A. **Background**

Petitioners are two individuals, Sanjeev and Rajshri Agarwal, a husband and wife. Petitioners are both 50% owners in “Technochem International, Inc.,” an Iowa corporation (Technochem). Technochem is a member of Glycerin Group LLC (Glycerin) and is a one-third owner of the LLC, as reflected on the IA 1065 Schedule K-1s issued to Technochem. Glycerin is in the business of renewable chemical production, and was awarded two Iowa renewable chemical production credits.

The Iowa Economic Development Authority (IEDA) issued certificates for these credits on

¹ This rule was moved to Iowa Administrative Code rule 701–3.7 effective March 26, 2025. The Petition was filed on March 21, 2025. Therefore, this Order will refer to the rule that was in effect at the time of the filing of the Petition.

October 29, 2019, to Glycerin. One of the certificates, numbered 692018000100 (018 certificate) had a total value of \$542,114. The other certificate, numbered 692019000100 (019 certificate) had a total value of \$1,000,000. Because Technochem is a one-third owner of Glycerin, \$180,705 of the credit on the 018 certificate flowed through to Technochem, and \$333,333 of the credit on the 019 certificate flowed through to Technochem. These values were reflected on the Schedule K-1 for Glycerin's 2019 IA 1065 partnership tax return. Technochem had previously made an election to be taxed as an S Corporation and so filed an IA 1120S for 2019. On its original 2019 return and Schedule K-1s, Technochem passed through \$132,019 of the renewable chemical production tax credit reflected on certificate 019 to Sanjeev and \$132,019 to Rajshri. Technochem did not pass any portion of the credit from the 018 certificate through to Petitioners on the original 2019 return.

Instead of claiming the total amount of the credits in 2019, the year the credits were issued, and requesting the excess either as a refund or as an estimated tax payment for the next tax year, Petitioners in this case claimed only a portion of the credits available to them. As reflected on Petitioners' 2019 IA 148 Iowa Tax Credits Schedules, Sanjeev applied \$93,647 of the \$132,019 credit reflected on the 019 certificate available to him and none of the credit from the 018 certificate, and Rajshri did not apply any amount of the credit from either certificate. The remainder of the credit was left unclaimed by Petitioners. Petitioners have included what purports to be a copy of their filed amended 2019 individual income tax return showing a refund. The filing of the Petition for Waiver considered here occurred after the Department sent a Notice of Assessment (NOA) to Petitioners on August 1, 2024 after denying the claimed credit issued in 2019. This NOA informed Petitioners that the Department was assessing them \$28,122.96 of tax, penalty, and interest for unpaid individual income tax for tax year 2023.

B. Claims by Petitioners

Petitioners argue that due to the text on the face of the tax credit certificates, they were justified in believing that they were able to claim the credit outside of the year in which the

certificates were issued. Pet. for Waiver, Addendum A, p. 1. Specifically, Petitioners point to language on the certificates which states that the credit provided by the 018 certificate can be claimed in the tax year beginning on January 1, 2017, and the credit provided by the 019 certificate can be claimed in the tax year beginning on January 1, 2018. *Id.* Petitioners note that the tax credit certificate does not “state an expiration date” nor does it “cite the Iowa Code or the Iowa Administrative Code, to put the taxpayers on notice as to any rules or limitations (i.e. 1-year limitation) for claiming the tax credits.” *Id.* This, Petitioners conclude, provided the basis for a reasonable inference and belief that they had “flexibility” in claiming the credits over a number of years. *Id.*

Petitioners seek permission to claim the entirety of the credits provided on the 018 and 019 certificates, due to the fact that there was “adequate disclosure of the tax certificate numbers...on the K-1 forms and Iowa 148 forms.” Pet. for Waiver, Addendum A, p. 2. In other words, because there was sufficient documentation of the tax credit certificates across various filings, returns, and schedules of Glycerin Group, Technochem, and Petitioners, even though only a portion of one of the credits was passed on to Petitioners and claimed in the year the certificate was issued, the full amount of both certificates should be available for use by Petitioners. *Id.*

Alternatively, Petitioners request that the full amount of the credit on the 019 certificate should be available to Petitioners. Petitioners assert that since the 019 certificate was listed on the original Form 148 filed by Petitioners in 2019, this provided the Department notice to “review the tax form filing, to investigate, and in a timely manner, send the taxpayers a responsive letter on the matter.” *Id.* Because no notice or correspondence was sent to Petitioners until the NOA for tax year 2023, Petitioners argue that the Department failed to properly inform them that they were making a mistake in failing to claim the entirety of the credit provided by that certificate. Petition for Waiver, Addendum A, p.3. Due to this purported failure to act, Petitioners should not now be barred from correcting that mistake even outside of the three years statutorily permitted to file a claim for refund. *Id.*; see also Iowa Code § 422.73(2)(a).

II. ANALYSIS AND CONCLUSION

A. Waiver Authority

The Iowa Code provides that “any person may petition an agency for a waiver from the requirements of a rule.” Iowa Code § 17A.9A(1). In order for the agency to grant the waiver, it must have “jurisdiction over the rule” and the waiver must be “consistent with any applicable statute, constitutional provision, or other provision of law.” *Id.* Additionally, an agency may not waive “any requirement created or duty imposed by statute.” *Id.* Finally, if the statutory requirements to allow an agency to grant a waiver are met, the agency then has the “sole discretion” to issue a waiver if certain conditions are established by clear and convincing evidence. Iowa Code § 17A.9A(2). In order for a waiver to be granted, the petitioner has the “burden of persuasion,” and the Department may determine whether that burden has been met. *Id.* § 17A.9A(3).

Iowa Administrative Code rule 701–7.28 also provides the requirements for the waiver of Department rules:

7.28(3) “a” *Applicability of this rule.*

This rule applies only to waiver of those rules that are within the exclusive rule-making authority of the department. This rule shall not apply to interpretive rules that merely interpret or construe the meaning of a statute, or other provision of law or precedent, if the department does not possess statutory authority to bind a court, to any extent, with its interpretation or construction. Thus, this waiver rule applies to discretionary rules and discretionary provisions in rules, and not to interpretive rules. . . .

7.28(4) *Authority to grant a waiver.* The director may not issue a waiver under this rule unless:

- a. The legislature has delegated authority sufficient to justify the action; and
- b. The waiver is consistent with statutes and other provisions of law. No waiver from any mandatory requirement imposed by statute may be granted under this rule.

7.28(5) *Criteria for waiver.* In response to a petition, the director may, in the director’s sole discretion, issue an order granting a waiver from a discretionary rule or a discretionary provision in a rule adopted by the department, in whole or in part, as applied to the circumstances of a specified person, if the director finds that the waiver is consistent with subrules 7.28(3) and 7.28(4) and if all of the following criteria are also met:

- a. The waiver would not prejudice the substantial legal rights of any person;
- b. The rule or provisions of the rule are not specifically mandated by statute or another provision of law;
- c. The application of the rule or rule provision would result in an undue hardship or injustice to the petitioner; and
- d. Substantially equal protection of public health, safety, and welfare will be afforded by means other than that prescribed in the rule or rule provision for which the waiver is requested.

Iowa Admin. Code r. 701–7.28 (Feb. 19, 2025).

B. Other Relevant Authority

The Iowa Code provides that eligible businesses may claim a credit of five cents per pound of renewable chemicals produced in Iowa when those chemicals are produced from “biomass feedstock by the eligible business during the calendar year in excess of the eligible business’s pre-eligibility production threshold.” Iowa Code § 15.319(1). The Code provides that the credit is required to be claimed “for the tax year during which the eligible business was issued the tax credit.” *Id.* § 15.319(3).

The Department provides the rules for the renewable chemical production tax credit program in Iowa Administrative Code rule 701–304.56. Especially relevant in the consideration of this petition is the rule concerning “Claiming the credit of a pass-through entity.” Iowa Admin. Code r. 701–304.56(3)“b”. This rule states that to claim the credit of an eligible business which is a pass-through entity, “an individual taxpayer must claim the credit on the tax return for the tax year during which the eligible business received the tax credit certificate. Such tax year may either be the tax year of the eligible business or of the individual.” *Id.*

Finally, the director has no discretion to allow a refund where the claim for refund was not filed within three years after the return on which the refund was claimed became due. Iowa Code § 422.73(2)(a).

C. Determination

i. Claim Year

Petitioners ask the Director to waive the provisions contained in Iowa Administrative Code

rule 701–304.56(3), which provide the time frame for taxpayers to claim the credit, including credits earned by a pass-through entity. This rule states that the credit must be claimed in the tax year during which the eligible business received the tax credit certificate from the IEDA. Iowa Admin. Code r. 701–304.56(3)“b”. The Director finds that this requirement is not discretionary but interpretive and, therefore, may not be waived. Iowa Admin. Code r. 701–7.28(3)(a). Specifically, this rule interprets and implements the statutory requirement that the renewable chemical production tax credit “shall be claimed for the tax year during which the eligible business was issued the credit.” Iowa Code § 15.319(3). The certificates provided by and relied on by Petitioners were issued on October 29, 2019. Pet. for Waiver, Enclosure no. 4; Pet. for Waiver, Enclosure no. 5. The statute, therefore, limits the time to claim the renewable chemical production credit to the year the eligible business received the credit from IEDA—2019, in this case. Because the time for claiming the renewable chemical production tax credit is mandated by statute, the Director lacks the authority to waive such a requirement. Iowa Code § 17A.9A(2)(c); Iowa Admin. Code r. 701–7.28(4). Because the requirements of Iowa Administrative Code rules 701–7.28(3) and 7.28(4) are not met in this case, no further discussion of the criteria provided for in 7.28(5) is necessary.

ii. Statute of Limitations Period

Claims for refund which have not been filed within three years after the return upon which the refund became due, or within one year after the payment of the tax upon which a refund is claimed was made, whichever is later, shall not be allowed by the Director. Iowa Code § 422.73(2)(a). Petitioners are requesting a waiver of the statute of limitations to claim the credits as required by statute. Pet. for Waiver, p.1; Pet. for Waiver, Addendum A, p.2. The Director lacks the authority to waive the statute of limitations because it is mandated by statute and not a discretionary rule. See Iowa Code § 17A.9A(2)(c).

D. Conclusion

The Director concludes that Iowa Administrative Code rule 701–304.56(3) is not

discretionary but interpretive. Therefore, the Director is unable to use her discretion to waive Iowa Administrative Code rule 701–304.56(3). The Director further concludes that the statute of limitations for refund claims in Iowa Code section 422.73(2)(a) is a legislatively mandated requirement that the director has no discretion to waive pursuant to Iowa Code section 17A.9A. Petitioners have requested a meeting to further discuss this Petition for Waiver. The decision to schedule such a meeting is at the discretion of the Director, and the Director finds that a meeting is not necessary in this case.

ORDER

THEREFORE, based on the facts presented, foregoing reasoning, and applicable provisions of law, the Petition for Waiver is DENIED.

Issued at Des Moines, Iowa on this 21st day July, 2025.

IOWA DEPARTMENT OF REVENUE

BY Mary Mosiman
MARY MOSIMAN, DIRECTOR