

**REVENUE DEPARTMENT[701]**

**Notice of Intended Action**

**Proposing rule making related to baseball and softball complex sales tax rebate and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 235, “Rebate of Iowa Sales Tax Paid,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 423.4 and 2018 Iowa Acts, Senate File 2417.

*Purpose and Summary*

This proposed rule making clarifies the process for seeking a rebate of Iowa sales tax that is available to an owner or operator of a baseball and softball complex, in accordance with Iowa Code section 423.4(10).

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 16, 2018. Comments should be directed to:

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

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 701—235.2(423) as follows:

**701—235.2(423) ~~Sanctioned baseball~~ Baseball and softball tournament facility and movie site complex sales tax rebate. Effective July 1, 2012, qualifying**

**235.2(1) Generally.**

*a. Rebate approval.* The economic development authority and the enhance Iowa board are authorized by the general assembly and the governor to oversee the application and award process for the baseball and softball complex sales tax rebate, created in Iowa Code section 15F.207. An entity whose project is reviewed and recommended by the economic development authority and approved by the enhance Iowa board is entitled to rebate of qualifying sales tax in accordance with Iowa Code section 423.4(10) as amended by 2018 Iowa Acts, Senate File 2417, and this rule, not to exceed the amount awarded by the economic development authority.

*b. Qualifying rebates.* Qualifying rebates of Iowa state sales tax may be made to the owner or operator of a ~~sanctioned baseball and softball tournament facility and movie site complex~~ as defined in this rule for sales occurring on or after January 1, 2014, and ending January 1, 2024 the project completion date for a period of ten years or the date the award was made, whichever is later. Qualifying rebates are for state sales tax only. Local option taxes are not subject to rebate under this program.

**235.2(1) 235.2(2) Definitions.** For the purpose of this program, the definitions in Iowa Code section 423.4(10) as amended by 2018 Iowa Acts, Senate File 2417, apply. In addition, the following definitions apply:

*“Change of control”* means any of the following:

1. ~~Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the baseball and softball tournament facility and movie site such that more than 51 percent of the equity interests in the legal entity cease to be owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.~~

2. ~~The original owners of the legal entity that is the owner or operator of the baseball and softball tournament facility and movie site shall collectively cease to own more than 50 percent of the voting equity interests of such legal entity or shall otherwise cease to have effective control of such legal entity.~~

*“Department”* means the department of revenue.

*“Iowa corporation”* means a corporation incorporated under the laws of Iowa where at least 51 percent of the corporation's equity interests are owned by individuals who are residents of Iowa.

*“Owner or operator”* means a for-profit legal entity where at least 51 percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and that is the owner or operator of a baseball and softball tournament facility and movie site and is primarily a promoter of baseball and softball tournaments.

*“Population”* means the population based upon the 2010 certified federal census.

*“~~Sanctioned Eligible baseball and softball tournament facility and movie site complex~~”* or *“~~facility complex~~”* means a facility located in this state that has a project completion date that is after July 1, 2016, is designed and built to host baseball and softball tournament complex and tourist destination, which facility is located on a maximum of 279 acres, located inside or within three miles of the city limits of a city with a population of at least 4,000 but not more than 5,500 residents, which city is located in a county

with a population of at least 93,000 but not more than 100,000 residents and where the construction on the baseball and softball tournament facility commenced not later than one year following July 1, 2013, and the cost of the construction upon completion was at least \$38 million games and has a cost of construction upon completion that is at least \$10 million. The boundaries of a “complex” may be a portion or the entirety of a premises. After granting an award to a complex, the enhance Iowa board shall describe in writing to the department the physical boundaries of the complex and provide the department a map illustrating the approved boundaries of the complex.

“Placed into service” means the first day a complex is able to host a baseball or softball game.

**235.2(2) Affidavit by owner or operator.** The owner or operator of a baseball and softball tournament facility and movie site seeking a rebate of sales tax imposed and collected by retailers upon sales of any goods, wares, merchandise, admission tickets, or services furnished to purchasers at the facility must file with the department the following affidavit certifying that qualifications for the rebate have been met:

Iowa Department of Revenue  
Sales Tax Rebate Affidavit

NAME OF AFFIANT	*	AFFIDAVIT FOR SANCTIONED
	*	BASEBALL AND SOFTBALL
ADDRESS OF AFFIANT	*	TOURNAMENT FACILITY AND
	*	MOVIE SITE

The undersigned duly swears that the named Baseball and Softball Tournament Facility and Movie Site complies with criteria to be entitled to rebate of sales tax as required in Iowa Code section 423.4 as follows:

1. The facility is sanctioned as a baseball and softball tournament facility and movie site;
2. The sanctioned baseball and softball tournament facility and movie site is located on a maximum of 279 acres of Iowa land;
3. The sanctioned baseball and softball tournament facility and movie site is located in a city with a population, as defined by the rules governing this program, of at least 4,000 but not more than 5,500 residents;
4. The city in which the sanctioned baseball and softball tournament facility and movie site is located is in a county with a population, as defined by the rules governing this program, of at least 93,000 but not more than 100,000 residents;
5. Construction of the sanctioned baseball and softball tournament facility and movie site was commenced on or before July 1, 2013;
6. Cost of construction of the sanctioned baseball and softball tournament facility and movie site upon completion is at least \$38 million; and
7. There has not been a “change of control” as defined in the rules governing this program regarding the legal ownership or operation of the baseball and softball tournament facility and movie site.

The undersigned duly swears that he or she is the owner or operator of the sanctioned baseball and softball tournament facility and movie site or that the undersigned is the authorized representative of the sanctioned baseball and softball tournament facility and movie site and has the authority to sign this document. The undersigned swears that he or she has personal knowledge regarding the facts contained in this affidavit and that the statements set forth in this affidavit are true and accurate and that the sanctioned baseball and softball tournament facility and movie site has met all of the requirements as contained herein.

\_\_\_\_\_  
Name of Affiant \_\_\_\_\_ Date \_\_\_\_\_  
Position of Affiant \_\_\_\_\_

**235.2(3)** *Notification to the department of revenue.* The owner or operator of the ~~sanctioned baseball and softball tournament facility and movie site~~ complex shall provide the department with a copy of the award notice from the enhance Iowa board.

**235.2(4)** *Retailer identification.*

*a. Identification of retailers.* The owner or operator shall provide the department with the identity of all retailers at the facility complex that will be collecting sales tax, provide sales tax permit numbers for each retailer, and shall keep the information current.

*b. Notification to department.* The owner or operator of the facility complex shall notify the department within ten days of the start-up or termination of a retailer ~~from~~ collecting sales tax at the facility complex. ~~In addition, the owner or operator of the facility shall notify the department within ten days of the start-up of a retailer collecting sales tax at the facility~~ For purposes of this subrule, termination occurs when the retailer provides notice to the owner or operator that the retailer will no longer collect sales tax at the complex or after one calendar year expires since the retailer collected sales tax at the complex.

*c. Verification by department.* The department shall verify the identity of a retailer collecting sales tax at the complex before rebates are paid for sales made by that retailer.

**235.2(5)** *Baseball and softball complex rebate request form and filing requirements.* The owner or operator must submit a rebate request to the department on the authorized form. The form will be made available on the department's website. A properly completed form shall adhere to the following rules:

*a. Who may file the claim.* The claim must be filed by the owner or operator. Claims filed under the name of an affiliated entity will be denied.

*b. Information regarding retailers making sales at the complex.* The following information shall be provided:

- (1) Business name,
- (2) Responsible party,
- (3) Federal employer identification number (FEIN), and
- (4) Sales tax permit number, which must be associated with an address at the complex.

*c. Sales at the complex.* Information on sales at the complex and sales tax collected on those sales must be reported. Only sales by retailers meeting the requirements of paragraph 235.2(5) "b" and Iowa Code section 423.4(10) as amended by 2018 Iowa Acts, Senate File 2417, are eligible for rebate.

*d. Additional information.* The department may request any other additional information, from any person, necessary to verify the rebate.

*e. Sworn statement.* The department may require a sworn statement regarding the truthfulness and eligibility of the claim.

*f. Filing frequency.* The forms are due quarterly, on or before the last day of the month following the quarter in which the sales at the complex took place.

**235.2(4)** ~~**235.2(6)**~~ *Limitations Fund transfers.* ~~The sanctioned baseball and softball tournament facility and movie site rebate program applies only to transactions that occur on or after January 1, 2014, but before January 1, 2024, and for which sales tax was collected. Only the state sales tax is subject to rebate. The rebate is limited to the Iowa sales tax rate. Local option taxes paid and collected are not subject to rebate. Rebates of sales taxes to a facility are not authorized for transactions that occur on or after the date of the change of control of the facility. The amount of sales tax revenues transferred from the general fund to the baseball and softball tournament facility and movie site complex fund is that portion of sales tax receipts remaining in the general fund after the other department transfers, in the order prescribed: as described in 2018 Iowa Acts, Senate File 2417, section 174.~~

*a.* Local option sales taxes to those taxing jurisdictions imposing local option taxes;

*b.* If the sales tax rate is increased to greater than 6 percent, an amount of sales tax equal to the amount generated by the increase in the tax rate—limited to 3/8 of 1 percent of the sales tax rate that exceeds 6 percent—to the natural resources and outdoor recreation trust fund; and

*c.* One-sixth of the remaining sales tax revenues to the secure an advanced vision for education fund.

~~235.2(5)~~ **235.2(7)** *Termination of rebate program.* The rebate program terminates 30 days following the date on which \$5 million in total rebates has been provided. The rebate award for the ~~sanctioned baseball and softball tournament facility and movie site~~ each complex terminates on the earliest of the following dates:

- a. ~~January 1, 2024~~ Ten years after the project completion date; or
- b. ~~Thirty days following the~~ The date on which \$16.5 million in total rebates equal to the amount of the rebate award have been provided to the complex; or
- c. ~~Thirty days following the~~ The date of the change of control of the facility.

~~235.2(6)~~ **235.2(8)** *Sourcing of sales.*

a. *Generally.* In general, sales are considered to occur “at the complex” if they occur within the boundaries identified in the physical description provided by the ~~enhance~~ Iowa board and are sourced to a location within those boundaries under Iowa Code section 423.15.

b. *Advance ticket and admissions sales.* Advance ticket and admissions sales shall be considered occurring at the ~~sanctioned baseball and softball tournament facility and movie site~~ complex regardless of where the transactions actually occur. Consequently, the state sales tax and any applicable local option tax in effect for the jurisdiction in which the facility is located must be imposed on the purchase price of advance ticket and admissions sales.

Other types of sales eligible for rebate under this program include, but are not limited to, sales by vendors and sales at concessions, gift shops, and museums.

**235.2(7)** *Requirements to obtain a rebate of state sales tax by the sanctioned baseball and softball tournament facility and movie site.*

- a. ~~The rebate request must be submitted to the department on the authorized department form;~~
  - b. ~~The rebate request form must be filed quarterly with the department and in a timely manner;~~
- and
- c. ~~All the information requested on the rebate request form must be completed.~~

This rule is intended to implement ~~2011~~ 2018 Iowa Acts, Senate File 2417, section 174, and Iowa Code Supplement sections ~~423.2(11) and~~ section 423.4 as amended by ~~2012~~ 2019 Iowa Acts, Senate File ~~2329~~ 2417.