

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to sales tax exemption for diapers and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 220, “Exemptions Primarily of Benefit to Consumers,” 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 2022 Iowa Acts, Senate File 2367.

Purpose and Summary

The Iowa Legislature enacted a sales tax exemption for diapers in 2022 Iowa Acts, Senate File 2367, division II, which took effect January 1, 2023. New Iowa Code section 423.3(109) specifically exempts from sales tax “[t]he sales price from the sale of a child or adult diaper, whether cloth or disposable.” Since the statute does not define the word “diaper,” to avoid any confusion about what is exempt as a diaper, the Department proposes this new rule to define “diaper” in accordance with the definition adopted by the Streamlined Sales Tax Governing Board, of which Iowa is a member state.

Fiscal Impact

This rule making does not have any fiscal impact beyond the statute it seeks to implement. The Legislative Services Agency’s fiscal analysis for Senate File 2367, division II, estimates a reduction to General Fund revenue in FY 2023 of \$4.7 million, which increases to \$9.5 million in FY 2024, the first full fiscal year of the new exemption.

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 14, 2023. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.782.0535
Email: tim.reilly@iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

March 14, 2023
9 to 10 a.m.

Room 1 NW
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 action is proposed:

Adopt the following **new** rule 701—220.17(423):

701—220.17(423) Sales of diapers.

220.17(1) In general. The sales price of diapers, whether cloth or disposable, is exempt from sales tax. This includes children's diapers and adult diapers.

220.17(2) Definitions.

"*Adult diapers*" means diapers other than children's diapers.

"*Children's diapers*" means diapers marketed to be worn by children.

"*Diaper*" means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements.

This rule is intended to implement Iowa Code section 423.3(109).