



LEGISLATIVE  
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# LEGISLATIVE GUIDE

## *Legal Services Division*



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Legislative Guides, prepared in an objective and nonpartisan manner, provide a general survey of a particular area of the law and are intended for use primarily by members of the Iowa General Assembly and their staffs. Legislative Guides are updated periodically to reflect changes in the law. The reader is cautioned against using information contained in a Legislative Guide to draw conclusions as to the legality of a particular behavior or set of circumstances.

**About the Author:**

This Guide was written by Michael Mertens, J.D., University of Tulsa College of Law, 2006. Mr. Mertens has been a Legal Counsel with the Legislative Services Agency since 2011. He staffs the Ways and Means and Economic Development Committees and drafts legislation in the areas of income, sales and use, and miscellaneous taxation and economic development related to taxation. Mr. Mertens can be reached by telephone at (515) 281-3444 or by e-mail at: [michael.mertens@legis.state.ia.us](mailto:michael.mertens@legis.state.ia.us)

Iowa Legislative Services Agency  
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## STATE TAXATION — SALES AND USE TAXES

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## I. Purpose

This Legislative Guide endeavors to familiarize the reader with the Iowa sales and use tax and serve as a detailed supplement to other Legislative Guides that more generally discuss the Iowa sales and use tax. As such, the information in this Guide is intended to update and enhance, but not necessarily supersede, the sales and use tax information contained in other Legislative Guides published by the Legal Services Division of the Legislative Services Agency.

Unless otherwise indicated, references in this Legislative Guide to the Iowa Code refer to the 2013 Iowa Code. The references to the Iowa Administrative Code are current to October 2012.

## II. Introduction and Scope of Guide

Iowa imposes statewide retail sales and use taxes. These two taxes are the subject of this Guide. Iowa has a number of other statewide and local consumption-type excise taxes that are outside the purview of this Guide, including but not limited to the beer and liquor taxes (Code chapter 123), the state and local option hotel and motel tax (Code chapter 423A), the local option sales and services tax (Code chapter 423B), the automobile rental excise tax (Code chapter 423C), the environmental protection charge (Code chapter 424), the equipment tax (Code chapter 423D), the real estate transfer tax (Code chapter 428A), the motor fuel and special fuel taxes (Code chapter 452A), the cigarette and tobacco taxes (Code chapter 453A), and the excise tax on unlawful dealing in certain substances (Code chapter 453B). Information relating to these and other taxes may be found in other Legislative Guides published by the Legal Services Division of the Legislative Services Agency.

## III. History and Structure of Code Chapter

The state sales tax and use tax were enacted in 1934 and 1937, respectively, at a rate of 2 percent. Since that time both have experienced several changes, most recently in 2003 when Iowa rewrote its sales and use tax laws by combining 2003 Iowa Code chapter 422, division IV (sales tax), 2003 Iowa Code chapter 423 (use tax), and provisions of the Streamlined Sales and Use Tax Agreement (SSUTA) into new Iowa Code chapter 423.<sup>1</sup>

Subchapter I of the Code chapter (section 423.1) sets out the definitions applicable to the Code chapter.

Subchapter II of the Code chapter (sections 423.2-423.4) imposes the sales tax, specifies sales tax exemptions, and provides for sales tax refunds and rebates.

Subchapter III of the Code chapter (sections 423.5 and 423.6) imposes the use tax and specifies use tax exemptions.

Subchapter IV of the Code chapter (sections 423.7-423.12) establishes the Uniform Sales and Use Tax Administration Act authorizing the Director of Revenue to enter into the streamlined sales and use tax agreement with one or more states.

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<sup>1</sup> See 2003 Iowa Acts, First Extraordinary Session, Chapter 2 (HF 683), §§ 94 – 203, 205 (effective July 1, 2004).



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Subchapter V of the Code chapter (sections 423.13-423.47) provides for the administration of the sales and use tax as it relates to retailers not registered under the SSUTA.

Subchapter VI of the Code chapter (sections 423.48-423.57) provides for the administration of the sales and use tax as it relates to retailers registered under the SSUTA.

### IV. Streamlined Sales and Use Tax Agreement (SSUTA)

The SSUTA is the product of the Streamlined Sales Tax Project begun in 2000 between several public and private stakeholders. The objective of the SSUTA is to simplify and modernize sales and use tax collection and administration across state and local jurisdictions and reduce the burden of compliance.

The impetus for the SSUTA can be traced, in part, to the U.S. Supreme Court case of *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992). *Quill*, a mail-order seller with no property or employees in North Dakota, solicited sales from North Dakota residents via the mail and telephone. North Dakota attempted to require *Quill* to collect use tax from customers on sales made outside the state of North Dakota. The Supreme Court held it was an impermissible burden on interstate commerce<sup>2</sup> to require an out-of-state mail-order seller to collect a state's sales or use tax if the seller did not have a "physical presence" within the state. The case affirmed a bright-line rule that to date has not been reexamined by the Supreme Court or addressed legislatively by Congress.<sup>3</sup>

The SSUTA was created in an attempt to induce Congress to lower *Quill's* "physical presence" requirement through legislation, thereby allowing states to require out-of-state sellers to collect sales and use tax. The SSUTA was also created to minimize the costs and administrative burdens for retailers who are already required by the laws of numerous states to collect sales and use taxes, and to encourage Internet and mail-order retailers, who may or may not be required to collect sales and use taxes, to voluntarily collect sales and use taxes on sales to customers living in participating states. To accomplish these goals, the SSUTA creates uniform definitions and uniform standards for administration, sourcing, and tax returns.<sup>4</sup> It moves states toward the creation of a more uniform state tax rate by limiting the number of rates and their application to transactions.<sup>5</sup> The SSUTA also creates a central, electronic registration system that allows sellers to register and to collect and remit sales and use taxes for all member states.<sup>6</sup> To date, Iowa and 23 other states

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<sup>2</sup> For a more detailed discussion of interstate commerce and the Commerce Clause, see the Legislative Guide entitled *State Taxation in Iowa: An Overview*, available at [https://www.legis.iowa.gov/DOCS/LSA/Legis\\_Guide/2010/LGLSL017.PDF](https://www.legis.iowa.gov/DOCS/LSA/Legis_Guide/2010/LGLSL017.PDF) (last accessed on 09/10/2012).

<sup>3</sup> See U.S. Const. art. I, sec. 8, cl. 3 of the United States Constitution, which states in part that Congress shall have the power to "regulate Commerce . . . among the several States." This is often referred to as the Commerce Clause. Because Congress has the power to regulate interstate commerce, it has the power to modify the holding of *Quill* through legislation.

<sup>4</sup> Iowa Code § 423.11.

<sup>5</sup> Iowa Code § 423.11(1).

<sup>6</sup> Iowa Code § 423.11(4).



have conformed their sales and use tax laws to the SSUTA and have become member states.

The SSUTA is managed by a governing board consisting of representatives from each member state. Iowa has four representatives who are designated as members of the SSUTA governing board and who represent Iowa before the board as one vote.<sup>7</sup> The designated representatives include one member of the House of Representatives appointed by the Speaker of the House of Representatives, one member of the Senate appointed by the Majority Leader of the Senate, the Director of the Department of Revenue, and one member of the Executive Branch appointed by the Governor.<sup>8</sup>

In addition, the Iowa Streamlined Sales Tax Advisory Council reviews, studies, and submits recommendations to Iowa's four SSUTA governing board representatives regarding a variety of issues.<sup>9</sup> The advisory council consists of at least 12 members, one of whom is a member of the Department of Revenue, and 11 of whom are members representing taxpayers, retailers, suppliers, and a mix of small, medium, and large businesses.<sup>10</sup>

It is important to note that Iowa's entry into the SSUTA does not automatically amend or modify any Iowa law. Implementation of any condition of the SSUTA is done only through action of Iowa's legislature.<sup>11</sup>

## V. The Sales Tax

### A. Overview

The Iowa state sales tax is imposed on the sales price of all sales of tangible personal property and from the furnishing of enumerated services sold at retail in this state to the ultimate consumer or user of the property or services.<sup>12</sup> This generally means that any sale of tangible personal property in this state is considered taxable unless specifically exempted by statute, and the furnishing of any service in this state is considered nontaxable unless expressly included in statute. The present state sales tax rate is 6 percent.<sup>13</sup> One-sixth of this 6 percent sales tax is redistributed to school districts in lieu of an up to 1 percent local option sales tax for school infrastructure purposes which was once imposed throughout most of the state.<sup>14</sup> This 1 percent tax is scheduled to expire on December 31, 2029.<sup>15</sup> A local option sales tax may also be imposed by a county, or cities

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<sup>7</sup> Iowa Code § 423.9(3)(u1).

<sup>8</sup> Iowa Code § 423.9(3)(a)-(c).

<sup>9</sup> The issues include proposed amendments and changes to Iowa law to conform to the SSUTA, uniform definitions proposed in the SSUTA and future proposals, effects upon taxability of items newly defined in Iowa, impacts upon business as a result of the SSUTA, technology implementation issues, and any other issues brought before the SSUTA member states or the SSUTA governing board. Iowa Code § 423.9A(1).

<sup>10</sup> Iowa Code § 423.9A(3).

<sup>11</sup> Iowa Code § 423.10.

<sup>12</sup> Iowa Code § 423.2(1)-(9).

<sup>13</sup> Iowa Code § 423.2.

<sup>14</sup> Iowa Code § 423.2(11)(b)(3), Iowa Code chapter 423F. See also 2008 Iowa Acts ch. 1134 (HF 2663).

<sup>15</sup> Iowa Code §§ 423.2(13), 423F.6.



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within a county, at a rate not to exceed 1 percent.<sup>16</sup> Thus, the maximum combined state and local sales tax rate cannot exceed 7 percent. Transactions subject to Iowa sales tax generally have three necessary characteristics: a taxable event (retail sale in Iowa), a taxable measure (sales price), and a taxable base (taxable goods and services). What follows is a discussion of each of these characteristics. Detailed information on some of the unique and complex issues that arise in the area of sales tax law can be found in Part VII, “Specified Considerations” of this Legislative Guide.

### B. Taxable Event (Retail Sale in Iowa)

#### 1. Retail Sale

In order for a transaction to be subject to Iowa sales tax it must be a retail sale. A “sale” is defined broadly as any “transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.”<sup>17</sup> But a “sale” is not considered a “retail sale” unless it is sold to the ultimate user. Therefore, the sale of tangible personal property or a service to a wholesaler, retailer, or other person for the purpose of resale is not considered a retail sale and is not subject to sales tax.<sup>18</sup> Property sold to a person for resale in connection with the performance of a service is also not subject to sales tax if the provider and user both intend that a sale of the property will occur, the property is transferred to the user in a way that can be separately priced, and the property is separately billed to the user.<sup>19</sup>

The lease or rental of tangible personal property, other than for sublease or subrent, is also considered a retail sale.<sup>20</sup> “Lease or rental” is broadly defined to include short-term transfers of possession or control of tangible personal property for consideration, and may include future options to purchase or extend.<sup>21</sup> However, some transactions commonly referred to as leases or rentals are not characterized as such for purposes of the sales tax.<sup>22</sup> For example, a lease or rental does not include a transaction in which property is provided along with an operator who is necessary for the equipment to perform as designed and who does more than maintain, inspect, or set up the property.<sup>23</sup> A conditional sale is also not considered a lease or rental.

A conditional sale is generally defined as a sale in which the ultimate user has control of the property and the right to use the property, but title transfers at a later time upon the performance of a condition (usually full payment of the purchase

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<sup>16</sup> Iowa Code §§ 423B.1(5), (8), 423B.5.

<sup>17</sup> Iowa Code § 423.1(50).

<sup>18</sup> Iowa Code §§ 423.1(46), 423.3(2). However, purchases originally made tax free may become subject to the Iowa use tax if they are subsequently withdrawn from inventory by the retailer for the retailer’s personal consumption. See Iowa Admin. Code 701-16.12. A service is purchased for resale when it is subcontracted by the person who is contracted to perform the service. Iowa Admin. Code 701-225.2.

<sup>19</sup> Iowa Code §§ 423.1(39), 423.3(2). This subsection also specifically provides that property sold to a person for resale in connection with an auto body repair service is not subject to sales tax if the property is entirely consumed during performance of the service.

<sup>20</sup> Iowa Code §§ 423.1(24), (46).

<sup>21</sup> Iowa Code § 423.1(24)(a).

<sup>22</sup> Iowa Code § 423.1(24)(c).

<sup>23</sup> Iowa Code § 423.1(24)(c)(3). Transactions which fail to be considered a lease or rental under this rule would instead be considered a service, which may or may not be taxable under Iowa law. See Iowa Code § 423.2.



price).<sup>24</sup> Conditional sales are deemed to be complete and fully taxable at the moment the property is delivered to the purchaser, rather than when each periodic payment is made or when all the contract conditions are met and title passes.<sup>25</sup> Conditional sales are not to be confused with traditional layaway sales, although in both types of transaction, tax is due at delivery.

A layaway sale is one in which property is set aside for future delivery to a purchaser at the end of an agreed-upon payment period, such that physical possession of and title to the property pass to the purchaser at the same time.<sup>26</sup> Layaway sales are deemed to be complete and fully taxable when the final payment is made and the seller delivers the property and title to the purchaser.<sup>27</sup>

## 2. In Iowa

A retail sale must be made in Iowa in order for it to be subject to Iowa sales tax. A retail sale is considered made in Iowa if it is first “sourced” to Iowa and then deemed to have occurred in Iowa. As a practical matter, these requirements are not an issue when the parties and goods or service involved in the sale are all located or performed in Iowa. However, they become necessary considerations when some element of the transaction takes place in or involves another state.

Iowa law sets forth several “sourcing” provisions to determine which jurisdiction has the right to tax a given transaction when more than one jurisdiction is involved in the sale of tangible personal property or an enumerated service. For most goods and services, the sale is sourced using a hierarchy of information available to the retailer, such as where the product was received by the purchaser, the purchaser’s available addresses, or where the product was shipped.<sup>28</sup> Iowa has the statutory right to tax transactions that are sourced to this state, and sales tax may be due if the sale is then deemed to have occurred “in Iowa.”<sup>29</sup>

The retail sale of tangible personal property is deemed to occur in Iowa when it is consummated by delivery in Iowa.<sup>30</sup> Tangible personal property is delivered in Iowa

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<sup>24</sup> Iowa Code §§ 423.1(24)(c)(1), (2), 423.1(46); Iowa Admin. Code 701-213.3.

<sup>25</sup> See Iowa Admin. Code 701-213.3.

<sup>26</sup> Iowa Admin. Code 701-213.10 implementing Iowa Code §§ 423.1(46), 423.2(1).

<sup>27</sup> Iowa Admin. Code 701-213.10.

<sup>28</sup> Iowa Code § 423.15. The sourcing rules are different for sales of watercraft, modular or mobile homes, motor vehicles, trailers, semitrailers, and certain aircraft, if such items do not meet the definition of “transportation equipment” as it relates to sourcing; direct mail; and telecommunications services. See Iowa Code §§ 423.15(3), 423.16. The sourcing rules only apply to sellers obligated to collect sales and use tax in Iowa. That means that even if a sale is not sourced to this state, a consumer may still be obligated to remit use tax on the use of the product within Iowa. Also, the sourcing rules are very important in determining which local jurisdiction within Iowa has the right to tax a transaction under its local option sales tax.

<sup>29</sup> It is important to note that even if a sale that is sourced to Iowa is not subject to sales tax because it is not deemed to have occurred in Iowa, Iowa use tax will likely be due on the transaction.

<sup>30</sup> See Iowa Code § 423.15. See also *Sturtz v. Iowa Dept. of Revenue*, 373 N.W.2d 131, 134 (Iowa 1985).



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when physical possession is actually transferred to the consumer or user or their agents, other than a carrier, within Iowa.<sup>31</sup>

Determining where a sale occurred becomes more complicated when the retailer does not physically transfer possession to the consumer or user but instead uses a common carrier, as is frequently done with mail-order, telephone, and Internet sales. When this happens, the place of sale is determined by the terms of delivery. If the sales contract makes no reference to any terms of delivery or point at which title and risk of loss pass from retailer to purchaser, it is presumed that delivery occurs when the retailer transfers possession of the tangible personal property to the common carrier. If the sales contract references terms of delivery, including but not limited to C.I.F. (cost, insurance and freight), C.& F. (cost and freight), F.O.B. (free on board) or F.A.S. (free along side), those terms will govern the point of delivery.<sup>32</sup> However, if both parties to a sale agree that title, risk of loss, and right of possession have in fact passed from the retailer to the consumer it will be considered a “constructive delivery” and the sale will be deemed to occur at that time and place, regardless of when the consumer obtains physical possession of the property or what the delivery terms may be.<sup>33</sup>

A lease or rental is also deemed to occur in Iowa when it is consummated by delivery in Iowa. A lease or rental that requires recurring periodic payments is deemed to occur in Iowa for the first periodic payment according to the same delivery standards. Subsequent periodic payments are deemed to occur in Iowa only if the property is primarily located in Iowa for the period covered by the payment.<sup>34</sup>

The retail sale of a service is deemed to occur in Iowa when the first use of the service occurs in Iowa.<sup>35</sup> The location of the first use of a service is where the

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<sup>31</sup> Iowa Code § 423.3(43); Iowa Admin. Code 701-16.14. See also *Dodgen Industries v. Iowa State Tax Commission*, 160 N.W.2d 289 (Iowa 1968) and *Sturtz v. Iowa Dept. of Revenue*, 373 N.W.2d 131 (Iowa 1985). This is true regardless of when the contract is made, where the contract is accepted, where the goods are manufactured, or where the goods are taken after delivery. For example, in *Dodgen Industries*, the Iowa Supreme Court held that a retail sale had occurred in Iowa when Dodgen accepted contracts outside of Iowa with out-of-state customers for the purchase of specialized truck bodies, which were manufactured by Dodgen in Iowa and then picked up by the customer at Dodgen’s Iowa plant and transported out of state. In *Sturtz*, the Iowa Supreme Court held that a retail sale had occurred in Iowa when contracts for the manufacture of modular homes were accepted outside of Iowa, which modular homes were then manufactured outside of Iowa and delivered by the manufacturer on its trucks to the consumer in Iowa. In both cases, physical possession of the goods was transferred in Iowa by the retailer to the purchaser.

<sup>32</sup> Iowa Admin. Code 701-14.3(2); *Sturtz v. Iowa Dept. of Revenue*, 373 N.W.2d 131 (Iowa 1985). See also Iowa Code §§ 554.2319, 554.2320, 554.2401, 554.2503, 554.2504, for definitions of several delivery terms and relevant information regarding a seller’s and purchaser’s obligations in shipping goods that are part of a sales contract. See also examples of delivery methods from the Department of Revenue, available at <http://www.iowa.gov/tax/educate/SLSTDestination.html> (last accessed 10/18/2012) and <http://www.iowa.gov/tax/educate/Delivery.pdf> (last accessed 10/18/2012).

<sup>33</sup> Iowa Admin. Code 701-14.3(3).

<sup>34</sup> Iowa Code § 423.15(2); Iowa Admin. Code 701-225.6(7). The primary property location is indicated by an address for the property provided by the lessee, which address is available to the lessor from records maintained in good faith in the ordinary course of business. The location is not altered by intermittent uses at different locations.

<sup>35</sup> See Iowa Code § 423.15.





purchaser can make first use of the result of the service, not necessarily the place where the service is performed.<sup>36</sup>

Converse to the idea of applying sales tax to sales that are deemed to occur in Iowa, sales of property or of services to property that are transferred to a carrier or mail for delivery to a point outside of Iowa, or that are transported outside of Iowa by means of the retailer's own vehicles, and which are not thereafter returned to Iowa, are deemed to be sales in interstate commerce and are not taxable.<sup>37</sup>

## C. Taxable Measure (Sales Price)

Iowa's sales tax is calculated by multiplying the appropriate rate by the sales price of the tangible personal property or service. "Sales price" is generally defined as "the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise."<sup>38</sup> Although this broad definition may seem like the sales price is easy to determine, several rules must be considered in order to arrive at the proper amount.

### 1. Seller's Expenses and Charges

Sellers may not deduct any of the seller's expenses, including but not limited to the cost of the property, materials or labor used, interest, losses, transportation, or taxes.<sup>39</sup> Sellers may not deduct any delivery or installation charges, or any charges necessary to complete the sale, unless they are separately contracted for, separately stated on the invoice or similar document given to the purchaser, and are not otherwise a taxable good or service under Iowa law.<sup>40</sup>

### 2. Trade-ins

Sellers need not add to the sales price the value of any trade-in of other property, provided that the property traded is the type normally sold in the regular course of the retailer's business and is intended by the seller to be ultimately sold at retail or otherwise used by the seller or another to remanufacture a similar item.<sup>41</sup> This provision does not apply to taxable services.<sup>42</sup>

### 3. Price Discounts

Sellers need not add to the sales price the value of any price reduction given to a customer that qualifies as a "discount."<sup>43</sup> Whether or not a price reduction qualifies as a discount depends on the parties involved and the method of reduction. A coupon or

<sup>36</sup> Iowa Code § 423.1(20). See Iowa Admin. Code 701-223.1 through 701-223.4 for additional information regarding first use of a service and for rules relating to first use of services performed on tangible personal property and personal care services.

<sup>37</sup> Iowa Code § 423.3(43).

<sup>38</sup> Iowa Code § 423.1(51)(a)(u1).

<sup>39</sup> Iowa Code § 423.1(51)(a)(1), (2). However, state, local, or tribal taxes imposed directly on the seller may be deducted if the law allows, but does not require, the seller to collect the tax directly from the consumer and the tax is separately stated on the invoice or similar document given to the purchaser. Iowa Code § 423.1(51)(b)(5), (6).

<sup>40</sup> Iowa Code § 423.1(51)(a)(3)-(5), (c).

<sup>41</sup> Iowa Code §§ 423.1(51)(a)(6), 423.3(59). See also Iowa Admin. Code 701-212.5(1), (2).

<sup>42</sup> Iowa Admin. Code 701-212.5(3).

<sup>43</sup> Iowa Code § 423.1(51)(b)(1).



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similar price reduction allowed by a retailer which actually reduces the sales price for the customer is considered a discount.<sup>44</sup> Coupons, rebates, or similar items allowed by a party other than the retailer to a customer are not considered discounts and cannot be used to reduce the sales price because they are considered a transaction between a third-party issuer and the customer.<sup>45</sup> However, reductions in price to promote or recognize product sales which are allowed by a manufacturer, distributor, or wholesaler to a retailer or by a manufacturer or distributor to a wholesaler, are considered “trade discounts” and can be used to reduce the sales price.<sup>46</sup>

### 4. Finance Charges

Finance charges that result from selling on credit need not be added to the sales price provided that the amounts are separately stated on the invoice or similar document given to the purchaser.<sup>47</sup> Otherwise, they are considered part of the purchase price. Also, if the finance charges are added as a condition of the sale, rather than as an additional expense of obtaining credit, they are considered part of the purchase price even if separately stated.<sup>48</sup>

### 5. Other Taxes

Finally, certain taxes imposed directly on the purchaser need not be added to the sales price provided that several requirements are met.<sup>49</sup> First, the tax must be separately named and stated on the invoice or similar document given to the purchaser.<sup>50</sup> Second, the tax must be imposed on the same sale and sales price as the sales tax, and not on some earlier or later event.<sup>51</sup> Third, the purchaser must be the one legally responsible for payment of the tax, regardless of whether it is paid directly to the government or the seller.<sup>52</sup>

## D. Taxable Base (Taxable Goods and Services)

### 1. Overview

Iowa’s sales tax applies to any retail sale of tangible personal property unless specifically exempted by statute. “Tangible personal property” is defined broadly to include any personal property that can be seen, weighed, measured, felt, or touched, or that is in any manner perceptible to the senses, including electricity, water, gas, heat, steam, and prewritten computer software.<sup>53</sup> Tangible personal property does not

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<sup>44</sup> Iowa Admin. Code 701-212.3(1), (3).

<sup>45</sup> Iowa Admin. Code 701-212.3(2), 701-212.8.

<sup>46</sup> Iowa Code § 423.1(51)(b)(4).

<sup>47</sup> Iowa Code § 423.1(51)(b)(2).

<sup>48</sup> Iowa Admin. Code 701-212.2.

<sup>49</sup> Iowa Code § 423.1(51)(b)(3). See also Iowa Admin. Code 701-212.4(2) and (3) for a list of federal taxes that are to be included in and excluded from sales price for purposes of the sales tax.

<sup>50</sup> Iowa Code § 423.1(51)(b)(3), Iowa Admin. Code 701-212.4(1)(c).

<sup>51</sup> Iowa Admin. Code 701-212.4(1)(a).

<sup>52</sup> Iowa Code § 423.1(51)(b)(3), Iowa Admin. Code 701-212.4(1)(b).

<sup>53</sup> Iowa Code §§ 423.1(59), 423.2(2).



include property that is delivered digitally, electronically, or by utilizing cable, radio waves, microwaves, satellites, or fiber optics.<sup>54</sup>

Iowa's sales tax applies to the furnishing of enumerated services. A "service" is defined broadly as any act rendered, furnished, or performed, with some exceptions. Services furnished for an employer are excluded.<sup>55</sup> Also excluded are services furnished in the processing, reconditioning, or repairing of tangible personal property if the property is normally sold in the regular course of the retailer's business, because sales or use tax is payable when the property is finally sold to a customer.<sup>56</sup> For example, a retail appliance store can purchase a refrigerator repair service tax free because refrigerators are normally sold in its business. But a farm equipment dealer cannot purchase a motor boat repair service tax free because motor boats are not regularly sold in the dealer's business.<sup>57</sup> (See Appendix A for a listing of taxable services.)

Occasionally, the furnishing of a service will encompass a mix of several taxable and nontaxable services.<sup>58</sup> If the predominant service being performed is a taxable service, the entire transaction is subject to sales tax. If the predominant service being performed is a nontaxable service, the entire transaction is not subject to sales tax.<sup>59</sup>

Iowa's sales tax also applies to admission and participation fees to places of amusement, fairs, and athletic events, and to the operation of amusements and games, unless otherwise exempt under Iowa law. These taxable amusements and games include but are not limited to games of skill or chance, raffles, certain bingo games, certain card tournaments, musical devices, weighing machines, shooting galleries, billiard and pool tables, bowling alleys, pinball machines, certain slot-operated devices, devices where prizes are awarded, fortune telling and psychics, and any other source of amusement operated for profit. The sales tax also applies to that part of private club membership fees paid for the privilege of participating in any athletic sports provided to club members.<sup>60</sup>

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<sup>54</sup> Iowa Code § 423.3(67); Iowa Admin. Code 701-231.14. This does not apply to so-called "load and leave" transactions in which property is delivered to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser. This exclusion also does not apply to communication services and pay television services. Iowa Code §§ 423.2(2), (6), (9), 423.5(1). See also Part VII, section G of this Guide for a discussion of taxation of communication services.

<sup>55</sup> Iowa Code § 423.1(54).

<sup>56</sup> See Iowa Code §§ 423.1(54), (55); Iowa Admin. Code 701-225.3.

<sup>57</sup> Iowa Admin. Code 701-225.3. See also the Iowa Department of Revenue list of taxable services, available at <http://www.iowa.gov/tax/educate/78524.html> (last accessed 09/11/2012).

<sup>58</sup> For example, a contract for the storage of household goods (taxable) may necessarily involve the wrapping and packaging of those goods (taxable) for proper storage and the transportation of those goods (nontaxable) to the storage site. On the other hand, a contract for the transportation of household goods (nontaxable) may necessarily involve the wrapping and packaging of those goods (taxable) for safe transportation and the short-term storage of those goods (taxable) during transit. See *Iowa Movers and Warehousemen's Association v. Briggs*, 237 N.W.2d 759 (Iowa 1976). This should not be confused with a bundled transaction, discussed in Part VII, Section F of this Guide, which involves two or more distinct and identifiable services sold for one nonitemized price.

<sup>59</sup> Iowa Admin. Code 701-26.1(2); *Iowa Movers and Warehousemen's Association v. Briggs*, 237 N.W.2d 759 (Iowa 1976).

<sup>60</sup> Iowa Code § 423.2(3), (4). Iowa Admin. Code 701-16.26.



## State Taxation — Sales and Use Taxes

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### 2. Exemptions

Even if it is determined that a transaction satisfies all the characteristics of a taxable retail sale in Iowa, it may nonetheless be exempt from the sales tax pursuant to one of Iowa's statutory exemptions, which are listed in Appendix B.<sup>61</sup> In order to better understand and examine the exemptions, Appendix B groups them into five categories: those that primarily benefit agriculture, those that primarily benefit business and manufacturing, those that primarily benefit consumers, those that apply to specific organizations, and miscellaneous exemptions. Several sales tax exemptions are also addressed in Part VII of this Guide.

### E. Refunds and Rebates

Iowa offers several targeted rebates and refunds of sales and use tax:

- Certain nonprofit institutions and governmental units that have no earnings going to investors or stockholders may receive refunds of sales or use tax paid on goods and services furnished to a contractor and used in fulfillment of a written contract with the state of Iowa or any of its political subdivisions, a private nonprofit educational institution or museum, or certain other nonprofit affiliates if the property becomes an integral part of the project under contract, and at completion of the project the property becomes public property, is devoted to educational uses, becomes part of certain low-income housing in the state, or becomes museum property.<sup>62</sup>
- Relief agencies may receive refunds of sales or use tax paid upon purchases of goods or services used for free distribution to the poor and needy.<sup>63</sup>
- Recipients of certain wind energy or renewable energy tax credits may receive refunds of sales or use tax paid upon purchases.<sup>64</sup>
- The owner or operator of a sanctioned automobile racetrack facility in qualified cities<sup>65</sup> may receive rebates of state sales tax collected by retailers on purchases made at the racetrack. The rebates only apply to purchases made on or after January 1, 2006, and before January 1, 2016, and are limited to a total of \$12.5 million.<sup>66</sup>
- The owner of a qualified collaborative education facility may receive refunds of sales or use tax paid upon goods or services furnished to a contractor and used in

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<sup>61</sup> See also Iowa Code §423.3.

<sup>62</sup> Iowa Code § 423.4(1), (2).

<sup>63</sup> Iowa Code § 423.4(3).

<sup>64</sup> Iowa Code § 423.4(4).

<sup>65</sup> The provision applies to automobile racetrack facilities located on a maximum of 232 acres in a city with a population of between 14,500 and 16,500 in a county of between 35,000 and 40,000 population, according to the 2000 certified federal census. See Iowa Code § 423.4(5)(a)(1).

<sup>66</sup> Iowa Code § 423.4(5).



fulfillment of certain written construction contracts to construct or modify a building or structure to be used as part of the collaborative education facility.<sup>67</sup>

- The owner of a qualified data center business may make an annual application for up to five consecutive years for a refund of 50 percent of the sales and use tax paid on fuel used in creating heat, power, and steam for processing or generating electrical current or sales and use tax paid on electricity consumed by computers, machinery, or other equipment for the operation of the data center business facility. The refund cannot exceed five percent of the sales price of the fuel or electricity.<sup>68</sup>
- The owner of a qualified data center business that is not eligible for the sales tax exemption for computers and equipment<sup>69</sup> may receive refunds of 50 percent of the sales and use tax paid upon purchases of certain computers and equipment, backup power generation fuel, and electricity. The refund is available for 10 years if the data center investment is between \$10 million—\$5 million in the case of a rehabilitation building—and \$136 million. The refund is available for seven years if the data center investment is between \$136 million and \$200 million. The refund cannot exceed five percent of the sales price of the computers and equipment, backup power generation fuel, or electricity.<sup>70</sup>
- A qualified biodiesel producer may receive refunds on sales and use tax paid upon purchases. The refund is calculated by multiplying the number of gallons of biodiesel produced by the biodiesel producer in the state and a designated annual rate. The refund ends at the conclusion of calendar year 2014. A producer's claim for refund cannot exceed 25 million gallons of biodiesel produced each year per biodiesel facility.<sup>71</sup>
- The owner or operator of a qualified baseball and softball tournament facility and movie site qualified may receive rebates of state sales tax collected by retailers on purchases made at the facility. To be eligible, construction on the facility must commence by July 1, 2013, and cost at least \$38 million. The facility must be located on no more than 279 acres inside or within three miles of a city with a population between 4,000 and 5,500, in a county with a population between 93,000 and 100,000. The rebates only apply to purchases made on or after January 1, 2014, and before January 1, 2024, and are limited to a total of \$16.5 million.<sup>72</sup>
- Eligible businesses that qualify for incentives or assistance from the Economic Development Authority under the High Quality Jobs Program or Enterprise Zone

<sup>67</sup> Iowa Code § 423.4(6).

<sup>68</sup> Iowa Code § 423.4(7).

<sup>69</sup> See Iowa Code § 423.3(95).

<sup>70</sup> Iowa Code § 423.4(8)(g).

<sup>71</sup> Iowa Code § 423.4(9). The annual rate for calendar year 2012 is three cents; for calendar year 2013, two and one-half cents; and for calendar year 2014, two cents.

<sup>72</sup> Iowa Code § 423.4(10). See also 2012 Iowa Acts ch. 1098 (SF 2329).



## State Taxation — Sales and Use Taxes

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Program may receive refunds for up to 10 years of sales and use tax paid for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of written contracts relating to the construction or equipping of a facility of the eligible business.<sup>73</sup> The refunds do not apply to intangible property or furniture or furnishings, but may apply to a certain amount of sales and use tax paid for racks, shelving, and conveyor equipment to be used in a warehouse or distribution center.<sup>74</sup>

- Eligible housing businesses within an eligible enterprise zone that qualify for incentives or assistance from the Economic Development Authority may receive refunds for up to 10 years of sales and use tax paid for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of written contracts relating to the construction or equipping of a facility of the eligible business.<sup>75</sup> The refunds do not apply to intangible property or furniture or furnishings, but may apply to a certain amount of sales and use tax paid for racks, shelving, and conveyor equipment to be used in a warehouse or distribution center.<sup>76</sup>

## VI. The Use Tax

### A. Overview

The Iowa use tax is imposed on the purchase price of all tangible personal property or enumerated services purchased for use in Iowa and used in Iowa.<sup>77</sup> The use tax is meant to complement the sales tax.<sup>78</sup> Therefore, many details of the use tax mirror or closely resemble those of the sales tax and are not fully discussed in this part. The general rule is that when a transaction would be subject to Iowa sales tax if consummated in Iowa, such transaction, although consummated outside the state of Iowa but involving tangible personal property sold for use in Iowa and used in Iowa, is subject to Iowa use tax.<sup>79</sup> This

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<sup>73</sup> Iowa Code §§ 15.331A, 15E.196.

<sup>74</sup> Iowa Code §§ 15.331A, 15.331C.

<sup>75</sup> Iowa Code § 15E.193B(6)(b).

<sup>76</sup> Iowa Code §§ 15.331A, 15.331C.

<sup>77</sup> Iowa Code § 423.5.

<sup>78</sup> See generally *Sturtz v. Iowa Department of Revenue*, 373 N.W.2d 131, 133 (Iowa 1985) (quoting *Dain Manufacturing Co. v. Iowa State Tax Comm'n*, 22 N.W.2d 786, 788 (Iowa 1946)) which described the interplay between the sales and use tax as follows: “The purposes of the use-tax law is indirectly to tax sales that cannot be directly taxed under the Iowa sales-tax law. Since sales of property designated for use in Iowa cannot be taxed if consummated outside the state, our legislature has resorted to the plan (not uncommon in recent years) of taxing the use of such property in the state. The tax is on the use but it presupposes a prior sale. The tax serves the double purpose of producing revenue that otherwise might not be available, and of furnishing some measure of protection to Iowa dealers from competition with outside vendors not subject to liability for sales tax.”

<sup>79</sup> Iowa Code § 423.5; Iowa Admin. Code 701-31.1.



principle also applies to the sale of taxable services outside of Iowa for use in Iowa.<sup>80</sup> Like the sales tax, the use tax is imposed at a rate of 6 percent, with one-sixth of this 6 percent being redistributed to school districts in the same manner as the sales tax. There is no local option use tax in Iowa.<sup>81</sup> Transactions subject to Iowa use tax generally have three necessary characteristics: a taxable event (use in Iowa), a taxable measure (purchase price), and a taxable base (taxable goods and services). What follows is a discussion of each of these characteristics, but detailed information on some of the unique and complex issues in use tax can be found in Part VII of this Guide.

## B. Taxable Event (Use in Iowa)

In order for a transaction to be subject to Iowa use tax there must be a “use” in Iowa. A “use” is defined broadly to include the exercise of any right of ownership over tangible personal property in Iowa by any person owning the property.<sup>82</sup> Tangible personal property that is purchased outside of Iowa and brought or delivered into Iowa for use or consumption in Iowa is subject to the use tax.<sup>83</sup> Tangible personal property associated with leases and rentals not otherwise subject to sales tax is used in Iowa and therefore subject to the use tax when the property is primarily located within Iowa for the period covered by the lease or rental payment.<sup>84</sup> “Use” also includes an enumerated taxable service if it is first used in Iowa or if the product or result of the service is used in Iowa.<sup>85</sup> A taxable use does not include the sale of property or furnishing of a service in the regular course of business or the use of tangible personal property in processing or manufacturing other tangible personal property intended for sale at retail.<sup>86</sup>

## C. Taxable Measure (Purchase Price)

Iowa’s use tax is calculated by multiplying the appropriate rate by the purchase price of the tangible personal property or service. “Purchase price” is calculated the same way “sales price” is calculated for purposes of the sales tax.<sup>87</sup>

## D. Taxable Base (Taxable Goods and Services)

### 1. Overview

Like the sales tax, Iowa’s use tax applies to tangible personal property and enumerated services.<sup>88</sup> “Tangible personal property” has the same meaning and

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<sup>80</sup> Iowa Code § 423.5; Iowa Admin. Code 701-31.1.

<sup>81</sup> See Iowa Code ch. 423B, “Local Option Taxes.”

<sup>82</sup> Iowa Code § 423.1(62).

<sup>83</sup> Iowa Admin. Code 701-31.2. Evidence of any sale for delivery in Iowa is prima facie evidence that it was sold for use in Iowa. Iowa Code § 423.5(7).

<sup>84</sup> Iowa Code § 423.15(2); Iowa Admin. Code 701-225.6(7)(a). The primary property location is indicated by an address for the property provided by the lessee, which address is available to the lessor from records maintained in good faith in the ordinary course of business. The location is not altered by intermittent uses at different locations.

<sup>85</sup> Iowa Code § 423.5(5). See also Iowa Admin. Code 701-223.1 through 701-223.4.

<sup>86</sup> Iowa Code § 423.6(2), (3); Iowa Admin. Code 701-28.1. Property used in processing includes not only tangible personal property that becomes an integral part of the retail product, but also containers, fuel used in the processing or to create electricity, and chemicals consumed during the processing. See Iowa Code § 423.6(3)(a)-(c); Iowa Admin. Code 701-28.2.

<sup>87</sup> See Iowa Code § 423.1(14) for the definition of “purchase price.”

<sup>88</sup> Iowa Code § 423.5.



## State Taxation — Sales and Use Taxes

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application as it does for the sales tax, with a few differences. The definition includes aircraft subject to registration, manufactured housing, vehicles subject only to the issuance of a certificate of title, leased vehicles that do not require titling or registration, and tangible personal property purchased from the federal government or any of its agencies.<sup>89</sup> “Service” has the same meaning and application as it does for the sales tax.

### 2. Exemptions

With a few exceptions, an exemption allowed for sales tax purposes also applies to the use tax.<sup>90</sup> (See Appendix B for a listing of statutory sales and use tax exemptions.) Tangible personal property is also exempt from use tax if it is brought into Iowa by a nonresident individual for that individual’s use and enjoyment while in Iowa.<sup>91</sup> Any transaction where the Iowa sales tax has been paid is exempt from use tax.<sup>92</sup> Additionally, a credit is allowed against the Iowa use tax for sales or use taxes paid in another state on the same good or service. The credit is equal to the product of the purchase price and the difference between the 6 percent Iowa use tax rate, if higher, and the tax rate of the other state. If the tax paid in the other state is equal to or more than the Iowa tax, no Iowa tax is due.<sup>93</sup>

## VII. Specified Considerations

Because of the complex nature of the sales and use tax, it is not always readily apparent what tax treatment should be given to a certain transaction, service, or item of tangible personal property. Therefore, it is instructive to explore several specified considerations. This exploration, however, is not meant to be an exhaustive consideration of all the complex issues related to the Iowa sales and use tax.

### A. Services Treated as Tangible Personal Property

Several services are treated as sales or uses of tangible personal property.<sup>94</sup> Among other things, this may affect the timing of sales and use tax collection on the sale of these services and the availability of sales and use tax exemptions that only apply to tangible personal property.

The sale or use of the service of engraving, photography, retouching, printing, binding, vulcanizing, recapping, retreading, and prepaid calling, is treated as though the service were a sale or use of tangible personal property.<sup>95</sup> In addition to prepaid calling

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<sup>89</sup> Iowa Code § 423.5.

<sup>90</sup> Iowa Code § 423.6(5), (6). Sales of vehicles subject only to the issuance of a certificate of title and aircraft subject to registration are not exempt from the use tax as they are from the sales tax.

<sup>91</sup> Iowa Code § 423.6(4).

<sup>92</sup> Iowa Code § 423.6(1).

<sup>93</sup> Iowa Code § 423.22.

<sup>94</sup> Iowa Code §§ 423.1(54), 423.2(1)(a), 423.5(1).

<sup>95</sup> Iowa Code §§ 423.2(1)(a)(1)-(3), 423.5(1). Note that unlike prepaid calling services and cards, prepaid merchandise cards and gift certificates are not considered sales of tangible personal property because sales tax will eventually be collected by the retailer when the purchaser uses the card or certificate to make a purchase. See Iowa Admin. Code 701-15.16, 701-214.2.





services, all other communication services are treated as tangible personal property for purposes of the use tax.<sup>96</sup>

The sale or use of an optional service or warranty contract, except for a residential service contract, that provides for labor and materials and requires the furnishing of any taxable service is also taxable as tangible personal property for purposes of the sales and use tax.<sup>97</sup> If the optional service or warranty contract is for computer software maintenance and support services, the sale or use is taxed as tangible personal property, unless it provides only for technical support services, in which case it is not subject to sales or use tax.<sup>98</sup> If the optional computer software maintenance and support services warranty or contract does not specify the fee amount for the nontaxable services or the taxable personal property, then 50 percent of the sales price of the contract is taxable.<sup>99</sup>

### **B. Aircraft and Airline Transportation Services**

The tax treatment of an airline service or an aircraft sold or used in Iowa depends on how it is ultimately used. Commercial and charter airline transportation services are exempt from sales and use tax in Iowa.<sup>100</sup> However, the rental of an aircraft for a period of 60 days or less is considered a taxable transportation service and is subject to sales or use tax.<sup>101</sup>

The sale of an aircraft subject to registration in Iowa is exempt from the sales tax, but both the sale and use are subject to the use tax, and the casual sale exemption does not apply.<sup>102</sup> Fuel used in an aircraft for which the fuel tax has been paid and no refund or credit will be obtained is exempt from the sales and use tax.<sup>103</sup>

The sale, rental, or use of an aircraft used in a scheduled interstate Federal Aviation Administration-certificated air carrier operation is exempt from sales and use tax.<sup>104</sup> Also exempt from sales and use tax is the sale, rental, or use of an aircraft component part, including repair or replacement component parts, and repair, remodeling, and maintenance services used on an aircraft that is used in either a scheduled or nonscheduled interstate Federal Aviation Administration-certificated air carrier operation.<sup>105</sup>

An aircraft sold to an aircraft dealer who in turn leases or rents the aircraft is exempt from the sales and use tax provided the dealer keeps the aircraft in sales inventory at all times, reserves the right to immediately retrieve the aircraft from a renter or lessee when a buyer is found, and notifies the renter or lessee of the dealer's right of immediate

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<sup>96</sup> Iowa Code §423.5(1). See section G of this Part VII for more information related to taxation of communication services.

<sup>97</sup> Iowa Code §§ 423.2(1)(a)(4), 423.5(1). See also Iowa Code ch. 523C.

<sup>98</sup> Iowa Code § 423.2(1)(a)(5).

<sup>99</sup> Iowa Code § 423.2(1)(a)(5)(a).

<sup>100</sup> Iowa Code §§ 423.3(61), 423.6(5).

<sup>101</sup> Iowa Code §§ 423.2(6)(a), 423.5(5).

<sup>102</sup> Iowa Code §§ 423.3(73), 423.5(1), 423.6(6). An aircraft is generally subject to annual registration with the Iowa Department of Transportation if it is operated or otherwise controlled within Iowa for a period of more than thirty days. See Iowa Code § 328.20.

<sup>103</sup> Iowa Code §§ 423.3(56), 423.6(6).

<sup>104</sup> Iowa Code §§ 423.3(74), (75), 423.6(12).

<sup>105</sup> Iowa Code §§ 423.3(75), (76), 423.6(13), (14).



## State Taxation — Sales and Use Taxes

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possession. If these three conditions are not continuously met, or if the dealer uses the aircraft for any other purpose, sales or use tax may be due from the dealer on the original purchase price of the aircraft.<sup>106</sup>

### C. Construction Activities

Many Iowa sales and use tax exemptions exempt business inputs (machinery, raw materials, ingredients, services, etc.) that are used to create a taxable product or that will be processed into a taxable product. Construction services invite different tax treatment because their final product is realty, which is generally not subject to sales or use tax. As a result, the services of a general building contractor, architect, or engineer, and services on or in connection with new construction, reconstruction, alteration, expansion, or remodeling of a building or structure, are exempt from sales and use tax.<sup>107</sup> Instead, contractors are treated as consumers or users of certain tangible personal property for purposes of the sales and use tax. The sale of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property is considered a retail sale and is generally subject to the sales and use tax.<sup>108</sup> These items may be exempt from sales and use tax if they are used in the performance of a construction contract for certain exempt entities and facilities (See Appendix B).<sup>109</sup> Also, most machinery, equipment, and replacement parts used to fulfill performance of a construction contract are exempt from sales tax if they are leased or rented instead of purchased.<sup>110</sup>

A contractor, subcontractor, or builder who runs a dual business that includes recurring retail sales of building materials, supplies, and equipment is referred to as a “contractor-retailer”.<sup>111</sup> A contractor-retailer may purchase these items tax free under the purchase for resale exemption, but must pay the sales or use tax for any items withdrawn from inventory for the contractor-retailer’s construction purposes in Iowa.<sup>112</sup>

A contractor, subcontractor, or builder must be mindful when dealing with a “mixed contract,” which is one that includes both the construction of realty and the sale of

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<sup>106</sup> Iowa Code §§ 423.3(77), 423.6(15).

<sup>107</sup> Iowa Code § 423.3(37); Iowa Admin. Code 701-219.1. See also Iowa Admin. Code 701-219.8 for a definition of “construction contract” and a nonexhaustive list of activities that may meet the definition. Note that the exemption does not apply to repair services. See Iowa Admin. Code 701-219.13 for a discussion of the distinction between a “repair” and “new construction, reconstruction, alteration, expansion, and remodeling,” and the criteria used to determine who is a contractor and who is a retailer of repair services.

<sup>108</sup> Iowa Code § 423.2(1)(b). For explanations and nonexhaustive lists of what constitute “building materials,” “building supplies,” and “building equipment,” see Iowa Admin. Code 701-219.3. It should be noted that the sale of carpeting is not considered a sale of “building materials,” which means that it may be purchased by a contractor tax free under the purchase for resale exemption. See Iowa Code § 423.2(1)(b).

<sup>109</sup> Iowa Code § 423.3(80), (88), (89).

<sup>110</sup> Iowa Code § 423.3(37). Note that the purchase, lease, or rental of the following items by contractors, subcontractors, and builders are exempt from sales tax and use tax: self-propelled building equipment, pile drivers, and motorized scaffolding, including certain auxiliary attachments and replacement parts. See Iowa Code § 423.3(85). The sale, lease, and rental of these items are now subject to the excise tax in Chapter 423D, “Equipment Tax.”

<sup>111</sup> Iowa Admin. Code 701-219.4.

<sup>112</sup> Iowa Code § 423.2(1)(b). Sales and use tax is not due for any items withdrawn from inventory for use in construction outside Iowa.



equipment and machinery that will remain tangible personal property after installation.<sup>113</sup> Although the contractor, subcontractor, or builder is deemed the consumer of machinery and equipment that become part of the realty in performance of a construction contract, items that do not become part of the realty may be purchased tax-free as a purchase for resale, and the contractor, subcontractor, or builder is responsible for collecting the sales tax upon the sale to the ultimate consumer.<sup>114</sup>

Manufacturers of building materials, supplies, and equipment are deemed to be making a retail sale to themselves if they use the manufactured items for construction purposes in Iowa. The tax is computed on the fabricated cost of the items used.<sup>115</sup>

### D. Manufactured Housing and Mobile Homes

Both the sale and use of manufactured housing, including mobile homes, in Iowa are subject to a five percent use tax on 20 percent of the purchase price or installed purchase price (i.e., 80 percent of the purchase price is exempt).<sup>116</sup> When sold in the form of tangible personal property, the use tax is computed on the purchase price. Often, manufactured housing is sold with certain other tangible personal property and services as part of a nonitemized “package price” to make the manufactured housing move-in-ready. This could include items like furniture and appliances or services like utility connection. In these situations the purchase price is equal to the entire package price charged for the manufactured housing.<sup>117</sup> If the manufactured housing is not sold as part of a package, any accompanying tangible personal property and services sold under a separate contract are subject to the normal rules for sales and use taxes and are not eligible for the 80 percent exemption.<sup>118</sup>

Under certain circumstances, manufactured housing is sold in the form of realty. If a person places manufactured housing on a foundation in Iowa and completes the necessary utility hookup and landscaping to convert the property to realty, the subsequent sale of that realty is subject to Iowa use tax.<sup>119</sup> The use tax in this situation is computed on the installed purchase price.<sup>120</sup> “Installed purchase price” is the total amount charged by a building contractor to convert manufactured housing from tangible personal property into realty, including foundation installation, utility hookups, and appliances that become part of

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<sup>113</sup> Iowa Admin. Code § 701-219.10. See also Iowa Admin. Code 701-219.11 and 701-219.12 for a nonexhaustive list of property that normally remains tangible personal property after installation and that which becomes realty after installation.

<sup>114</sup> Iowa Admin. Code 701-219.9 and 701-219.10.

<sup>115</sup> Iowa Code § 423.2(1)(c). “Fabricated cost” means and includes the cost of all materials as well as the cost of labor, power, transportation to the plant, and other plant expenses but not installation on the job site. Iowa Admin. Code 701-219.6.

<sup>116</sup> Iowa Code §§ 423.1(62), 423.5(2), (3), and 423.6(10). For a definition of “manufactured housing” see Iowa Code §§ 423.1(26), 321.1(36B). For a definition of “mobile home” see Iowa Code §§ 423.1(28), 321.1(36C); Iowa Admin. Code 701-74.1(1).

<sup>117</sup> Iowa Admin. Code 701-33.9(1).

<sup>118</sup> Iowa Admin. Code 701-33.9(2).

<sup>119</sup> Iowa Code § 423.1(62); Iowa Admin. Code 701-33.10(3). The sales and use tax treatment of manufactured housing as real estate does not extend to mobile homes.

<sup>120</sup> Iowa Code § 423.5(2).



## State Taxation — Sales and Use Taxes

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the housing after installation, but excluding landscaping, decks or similar appurtenances, land, and furniture that remains tangible personal property after installation.<sup>121</sup>

The use tax on the use of manufactured housing purchased in Iowa is paid by the purchaser to the licensed manufactured home retailer who forwards it to the county treasurer or state department of transportation. The use tax on the use of manufactured housing which is purchased out of state and brought into Iowa is paid to the county treasurer or state department of transportation where the certificate of title is obtained.<sup>122</sup>

### E. Motor Vehicles

#### 1. Purchase or Use

The purchase of a motor vehicle in Iowa is exempt from the sales tax.<sup>123</sup> The purchase or use of a motor vehicle subject to registration in Iowa used to be subject to a five percent use tax, but that was repealed in 2008 as part of the TIME-21 legislation.<sup>124</sup> A motor vehicle subject to registration in Iowa is now subject to a five percent new registration fee.<sup>125</sup> The use in Iowa of a motor vehicle subject only to the issuance of a certificate of title in Iowa is still subject to a five percent use tax.<sup>126</sup> This use tax is paid by the purchaser and collected by the county treasurer or state department of transportation where the certificate of title is obtained.<sup>127</sup>

#### 2. Lease or Rental

The lease or rental of a motor vehicle in Iowa is generally exempt from the sales and use tax, with a few exceptions. The rental of a motor vehicle subject to registration in Iowa with a gross weight of 13 tons or less is a transportation service subject to sales or use tax in Iowa if it is rented for a period of 60 days or less.<sup>128</sup> The use in Iowa of a leased motor vehicle not required to be titled or registered in Iowa is subject to a five percent use tax.<sup>129</sup> The use tax is computed on each separate lease transaction by multiplying the tax by the total lease payments, plus the down payment, less and excluding title fees, registration fees, lease tax, federal excise tax, optional service or warranty contracts subject to sales tax, insurance, manufacturer's rebate, refundable deposit, and any applicable finance charges on these specified items.<sup>130</sup>

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<sup>121</sup> Iowa Code § 423.1(23); Iowa Admin. Code 701-33.10(3).

<sup>122</sup> Iowa Code § 423.26A(1)–(3).

<sup>123</sup> Iowa Code § 423.3(73).

<sup>124</sup> 2008 Iowa Acts ch. 1113 (SF 2420).

<sup>125</sup> See Iowa Code § 321.105A for more information relating to the new registration fee for motor vehicles.

<sup>126</sup> Iowa Code § 423.5(3). The casual sale exemption does not apply to the sale or use in Iowa of a motor vehicle subject only to the issuance of a certificate of title. See Iowa Code §§ 423.3(39), 423.6(6).

<sup>127</sup> Iowa Code § 423.26(1).

<sup>128</sup> Iowa Code §§ 423.2(6)(a), 423.5(5). See also Iowa Code chapter 423C, "Automobile Rental Excise Tax," which may also be applicable but is outside the purview of this Guide.

<sup>129</sup> Iowa Code § 423.5(3). See Iowa Code § 321.105A for information relating to the lease of vehicles subject to registration.

<sup>130</sup> Iowa Code § 423.26(2).



## F. Bundled Transactions

Bundled transactions are subject to Iowa sales and use tax.<sup>131</sup> A bundled transaction involves the retail sale of two or more distinct and identifiable products which are sold for one nonitemized price. A bundled transaction does not include real property and services to real property or the sale of any products in which the sales price changes based on the products selected.<sup>132</sup>

Bundled transactions can include both taxable and nontaxable products. If a bundled transaction includes both taxable and nontaxable services, the entire transaction is taxable unless that portion of the sales price which is attributable to the taxable services can be segregated from those that are nontaxable.<sup>133</sup> If a bundled transaction includes the lease or rental of tangible personal property and the performance of a nontaxable service, the transaction is taxable unless the lease or rental of the tangible personal property is merely incidental to the nontaxable service.<sup>134</sup> If a bundled transaction includes the nontaxable lease or rental of real property and the taxable lease or rental of tangible personal property for use in that space, the transaction is usually nontaxable.<sup>135</sup> When a bundled transaction includes a package of both taxable candy and nontaxable food, the transaction may or may not be taxable depending on the manner in which the products are packaged and the ingredients are listed, and the amount of each product in the package.<sup>136</sup>

## G. Communication Services

The sale or use in Iowa of a communication service (more modernly referred to as a telecommunication service), is subject to sales and use tax.<sup>137</sup> A telecommunication service is defined broadly to include any electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.<sup>138</sup> However, it can be more easily defined by what it does and does not include.

A telecommunication service includes but is not limited to air-to-ground radio telephone service, ancillary services except detailed communications billing service, conference bridging service, fixed wireless service, mobile wireless service, pay telephone service, postpaid calling service, prepaid calling service, prepaid wireless calling service, private communication service, fax service, and residential telecommunication service.<sup>139</sup> Under certain circumstances it can also include long distance charges and directory

<sup>131</sup> Iowa Code §§ 423.2(8), 423.5.

<sup>132</sup> Iowa Code § 423.2(8)(a).

<sup>133</sup> Iowa Admin. Code 701-26.81.

<sup>134</sup> Iowa Admin. Code 701-225.6(2).

<sup>135</sup> Iowa Admin. Code 701-225.6(3). However, if a bundled transaction involves the lease or rental of tangible personal property and, incidental to that transaction, space is provided for the property's use, the transaction may be taxable.

<sup>136</sup> Iowa Admin. Code 701-231.4(3). See also Iowa Code § 423.3(57).

<sup>137</sup> Iowa Code §§ 423.2(2), 423.2(9), 423.5(1). Communication services are treated as tangible personal property for purposes of the use tax.

<sup>138</sup> Iowa Admin. Code 701-224.2.

<sup>139</sup> Iowa Admin. Code 701-224.3(1), (2). See Iowa Code § 423.20(1) and Iowa Admin. Code 701-224.2 for definitions of these listed services.



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assistance charges that are associated with a telecommunication service.<sup>140</sup> These telecommunication services are subject to sales and use tax in Iowa only when they are provided “in this state,” meaning both the point of origination and termination of the communication are within the borders of Iowa.<sup>141</sup>

A telecommunication service does not include the installation or maintenance of wiring or equipment on a customer’s premises; advertising; billing and collection services provided to third parties; Internet access service; radio and television audio and video programming service; digital products delivered electronically; value-added nonvoice data service; fees and charges for securing only interstate telecommunication services; certain data processing and information services; sales of telecommunication services to the United States or the state of Iowa other than to any tax-levying body in connection with the operation of any municipally owned utility engaged in selling gas, electricity, or heat to the general public; sales of telecommunication services to private, nonprofit education institutions; certain enhanced 911 surcharges; and any online service which provides information through a computer server.<sup>142</sup> However, several of these services, or similar services, may still be subject to sales and use tax under other provisions.<sup>143</sup>

Special rules apply if the telecommunication services are a bundled transaction (defined above in section F of this Part VII) that includes a separate or combined telecommunication service, ancillary service, Internet access, or audio or video programming service. First, the entire transaction is taxable unless the provider can identify the nontaxable products through reasonable and verifiable standards. Second, if the transaction contains products subject to differing tax rates, the entire transaction will be subject to the highest rate unless the provider can identify the portion subject to the lower rates through reasonable and verifiable standards.<sup>144</sup>

### H. Computer Software

The sale or use in Iowa of prewritten computer software is subject to sales and use tax.<sup>145</sup> Prewritten computer software, sometimes referred to as “canned software,” is software sold to any person other than a person for whom it was specifically created.<sup>146</sup> In other words, it includes computer software created for sale, lease, or rental to the general public and computer software that may have been created for a specific customer but is later sold, leased, or rented to a different customer. Canned software can be transferred to a customer in the form of any physical storage medium provided by the seller or customer, including but not limited to diskettes, disks, magnetic tape, or listing the programming instructions on coding sheets.<sup>147</sup> In contrast to canned software, computer software

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<sup>140</sup> Iowa Admin. Code 701-224.3(2)(a), (c).

<sup>141</sup> Iowa Admin. Code 701-224.2.

<sup>142</sup> Iowa Admin. Code 701-224.2 through 701-224.4.

<sup>143</sup> For example, both an electrical installation or repair service and a pay television service are subject to sales and use tax. Iowa Code §§ 423.2(2), (6), 423.5(5).

<sup>144</sup> Iowa Admin. Code 701-224.5.

<sup>145</sup> Iowa Code §§ 423.1(59), 423.2(1)(u1), 423.5(1).

<sup>146</sup> Iowa Code § 423.1(38).

<sup>147</sup> Iowa Admin. Code 701-18.34(2)(c).



created for a specific customer and sold to that specific customer is “custom software” and is considered a nontaxable custom computer programming service.<sup>148</sup>

If canned software is modified for a specific customer it may remain taxable canned software or become nontaxable custom software depending on the amount of modification. If the canned software was previously marketed before modification, the new software will become nontaxable custom software if the price of the canned software was 50 percent or less of the price of the new software. If the canned software was not previously marketed before modification, the new software will become nontaxable custom software if the charge made to the customer for the programming services was more than 50 percent of the entire contract price.<sup>149</sup> In the event the new modified software remains taxable canned software, the fee for the modification will be considered a nontaxable custom computer programming service if it is reasonable and separately itemized to the specific customer.<sup>150</sup>

### I. Casual Sales

The sale of tangible personal property or services that qualify as “casual sales” are exempt from sales and use tax, except for the casual sale of aircraft, watercraft, and certain vehicles.<sup>151</sup> In order to qualify for the casual sale exemption a sale must be of a nonrecurring nature and must be made by a person who is not a retailer or, if the seller is a retailer, the sale must be unrelated to the retailer’s regular business.<sup>152</sup> Two separate sales unrelated to the seller’s regular business within a 12-month period are not considered to be recurring and, therefore, are not taxable. Three separate sales within a 12-month period are considered recurring, and sales tax applies beginning with the third sale. If a sale event occurs consistently over a span of years it will be considered recurring and not casual, even though only one sale occurs each year.<sup>153</sup> A casual sale also includes the transfer of a retailer’s trade or business to another person who will engage in a similar trade or business. Also, the recurring sale of a service will qualify as a casual sale so long as (1) the seller is not engaged for profit in the business of selling the service, (2) the owner of the business is the only person performing the service, (3) the owner of the business is a full-time student, and (4) the total gross receipts from the services in a calendar year do not exceed \$5,000.<sup>154</sup>

## VIII. Sales and Use Tax Collection

### A. Sellers and Consumers Not Registered Under the SSUTA

Every retailer who is making a taxable retail sale in Iowa is required to collect the sales tax at the time of selling the property or service.<sup>155</sup> Retailers are required to obtain a

<sup>148</sup> Iowa Admin. Code 701-18.34(1)(b)(4).

<sup>149</sup> Iowa Admin. Code 701-18.34(1)(b)(4).

<sup>150</sup> Iowa Code § 423.1(38); Iowa Admin. Code 701-18.34(1)(b)(3), (4).

<sup>151</sup> Iowa Code § 423.1(39)(b).

<sup>152</sup> Iowa Code § 423.1(39)(a).

<sup>153</sup> Iowa Admin. Code 701-18.28(1).

<sup>154</sup> Iowa Code § 423.3(39)(a).

<sup>155</sup> Iowa Code §§ 423.14(1), 423.29.



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sales tax permit from the Department of Revenue for each place of business in Iowa.<sup>156</sup> Retailers are required to file sales tax returns and remit sales tax at varying frequencies based upon the amount of sales tax collected annually.<sup>157</sup>

Every retailer maintaining a place of business in this state and selling property or a service subject to the use tax is required to collect the use tax at the time of making the sale.<sup>158</sup> “Retailer maintaining a place of business in this state” is a term generally meant to encompass retailers that have a sufficient “nexus” with Iowa such that the state can constitutionally require them to collect use tax from customers.<sup>159</sup> Nexus can arise not only through situations involving the retailer directly, but also through its subsidiaries and representatives.<sup>160</sup> Retailers maintaining a place of business in this state are required to obtain one retailer’s use tax permit from the Department of Revenue, which permit applies to all out-of-state sales or services for use in this state.<sup>161</sup> Retailers maintaining a place of business in this state are required to file retailer’s use tax returns and remit use tax at varying frequencies based upon the amount of use tax collected annually.<sup>162</sup>

Use tax on the use of any property or service which is not collected by a retailer maintaining a place of business in this state is required to be paid directly by the consumer.<sup>163</sup> Consumers subject to the use tax are required to file consumer’s use tax returns and remit use tax at varying frequencies based upon their annual use tax obligations.<sup>164</sup>

### B. Sellers Registered Under the SSUTA

Any seller making retail sales may register as a retailer under the SSUTA using the central registration system. Registering under the SSUTA obliges retailers to collect sales and use taxes for all its Iowa taxable sales, as well as those for other SSUTA member states.<sup>165</sup> Upon registration, retailers have the ability to take advantage of certain certified

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<sup>156</sup> Iowa Code § 423.36. Sellers who are only temporarily engaged in making retail sales from trucks, portable roadside stands, concessionaires at state, county, district, or local fairs, carnivals, or the like, are not required to obtain a sales tax permit, but are still required to collect, report, and remit sales tax. See Iowa Code § 423.36(6).

<sup>157</sup> Iowa Code § 423.31. See the Department of Revenue’s filing frequencies and return due dates schedule, found at <http://iowa.gov/tax/educate/filestatus.html#sales> (last accessed October 23, 2012).

<sup>158</sup> Iowa Code §§ 423.14(2), 423.29. “A retailer maintaining a place of business in this state” is defined as “any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether that place of business or representative is located here permanently or temporarily, or whether the retailer or subsidiary is admitted to do business within this state pursuant to” the Iowa Business Corporation Act, Iowa Code chapter 490. Iowa Code 423.1(48).

<sup>159</sup> A retailer has “nexus” with Iowa for purposes of the sales and use tax when the retailer has some sort of physical presence in Iowa. See *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992).

<sup>160</sup> Iowa Code §§ 423.1(2), 423.1(48), 423.2(10). See Iowa Admin. Code 701-30.1 for a nonexhaustive list of situations that may create nexus for a retailer.

<sup>161</sup> Iowa Code § 423.36(3)(b).

<sup>162</sup> Iowa Code § 423.32. See the Department of Revenue’s filing frequencies and return due dates schedule, found at <http://iowa.gov/tax/educate/filestatus.html#retailer> (last accessed October 23, 2012).

<sup>163</sup> Iowa Code § 423.14.

<sup>164</sup> Iowa Code § 423.34. See the Department of Revenue’s filing frequencies and return due dates schedule, found at <http://iowa.gov/tax/educate/filestatus.html#consumer> (last accessed October 23, 2012).

<sup>165</sup> See Iowa Code § 423.48 for rights and responsibilities of sellers registered under the SSUTA.





service provider software and may be afforded amnesty for prior sales and use tax collection liability and liability relief from reliance on certain state-provided databases.<sup>166</sup> Retailers registered under the SSUTA are required to file one return per month.<sup>167</sup> Sales and use tax is remitted along with the return or at different intervals as required by the Department of Revenue by rule.<sup>168</sup>

### IX. APPENDIX A: TAXABLE SERVICES IN IOWA

The Code of Iowa and the Iowa Department of Revenue are the primary sources used in compilation of this Appendix A.

- aircraft lease or rental, 60 days or less
- alteration and garment repair
- armored car services
- bank and financial institution service charges
- barber and beauty services
- battery, tire, and allied services
- boat repair, except for repair on certain vessels used in interstate commerce
- cable/pay television fees
- camera repair
- campgrounds
- carpentry
- carpet, rug, and upholstery cleaning and repair
- communication services excluding Internet access fees
- dance school and dance studio
- dating services
- demolition
- drain cleaning; unplugging toilets, sinks, and sewers
- dry cleaning, pressing, dyeing, and laundering
- electrical and electronic repair and installation
- employment and executive search agencies
- excavating and grading
- exterminators
- farm implement repair of all kinds
- flying service and instruction
- furniture repair and cleaning
- fur storage and repair
- garbage collection and disposal, nonresidential commercial only

<sup>166</sup> See Iowa Code §§ 423.52, 423.54, 423.55.

<sup>167</sup> Iowa Code § 423.49.

<sup>168</sup> Iowa Code § 423.50.



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- golf and country clubs and all commercial recreation fees, dues, and charges
- gun repair
- house/building moving
- household appliance, television, and radio repair
- investment counseling
- janitorial and building maintenance or cleaning; nonresidential only
- jewelry and watch repair
- landscaping, lawn care, and tree trimming and removal
- limousine, including driver
- machine operator fees
- machine repair of all kinds
- massage, unless performed by a licensed massage therapist
- mini-storage
- motor repair
- motor vehicle subject to registration and weighing 13 tons or less rented without a driver or operator for a period of 60 days or less
- motorcycle, scooter, and bicycle repair
- oilers and lubricators on vehicles and machines
- office and business machine repair
- painting, papering, and interior decorating
- parking facilities
- pet grooming
- pipe fitting
- plumbing, including drain cleaning and unplugging toilets, sinks, and sewers
- recreational vehicle or boat when rented without a driver or operator
- reflexology
- roof, shingle, and glass repair
- security and detective services
- sewage services—nonresidential commercial only
- sewing and stitching
- shoe repair and shoeshine
- sign construction and installation
- storage warehouse or lockers of raw agricultural products
- storage of household goods
- swimming pool cleaning and maintenance
- tanning beds or tanning salons
- taxidermy
- telephone answering service and telephone services
- test laboratories, except tests on humans and animals
- tin and sheet metal repair
- tree trimming and removal
- turkish baths and reducing salons
- vehicle repair



- vehicle wash and wax
- water conditioning and softening
- weighing
- welding
- well drilling for repair only
- wood preparation (i.e., stripping, cleaning, sealing)
- wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl, and vegetables
- wrecker and towing

### **X. APPENDIX B: REVIEW OF STATUTORY SALES AND USE TAX EXEMPTIONS**

*The Code of Iowa and the Iowa Department of Revenue are the primary sources used in compilation of this Appendix B. Dates in parentheses indicate the initial date of enactment of the exemption. Many exemptions have been amended subsequent to the year of initial enactment. The appendix does not indicate dates of all amendments, but if more than one year is listed, the second year indicates the date of enactment of a major, recent amendment to an exemption. This is not meant to be an exhaustive list of exemptions.*

#### **AGRICULTURE**

- Agricultural breeding livestock and domesticated fowl. 423.3(3) (1985)
- Commercial fertilizer. 423.3(4) (1937)
- Materials including agricultural limestone used to control disease, weeds, or insects or to promote the health of plants or livestock for market, including food and medication. 423.3(5)(a) (1957)
- Adjuvants, surfactants, and like chemicals used in agriculture production. 423.3(5)(a)(1997)
- Fuel consumed in implements of husbandry used for agricultural production. 423.3(6)(1957)
- Fuel used in grain drying. 423.3(6) (1969)
- Fuel used to provide heating or cooling to livestock buildings. Amended to include greenhouses. 423.3(6) (1985)
- Sale or rental of certain farm machinery and equipment, which is a self-propelled implement or attached to it, including replacement parts and grain dryers. 423.3(8) (1985)
- Specified materials used for bedding in the production of agricultural livestock and fowl. 423.3(9) (1985, 1992)
- Agricultural aerial application services. 423.3(7) (1985)
- Agricultural drain tile and the installation thereof. 423.3(5) (1987)
- Gas, electricity, water, and heat used in all implements of husbandry engaged in agricultural production. 423.3(10) (1987)
- Goods used in repairs to farm implements and the purchase or rental of farm machinery, implements, and equipment, and their replacement parts, other than self-



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propelled implements or attachments, used for agricultural purposes. 423.2(6), 423.3(11) (1987, 1988)

- The sales of auger systems, curtains and curtain systems, drip systems, fan and fan systems, shutters, inlets and shutter or inlet systems, and refrigerators used for agricultural purposes. 423.3(11) (2006)
- Sale or rental of irrigation equipment used in farming operations. 423.3(12), (13) (1989, 2001)
- Laboratory tests on animals. 423.2(6) (1991)
- Sale of draft horses. 423.3(14) (1978)
- Self-propelled implements, implements attached to self-propelled implements, and auxiliary attachments which improve the performance, safety, operation, or efficiency of farm machinery or equipment, including but not limited to certain snowblowers, rear and front-mounted blades, and rotary cutters. 423.3(8) (1995, 2012)
- Property which is a container, label, carton, pallet, packing case, wrapping, baling wire, twine, bag, bottle, or similar article sold for use in agricultural, livestock, or dairy production. 423.3(15) (1996)
- Sale of livestock ear tags by 501(c) (6) nonprofit organizations that will use the proceeds for bovine research programs approved by the nonprofit organization. 423.3(30) (2000)
- The sales of feed, feed supplements, and additives when used for consumption by farm deer (which includes elk) or bison. 423.3(16) (2002). The definition of farm deer was expanded to include whitetail and mule deer other than free-ranging whitetail and mule deer and elk. 423.1(18) (2003)

### **BUSINESS AND MANUFACTURING**

- Sales of tangible personal property purchased for resale. 423.3(2) (1934)
- Resale of taxable services or resale of tangible personal property in connection with a taxable service. 423.3(2) (1969)
- Certain tangible personal property entirely consumed in connection with the performance of an auto body repair service. 423.1(39), 423.3(2) (2012)
- Sales of tangible personal property which by means of fabrication, compounding, manufacturing, or germination become an integral part of other tangible personal property ultimately sold at retail. 423.3(51) (1934)
- Fuel used to create power, heat, or steam to process goods. 423.3(50) (1937, 1939)
- Fuel used to generate electric current. 423.3(50), (51) (1937)
- Electricity or steam used in processing tangible personal property. 423.3(50) (1939)
- Chemicals, solvents, sorbents, or reagents used, consumed, dissipated, or depleted when used in processing. 423.3(51) (1963)
- Sales of argon gas and other similar gases used in the manufacturing process. 423.3(52) (1999)
- Otherwise taxable services performed for an employer by an employee. 423.1(54) (1967)



- Otherwise taxable services when purchased and used in the processing of tangible personal property. 423.3(50) (1969)
- Property or services performed on property delivered into interstate commerce. 423.3(43) (1969)
- Services performed on or in connection with new construction, reconstruction, alteration, or remodeling of a building or structure. 423.3(37) (1969)
- Advertising materials which are purchased outside Iowa, delivered into Iowa, and later shipped into interstate commerce. (Use tax exemption only.) 423.3(42), 423.6(7) (1969)
- Sales of advertising materials (including paper) to any person in Iowa, if the material is sent outside Iowa and used outside Iowa. 423.3(42) (1990) (sales tax exemption only)
- Property, parts, and materials used as railroad rolling stock. 423.3(71) (1971)
- Purchase of property to be used in the production of certain trucks, tractors, and trailers used primarily for hauling goods, which vehicles are manufactured for lease and are leased outside Iowa and solely used in Iowa in interstate commerce. 423.6(8) (1978)
- Tangible personal property purchased and used for leasing. 423.3(2) (1978)
- Envelopes used for advertising. 423.3(55) (1979)
- Containers, labels, cartons, and materials used for packaging products to be sold at retail. 423.3(45) (1979)
- Containers and similar items sold to retailers or manufacturers for facilitating transportation of the tangible personal property. 423.3(45) (1988)
- Chemicals used in the production of free newspapers. 423.3(51) (1980)
- Services used in processing, repairing, or reconditioning tangible personal property normally sold in a retailer's regular course of business. 423.1(54), (55) (1981)
- Water, electricity, chemicals, solvents, sorbents, or reagents used in providing a taxable vehicle wash and wax service. 423.3(98) (2012)
- Services of a private employment agency where the employee's principal place of employment is outside the state. 423.2(6) (1981)
- Traded property used in the remanufacturing of a like item or intended to be ultimately sold at retail. 423.3(59) (1983)
- Sale or rental of industrial machinery, equipment, computers, replacement parts, and materials used to construct such items, if they are directly and primarily used in processing by a manufacturer, or to maintain the integrity or environmental conditions of the items, or to research and develop new products or processes of processing. Also applies to fuel and electricity consumed by such items. 423.3(47) (2004)
- Sale or rental of industrial machinery, equipment, computers, replacement parts, and materials used to construct such items, if they are used in recycling or reprocessing of waste products. Also applies to fuel and electricity consumed by such items. 423.3(47) (2004)



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- Sale or rental of pollution-control equipment used by a manufacturer. Also applies to fuel and electricity consumed by such items. 423.3(47) (2004)
- Sale or rental of computers that will be used in processing or storage of data by an insurance company, financial institution, or commercial enterprise. 423.3(47) (2004)
- Design and installation of new industrial machinery and equipment including electrical and electronic installation. 423.3(48) (1985)
- Rental of motion picture films, video and audio tapes, discs, photos, copy, and scripts for the motion picture and broadcasting industries if rented for subsequent viewing or broadcast. 423.3(41) (1985)
- Purchase of motion picture films, video and audio tapes, discs, and records by persons in the business of leasing, renting, or selling the same. 423.3(2) (1989)
- Special fuel used in watercraft for commercial purposes on rivers bordering Iowa. 423.3(72) (1985)
- Sales of automotive fluids sold to car dealers and retailers performing taxable services. 423.3(40) (1986)
- Ships, barges, and waterborne vehicles used in the transportation of property or cargo for hire on rivers bordering Iowa and materials or parts associated with said vehicles. 423.6(11) (1986)
- Tangible personal property withdrawn from inventory by a contractor/manufacturer as building material for use in an out-of-state construction project. 423.2(1)(b) (1987)
- Chemicals, containers, and bags used by dry cleaners. 423.3(45) (1987)
- Prizes to be awarded in games of skill, chance, raffles, and bingo. 423.3(63) (1987)
- Sale of aircraft used in a scheduled interstate Federal Aviation Administration-certificated air carrier operation. 423.3(74) (1988)
- Sale or rental of aircraft and sale or rental of component parts, repair, or replacement parts and all services used for aircraft performed on aircraft used in a scheduled interstate Federal Aviation Administration-certificated air carrier operation. 423.3(75) (1995)
- Sale or rental of component parts, repair, or replacement parts on aircraft used in unscheduled interstate Federal Aviation Administration-certificated air carrier operations. 423.3(76) (1998)
- Sale of aircraft to an aircraft dealer who rents or leases the aircraft if the aircraft remains in inventory and is for sale at all times. 423.3(77) (1998)
- The sale of carbon dioxide, electricity, steam, and other taxable services to a manufacturer of marketable food products to produce marketable food for human consumption, including sanitation, quality control, packaging, storage, and movement within the factory. 423.3(49) (1985, 1990)
- The lease or rental of tangible personal property to a manufacturer of marketable food products to produce marketable food for human consumption, including



sanitation, quality control, packaging, storage, and movement within the factory. 423.3(49) (2005)

- Wind energy-conversion property and all materials used to manufacture, install, or construct wind energy-conversion property. 423.3(54) (1993)
- Sale or rental of printing supplies to printers and publishers of more than 115 individually named items used to print a finished product (or used to complete finished packaging materials used to package a product for ultimate sale at retail). 423.3(46) (1995)
- Services furnished by notification centers as defined in Iowa Code section 480.3. 423.3(24) (1995)
- Residential optional service or warranty contracts regulated under Iowa Code chapter 523C. 423.2(1)(a) (1995)
- Sale to certain water companies of electricity used solely for pumping water from wells or rivers. 423.3(53) (1998)
- All purchases of tangible personal property and services by nonprofit hospitals. 423.3(27)(1998)
- Computer software maintenance or support contracts with no separately stated fee for taxable and nontaxable services are taxed on 50 percent of the gross receipts. 423.2(1)(a) (1998)
- Sale or rental of tangible personal property to, or services performed for, freestanding nonprofit hospice facilities. 423.3(28) (1999)
- Sales of building materials, supplies, and equipment to not-for-profit water districts organized under Iowa Code chapter 504 or former Iowa Code chapter 504A for use in the construction of their facilities. 357A.15, 423.3(38) (1999)
- Delivery charges for the delivery of electricity or natural gas when the sale of the electricity or natural gas is exempt under Iowa Code chapter 423. 423.3(69) (2001)
- A contractor can purchase building materials from a retailer of such materials exempt from Iowa sales and use tax if the contractor is building a project for a designated exempt entity and the contractor has received an authorization letter and an exemption certificate from the designated exempt entity specifying the project and that the materials will only be used for that project. 423.3(80) (2002)
- Transactions where the substance is delivered to the purchaser digitally, electronically, or utilizing cable or by radio waves, microwaves, satellites, or fiber optics. 423.3(67) (2000)
- The sale or rental of core-making, mold-making, and sand-handling machinery, including replacement parts. In addition, sales price from sales of fuel used in creating heat, power, or steam or for generating electric current, or from sale of electricity, consumed by core-making, mold-making, and sand-handling machinery and equipment used directly and primarily in the mold-making process by a foundry



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is exempt from tax. The sales price from furnishing of the design and installation, including electrical and electronic installation of core-making, mold-making, and sand-handling machinery and equipment used directly and primarily in the mold-making process by a foundry is exempt. 423.3(82) (2003, 2004)

- The leasing or rental of all machinery, equipment, and replacement parts which are directly and primarily used by contractors, subcontractors, and builders for new constructions, reconstruction, alterations, expansions, or remodeling of real property or structures, or which improve the performance, safety, operations, or efficiency of those items. 423.3(2), (37) (2004, 2005)
- The sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts, and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures. 423.3(85) Separately taxed under Iowa Code chapter 423D (2005).
- Service fees imposed by a financial institution if the charge is to a noncustomer of the financial institution imposed for point of sale, service charge, or access to an automated teller machine. 423.3(83) (2003)
- The sale or rental of computers, equipment, and property related to computers that are necessary for the maintenance and operation of data center businesses with a physical location in Iowa of at least 5,000 square feet who meet minimum investment and design requirements. Back-up power generation fuel and electricity for use in the data center business are also exempt from sales tax. 423.3(95) (2009)
- The gross receipts from sales or use of tangible personal property or the performance of services used in the fulfillment of a written construction contract with a nonprofit hospital licensed under Iowa Code chapter 135B. 423.3(29) (2000)
- Services to repair a defect in a vessel licensed by the U.S. Coast Guard which is engaged in interstate commerce and is in the waters bordering the state. 423.3(86) (2005)
- Phase-out of tax on sale or rental of central office equipment and transmission equipment used for telecommunications purposes. The phase-out is by means of a refund of taxes paid beginning at one-seventh for FY 2007 and increasing by one-seventh until total exemption occurs beginning July 1, 2012. 423.3(47A) (2006)
- The sale or rental of computers and equipment that are necessary for the maintenance and operation of a web search portal and web search portal business and for property that is directly or indirectly connected to the computers, for the sale





of back-up power generation fuel, and for electricity used in providing the web search portal, provided certain eligibility requirements are met. 423.3(92), (93).

### CONSUMER

- Licensed massage therapist. 423.2(6) (1998)
- Sales price of delivery charges, except delivery of electric energy or natural gas. 423.3(70) (1937)
- Sales of newspapers, free newspapers, or shoppers' guides and the printing and publishing thereof. 423.3(55) (1969)
- Motor fuel and special fuel where fuel tax has been paid and not refunded. Includes fuel used in watercraft and aircraft. 423.3(56) (1973, 1988)
- Sales of ethanol blended gasoline. 423.3(56)
- Flying services of aerial commercial and charter transportation flights. 423.3(61) (1974)
- Certain food for human consumption. 423.3(57), (58) (1974)
- Sale of draft horses. 423.3(14) (1978)
- Laboratory tests on humans. 423.2(6) (1979)
- Mobile homes and manufactured housing for which tax has been previously paid. Tax is not due on 80 percent of the purchase price of a new mobile home or manufactured housing. 423.6(9), (10) (1985)
- Forty percent of the cost of a modular home. 423.3(64) (1988)
- Motor vehicles rented or leased longer than 60 days. 423.2(6) (1986)
- Raffle tickets sold at fair-sponsored raffles. 423.3(62) (1986)
- Prescription drugs, including oxygen and insulin and diabetic supplies. 423.3(60) (1974, 1975)
- Sale or rental of prosthetic, orthotic, and orthopedic devices. 423.3(60) (1974, 1978)
- Sale or rental of durable medical equipment. 423.3(60) (2005)
- Sale or rental of mobility enhancing equipment. 423.3(60) (2005)
- Sale or rental of other medical devices, including but not limited to ostomy, urological, and tracheostomy supplies, diabetic testing materials, hypodermic syringes and needles, anesthesia trays, biopsy trays and biopsy needles, cannula systems, catheter trays and invasive catheters, fistula sets, irrigation solutions, intravenous administering solutions and stopcocks, myelogram trays, small vein infusion kits, spinal puncture trays, and venous blood sets intended to be dispensed for human use with or without a prescription to an ultimate user. 423.3(60) (1994, 2005)



## State Taxation — Sales and Use Taxes

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- Purchases of items of clothing or footwear designed to be worn on or about the human body are exempt from sales and use tax if the sale price of an item is less than one hundred dollars and the sale of the item takes place during the period beginning at 12:01 a.m. on the first Friday in August and ending at midnight on the following Saturday. Sales of “accessories” are not exempt. 423.3(68) (2000)
- Transactions where the substance is delivered to the purchaser digitally, electronically, or utilizing cable, or by radio waves, microwaves, satellites, or fiber optics. 423.3(67) (2000)
- Water use permit fees paid pursuant to Iowa Code section 455B.265, 423.3(94)
- Fees charged for the release of medical records. 423.3(96) (2012)
- Certain raffles conducted by qualified organizations representing veterans which provide for educational scholarships. 423.3(97) (2012)
- The sale of vehicles subject to registration. 423.3(73), 423.6(6) (2004) See Iowa Code section 321.105A, “Fee for New Registration.”
- The sale of vehicles subject only to the issuance of a certificate of title. (Sales tax exemption only) 423.3(73), 423.6(6) (2004, 2008)
- The sale of aircraft subject to registration under Iowa Code section 328.20. (Sales tax exemption only) 423.3(73), 423.6(6) (2004)
- The sale or rental of information services. 423.3(66) (2000)
- Lottery tickets or shares pursuant to Iowa Code chapter 99G. 423.3(81) (2003)
- E911 telephone, including wireless telephone, service surcharge. 423.3(69A) (1988)
- Entry fees paid to participate in any game or form of amusement when there is a taxable admission to the same event. 423.2(3) (1993)
- Sales price of online computer service that provides or enables access by multiple users to the Internet. 423.3(65) (1999)
- The sale of metered electricity, metered natural gas, fuels, and heating oils for residential customers. 423.3(84) (2001, 2004)
- Sales of coins, currency, or bullion. 423.3(91) (2006)

### MISCELLANEOUS EXEMPTIONS AND PROVISIONS

- Transactions the state is prohibited from taxing by federal law. 423.3(1) (1934)
- Casual sales. 423.3(39) (1963)
- Casual sale exemption is expanded to taxable services and to the bulk sales of businesses. 423.3(39) (1985)
- Casual sales exemption does not apply to the sale of vehicles subject to registration, aircraft, or commercial or pleasure craft or water vessels. 423.3(39) (2005)
- Casual sales exemption applies to the performing of recurring services if the owner of the business is the only person performing the service, the owner is a full-time



student, and the total gross receipts in a calendar year do not exceed \$5,000.

423.3(39)(c) (2006)

- Trade of property, including vehicles, for equal or less value. 423.1(51), 423.3(59) (1982)
- Use tax on property or taxable services (except vehicles) only if Iowa sales tax has been paid. 423.6(1) (1986)
- Sales of goods and utilities to other states or their political subdivisions if they provide a similar exemption to Iowa and its political subdivisions. 423.3(36) (1990)
- Sales of solar energy equipment used to transform such energy to storage point or point of use. 423.3(90) (2006)

### **ORGANIZATIONS RECEIVING EXEMPTIONS OR BENEFITS FROM EXEMPTIONS**

- Sales by the Department of Cultural Affairs on state-owned property. 423.3(34) (1982)
- Profits from sales or rentals that are donated to or used by a nonprofit entity exempt from taxation under IRC 501(c) (3), where the entire proceeds are spent for educational, religious, or charitable purposes. 423.3(78) (1934, 2001)
- Tax-certifying or tax-levying bodies of the state, with specified exceptions. 423.3(31) (1934)
- Goods and services sold to regional transit systems. 423.3(31) (1990)
- Purchases by municipal solid waste facilities. 423.3(31) (1978)
- Sales to nonprofit, primarily educational institutions used for educational purposes. 423.3(17) (1967, 2001)
- Admissions to amusements, fairs, and athletic events of elementary and secondary educational institutions. 423.2(3) (1978)
- Sales of goods and services by cities and counties except utility services and fees for participation in athletic sports. 423.3(32) (1979)
- Sales and rentals to home and community-based services providers certified to offer Medicaid waiver services by the Department of Human Services. 423.3(18)(f) (2006)
- Sales and rentals to certain residential care facilities, intermediate care facilities, group foster care facilities, rehabilitation facilities, community mental health centers, community health centers, and migrant health centers. 423.3(18)(a)-(e) (1985, 1988, 1989)
- Sales to substance abuse treatment or prevention programs that receive block grant funding from the Iowa Department of Public Health. 423.3(18)(g) (2012)
- Items purchased by nonprofit organizations organized for the purpose of lending tangible personal property to the general public. 423.3(19) (1988)



## State Taxation — Sales and Use Taxes

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- Sales and rentals of goods and services to nonprofit legal aid organizations. 423.3(20) (1988)
- Sales of goods and services to nonprofit museums if used for educational, scientific, historic preservation, or aesthetic purposes. 423.3(21) (1990)
- Gross receipts from sales or services by the state fair organized under Iowa Code chapter 173 or a fair society organized under Iowa Code chapter 174. 423.3(23), (35) (1996)
- Sales of food and beverages by nonprofit organizations exempt from federal taxation under IRC 501(c) that promote food or beverage products grown, produced, or raised in Iowa. 423.3(25) (1998)
- Sales of tangible personal property or services to nonprofit organ procurement organizations. 423.3(26) (1998)
- Sales of goods, wares, or merchandise or services rendered, furnished, or performed to a nonprofit private art center to be used in the operation of the art center. 423.3(22) (2001)
- Sales of mementos occurring on state property, and sales of all other items, by the Legislative Services Agency. 423.3(33) (2002, 2004)
- Sales of tangible personal property and furnishing of enumerated services to a community action agency that are to be used for the purposes of the community action agency. 423.3(79) (2002)
- Sales of toys to exempt organizations under IRC § 501 that purchase the toys with donations collected to be distributed to children at no cost. 423.3(87) (2005)
- The sale of building materials, supplies, goods, wares, or merchandise sold to a nonprofit Iowa affiliate of a nonprofit international organization whose primary activity is the promotion of the construction, remodeling, or rehabilitation of one-family or two-family dwellings for use by low-income families and where the building materials, supplies, goods, wares, or merchandise are used in the construction, remodeling, or rehabilitation of such dwellings. 423.3(88) (2005) If tax has been paid, a refund is authorized. 423.4(1) (2005)
- The sales of all goods, wares, or merchandise sold, or of services furnished, which are used in the fulfillment of a written construction contract for the original construction of a building or structure or modifications and additions to an existing structure which is to be used as a collaborative educational facility. 423.3(89) (2006)
- The sale of reagents and related accessory equipment to certain regional blood testing facilities. 423.3(26A) (2010)