

**REVENUE DEPARTMENT[701]**

**Notice of Intended Action**

**Proposing rule making related to raceway facility 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 sections 423.2 and 423.4 as amended by 2018 Iowa Acts, Senate File 2407.

*Purpose and Summary*

This rule making proposes new rule 701—235.3(423) relating to rebates of Iowa sales and use tax that are available to an owner or operator of a raceway facility that meets certain criteria set forth in Iowa Code section 423.4(11). The proposed rule describes the process by which a qualifying owner or operator may seek rebates and provides additional information about how sales qualify for the rebate.

*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:

Adopt the following **new** rule 701—235.3(423):

**701—235.3(423) Raceway facility sales tax rebate.** Qualifying rebates of Iowa state sales and use tax may be made to the owner or operator of a raceway facility that meets the requirements of Iowa Code section 423.4(11) as amended by 2018 Iowa Acts, Senate File 2407. The maximum rebate is limited to project costs incurred and paid on or after May 16, 2018, and before January 1, 2025, or \$1.8 million, whichever is less.

**235.3(1) Definitions.** For purposes of this rebate, unless further defined below, the terms used in this rule mean the same as defined in Iowa Code section 423.4(11) as amended by 2018 Iowa Acts, Senate File 2407.

“*Incurred date*” means the date on which the payment for the project cost was made or the performance of the work that gave rise to the payment occurred, whichever is later.

**235.3(2) Retailer identification.**

*a. Identification of retailers.* Prior to or in conjunction with the filing of its initial rebate request, the owner or operator shall provide the identity of all retailers at the raceway facility that will be collecting sales tax and provide the department with the sales tax permit number for each retailer. During the period in which rebates may be claimed, the owner or operator shall keep the information current.

*b. Notification to department.* The owner or operator shall notify the department within ten days of the termination or start-up of a retailer collecting sales tax at the raceway 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 raceway facility or after one calendar year expires since the retailer collected sales tax at the raceway facility.

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

**235.3(3) Project cost report and rebate form and filing requirements.** The owner or operator must submit a project cost report and rebate request to the department on the authorized form. The report and rebate form will be made available on the department’s website. A properly completed rebate form shall contain the following.

*a. Documentation and information required.*

- (1) Invoices for project costs.
- (2) An explanation of how each cost meets the definition of “project costs.”
- (3) The date each cost was incurred and the date each cost was paid.

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

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

*d. Filing frequency.* The form and supporting documentation must be provided to the department within 90 days of the date the project cost was paid. Generally, this report is filed quarterly with the rebate request form. However, the project cost report may be filed more frequently if necessary to meet the 90-day filing requirement. Project cost reports and rebate forms will not be accepted on or after the date on which \$1.8 million in total rebates has been provided, or June 30, 2025, whichever is earlier.

**235.3(4) Raceway facility retailer sales report and filing requirements.** The owner or operator must submit a retailer sales report to the department on the authorized form. The form will be made available on the department's website. A properly completed form shall contain the following.

*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 raceway facility.* The following information shall be provided:

- (1) Business name,
- (2) Responsible party,
- (3) Federal employer identification number (FEIN), and
- (4) Sales tax permit number.

*c. Sales at the raceway facility.* Sales occurring at the raceway facility and sales tax collected on those sales must be reported. Only sales by retailers meeting the requirements of paragraph 235.3(4) "b" and Iowa Code section 423.4(11) as amended by 2018 Iowa Acts, Senate File 2407, are eligible for rebate. Only sales occurring on or after January 1, 2015, and before January 1, 2025, are eligible for the 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 by the retailer and the owner or operator 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 raceway facility took place.

**235.3(5) Raceway facility retailer sales report for sales occurring on or after January 1, 2015, and before May 16, 2018.**

*a. Sales report required.* A comprehensive raceway facility retailer sales report comprising sales occurring at the raceway facility on or after January 1, 2015, and before May 16, 2018, must be filed by the owner or operator by March 30, 2019.

*b. Report requirements.* The report must include a list of retailers that meet the requirements of subrule 235.3(2), all information described in subrule 235.3(4), and any other information requested by the department to calculate the eligible sales that occurred at the raceway facility during that time period. The report shall be in the same or substantially similar format as the quarterly raceway facility retailer sales report required by subrule 235.3(4).

**235.3(6) Sourcing of sales.**

*a. Generally.* In general, sales are considered to occur at the raceway facility if they occur within the boundaries of the raceway facility portion of the fairgrounds and are sourced to that raceway facility under Iowa Code section 423.15.

*b. Advance ticket and admission sales.* Advance ticket and admissions sales shall be considered occurring at the raceway facility 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 raceway facility is located must be imposed on the sales price of advance ticket and admissions sales.

**235.3(7) Local option sales tax.** Local option taxes imposed under Iowa Code chapter 423B are not eligible for rebate under this program.

This rule is intended to implement Iowa Code sections 423.2(11) and 423.4(11) as amended by 2018 Iowa Acts, Senate File 2407.