

**REVENUE DEPARTMENT[701]**

**Notice of Intended Action**

**Proposing rule making related to exemption of sales and use tax for grain bins and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 226, “Agricultural Rules,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed 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 section 423.3 as amended by 2019 Iowa Acts, House File 779.

*Purpose and Summary*

During the 2019 Legislative Session, the General Assembly added a new exemption from sales and use tax: “The sales price from the sale of a grain bin, including material or replacement parts used to construct or repair a grain bin.” The exemption defines a “grain bin” as “property that is vented and covered with corrugated metal or similar material, and that is primarily used to hold loose grain for drying or storage.”

Item 2 sets forth a general explanation of what materials will be taxable or exempt under the exemption and then provides a nonexhaustive list of items commonly used to construct a grain bin or sold in conjunction with a grain bin. The proposed rule also explains how entities may claim the exemption. Item 1 amends a current rule to note that cement and concrete are exempt if used in accordance with the new rule proposed in Item 2.

The Department solicited feedback on an initial draft of these proposed amendments with a wide variety of stakeholders, including grain bin manufacturers, retailers, contractors, and others interested in the exemption. The Department made several changes, reflected in this rule making, in response to the comments received.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa beyond the impact of 2019 Iowa Acts, House File 779. The Legislative Services Agency’s fiscal note for House File 779 estimated a reduction in General Fund revenue of \$5.2 million in FY 2020, increasing to \$5.8 million in FY 2024.

*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 March 3, 2020. 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*

A public hearing at which persons may present their views orally or in writing will be held as follows:

March 3, 2020  
9 to 10 a.m.

Room 430, Fourth Floor  
Hoover State Office Building  
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*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 actions are proposed:

ITEM 1. Amend subrule 226.19(4) as follows:

**226.19(4) Taxable even if used in agricultural production.**

- |   |                             |
|---|-----------------------------|
| additives   | lubricants and fluids       |
| air compressors   | lumber*                     |
| air conditioners, unless a replacement part<br>for exempt machinery | marking chalk               |
| air tanks   | mops                        |
| antifreeze  | motor oils                  |
| axes  | nails                       |
| barn cleaner, permanent   | office supplies             |
| baskets   | oxygen                      |
| belt dressing   | packing room supplies       |
| bins, permanent^  | paint and paint sprayers    |
| brooms  | pliers                      |
| buckets   | posthole diggers, hand tool |

building materials* and supplies	poultry brooders, permanent
burlap cleaners	poultry feeders, permanent
cattle feeders, permanent	poultry nests, permanent
cement <sup>#</sup>	pruning tools
chain saws	pumps for household or lawn use
cleaning brushes	radios, unless a replacement part for exempt machinery
cleansing agents and materials	refrigerators for home use
computers (including laptop), for personal use	repair tools
computer software	road maintenance equipment
construction tools	road scraper
concrete <sup>#</sup>	roofing
conveyors, permanent	sanders
cow ties, permanent	scrapers
ear tags	screwdrivers
fence, posts, wire, permanent	shingles
field toilets	shovels
fire prevention equipment	silos
freon	snow fence unless portable and used directly in dairy and livestock production
fuel additives	snow plows and snow equipment
fuel tanks and pumps	space heaters, permanent
garden hoses and rakes	specialized flooring, permanent
glass	sprinklers, permanent
grain bins and tanks, permanent* <sup>^</sup>	stalls, permanent
grease	staples
grease guns	stanchions, permanent
hammers	storage tanks
hog rings	tarps
hydraulic fluids	tiling machinery and equipment
hypodermic syringes, disposable	tractors, garden
lamps	welders
lanterns	wheel barrows
light bulbs (for household use)	wrenches

\*The buyer of building materials is responsible for paying sales tax or use tax on those materials, including materials to construct grain bins. The buyer is the person who pays the vendor. Contractors and sponsors that purchase building materials, other than grain bin materials, are responsible for paying sales tax to the vendor or supplier or accruing and remitting use tax on those materials.

<sup>^</sup> Does not include bins or grain tanks used to hold loose grain for drying or storage.

<sup>#</sup> Does not include cement or concrete used in pads or foundations under grain bins.

ITEM 2. Adopt the following **new** rule 701—226.20(423):

**701—226.20(423) Grain bins.** The Iowa Code exempts from sales and use tax the sales price from the sale of a grain bin, including material or replacement parts used to construct or repair a grain bin. “Grain

bin” is defined by Iowa Code section 423.3(16A). Grain bins are real property, and grain bin materials are building materials as that term is used in rule 701—219.3(423).

**226.20(1)** *Property considered to be a grain bin or material used to construct a grain bin.* In general, materials that are permanently attached to a grain bin and are required to hold loose grain for drying or storage are used to construct a grain bin and thus exempt from sales and use tax. This generally does not include equipment used to move loose grain into or out of a grain bin. The following lists of exempt or taxable property are not exhaustive.

- a. Exempt property:
  - (1) Grain bins, including hopper bins.
  - (2) Corrugated metal or other similar material for the sides or roof of a grain bin.
  - (3) Bolts and other builders’ hardware.
  - (4) Steps, ladders, or staircases affixed to a grain bin providing access to a grain bin.
  - (5) Structural support towers for a grain bin or for steps, ladders, or staircases providing access to a grain bin.
  - (6) Catwalks primarily used to allow a person to walk from one grain bin to another.
  - (7) Roof vents affixed to a grain bin.
  - (8) Grain bin flooring and floor supports.
  - (9) Concrete pad or foundation under a grain bin.
  - (10) Stirring equipment affixed in a grain bin.
  - (11) Fans affixed in a grain bin.
  - (12) Temperature sensors or temperature cables affixed in a grain bin.
  - (13) Spreaders affixed in a grain bin.
  - (14) Sweeps or augers affixed in a grain bin to move loose grain to, from, or out of a grain bin.
  - (15) Controls and devices to operate the above-listed property.
  - (16) Motors for the above-listed property.
  - (17) Replacement parts for the above-listed property.
- b. Taxable property:
  - (1) Bucket elevators.
  - (2) Distributors.
  - (3) Receiving stations, including drag conveyors and dump pits.
  - (4) Pneumatic or air systems.
  - (5) Conveyors, including chain conveyors, belt conveyors, and drag conveyors.
  - (6) Anchors, bin jacks, or other construction equipment used to assemble, construct, repair, or replace a grain bin or part of a grain bin.
  - (7) Samplers.
  - (8) Scales or weighers.

**226.20(2)** *Primarily used to hold loose grain for drying or storage.* Property is deemed to be “primarily used to hold loose grain for drying or storage” if it is used more than 50 percent of the time to hold loose grain for drying or storage.

**226.20(3)** *Claiming the exemption.*

a. A sponsor of a grain bin, grain bin materials, or grain bin replacement parts shall provide an exemption certificate to the contractor of the property to purchase the property exempt from sales or use tax.

b. A contractor may provide an exemption certificate to a supplier when purchasing a grain bin, grain bin materials, or grain bin replacement parts. The contractor would accrue consumer’s use tax on the purchase price of those grain bin materials unless the contractor obtains an exemption certificate from the sponsor. If the grain bin materials are not used in an exempt manner and if an exemption certificate is not obtained, it is the contractor’s responsibility to accrue and remit use tax. The contractor should not charge sales tax to a sponsor of grain bin materials used in a nonexempt manner because those materials remain building materials used in the performance of a construction contract.

This rule is intended to implement Iowa Code section 423.3.