

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to personal transportation service

The Revenue Department hereby amends Chapter 26, “Sales and Use Tax on Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 423.2 and 423.3 as amended by 2018 Iowa Acts, Senate File 2417.

Purpose and Summary

This rule making implements changes to the taxability of personal transportation services made by division XI of 2018 Iowa Acts, Senate File 2417. This rule making defines personal transportation service, addresses sourcing of personal transportation service, and describes the applicable exemptions.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 7, 2018, as **ARC 4108C**. A public hearing was held on November 27, 2018, at 1 p.m. in the auditorium of the Wallace State Office Building, Des Moines, Iowa. Three people attended the public hearing, and a comment was made by a representative of Uber Technologies. Uber asserted that the proposed rule did not make clear whether a transportation network company should collect tax or whether its drivers should collect tax. Uber was also concerned that the proposed rule “unduly burdened” Uber and other transportation network companies over other providers of personal transportation services.

Uber submitted written comments in line with its statements at the public hearing.

The Department modified its definition of “personal transportation service” to more explicitly reference language from Iowa Code chapter 321N, which regulates transportation network companies such as Uber. The Department also provided examples to illustrate the collection responsibility of a transportation network company in three scenarios: a driver only provides rides through one network; a driver provides rides through two networks; and a driver provides rides through a network and independent from a network.

In addition, references to 2018 Iowa Acts, Senate File 2417, have been updated to refer to Iowa Code sections 423.2(6)“ac” and 423.3(106) since the legislation has been codified.

Adoption of Rule Making

This rule making was adopted by the Department on December 12, 2018.

Fiscal Impact

This rule making has no fiscal impact beyond the impact estimated by the Legislative Services Agency for 2018 Iowa Acts, Senate File 2417. That estimate predicts that in FY 2019, the taxation of “ride sharing services” as enacted in Senate File 2417 will result in increased revenue of \$3.5 million and, by FY 2024, will result in increased revenue of \$18.7 million.

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).

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).

Effective Date

This rule making will become effective on February 6, 2019.

The following rule-making action is adopted:

Rescind rule 701—26.80(422,423) and adopt the following new rule in lieu thereof:

701—26.80(422,423) Personal transportation service.

26.80(1) *Personal transportation service defined.* “Personal transportation service” means the arrangement or provision of transportation of a person or persons for consideration, regardless of whether the person or entity providing such service supplies or uses a vehicle in conjunction with the service. “Personal transportation service” includes, but is not limited to, the following:

a. Transportation services provided by a human driver, including but not limited to drivers with a Class C, Class D endorsement 3, or Class M license, or by a chauffeur as defined in Iowa Code section 321.1(8). Examples of such services include, but are not limited to, taxi services, driver services, limousine services, bus services, shuttle services, and rides for hire;

b. Transportation services provided by a nonhuman driver, autonomous vehicle, or driverless vehicle; and

c. Ride sharing services, including but not limited to use of a network to connect transportation network company riders to transportation network company drivers who provide prearranged rides as defined in Iowa Code section 321N.1(4).

EXAMPLE 1A: Marketplace X is a transportation network company that operates a network to connect drivers to riders. Driver D provides rides in Iowa exclusively through X's network. A person in Iowa requests a ride through X's network, and D provides the ride in D's car. X is a marketplace facilitator. X must collect Iowa sales tax and applicable local option sales tax on the sales price of the ride. Because D makes all of D's Iowa sales through X, which collects all applicable taxes on all of D's rides, D does not need to register for an Iowa sales tax permit or file an Iowa sales tax return. X will report the sales tax on X's Iowa sales tax return.

EXAMPLE 1B: D provides rides for X and Y, two different transportation network companies. X is a marketplace facilitator responsible for collecting and remitting Iowa sales tax and applicable local option sales tax on the sales price of the rides D provides through its network. Y is also a marketplace facilitator responsible for collecting all applicable taxes on the rides D provides through Y's network. D still does not need to register for an Iowa sales tax permit or file an Iowa sales tax return.

EXAMPLE 1C: D independently provides rides in addition to providing rides through X's network. X must collect all applicable taxes on the rides D provides through its network. X is not responsible for collecting tax on any of the rides D provides independent from X's network. D, a seller of personal

transportation service with physical presence in Iowa, must collect and remit Iowa sales tax and applicable local option sales tax on the sales price of the rides D sells independent of X's network.

26.80(2) Tax imposed; sourcing. On and after January 1, 2019, the sales price from rendering, furnishing, or performing a personal transportation service in Iowa is subject to Iowa sales tax. The tax is imposed if the personal transportation service is first used in Iowa and is sourced to the location at which the service is first received.

EXAMPLE: R schedules a personal transportation service while at R's residence in Des Moines. R schedules the transportation service to transport R from Grinnell to Iowa City. R independently travels to Grinnell, where R enters a vehicle owned by the transportation service. The transportation service takes R from Grinnell to Iowa City, where the service ends and R pays for the service. The sale is sourced to Grinnell, the location at which R first received the transportation service. The transportation service must charge sales tax and the applicable local option tax in Grinnell, even though R scheduled the service while in Des Moines and the service concluded and payment was made in Iowa City.

26.80(3) No tax imposed on interstate motor carrier transportation service. Where a personal transportation service involves interstate travel by a motor carrier as defined in 49 U.S.C. Section 13102(14), no tax shall be imposed on the transaction to the extent prohibited by 49 U.S.C. Section 14505.

26.80(4) Exemption for transportation services furnished by a qualified public transit system, medical transportation service, or paratransit service. The sales price from sales of transportation services by public transit systems, medical transportation services, or paratransit services is exempt from tax. For purposes of the exemption under Iowa Code section 423.3(106), the following definitions shall apply:

"Medical transportation" means a personal transportation service for an individual to travel to a health care provider for the individual's medical care. Medical transportation is not limited to transportation services for immediate life-threatening or serious injuries.

"Paratransit service" means a personal transportation service provided to individuals with disabilities.

"Public transit system" means a public transit system as defined in Iowa Code section 324A.1(4). This rule is intended to implement Iowa Code sections 423.2(6) "ac" and 423.3(106).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/2/19.