

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rulemaking related to definitions
and providing an opportunity for public comment**

The Revenue Department hereby proposes to rescind Chapter 200, “Definitions,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 421.14, 422.68 and 423.42.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 423.1, 423.2, 423.3, 423.6 and 423.45.

Purpose and Summary

The purpose of this proposed rulemaking is to readopt Chapter 200, which consists solely of rule 701—200.1(423) and provides definitions that apply across other sales tax rules chapters. These terms are used throughout other Iowa Administrative Code chapters, but are not defined in statute. The Department proposes revisions to the rule to remove portions of the rule that the Department determined are unnecessary and duplicative of statutory language.

A Regulatory Analysis, including the proposed rule text, was published on October 4, 2023. A public hearing was held on October 25, 2023. No public comments on the Regulatory Analysis were received at the hearing or in writing. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on November 9, 2023.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 2, 2024. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 3, 2024 9 to 11 a.m.	Via video/conference call
January 3, 2024 1 to 3 p.m.	Via video/conference call

Persons who wish to participate in a video/conference call should contact Nick Behlke before 4:30 on January 2, 2024, to facilitate an orderly hearing. A video link will be provided to participants prior to the hearing.

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

Any persons who intend to attend a 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Rescind 701—Chapter 200 and adopt the following **new** chapter in lieu thereof:

TITLE III
SALES, USE, AND EXCISE TAX
CHAPTER 200
DEFINITIONS

701—200.1(423) Definitions. The definitions set out in this chapter are applicable wherever the terms they define appear in this title unless the context indicates otherwise.

“*Agricultural production*” is limited to what would ordinarily be considered a farming operation undertaken for profit. The term “agricultural production” refers to the raising of crops or livestock for market on an acreage. Included within the meaning of the phrase “agricultural production” is any feedlot operation whether or not the land upon which a feedlot operation is located is used to grow crops to feed the livestock in the feedlot and regardless of whether or not the livestock fed are owned by persons conducting the feedlot operation, and operations growing and raising hybrid seed corn or other seed for sale to nurseries, ranches, orchards, and dairies. “Agricultural production” includes the raising of flowering, ornamental, or vegetable plants in commercial greenhouses or elsewhere for sale in the ordinary course of business. “Agricultural production” also includes any kind of aquaculture, silviculture, commercial greenhouses, and raising catfish. Beekeeping and the raising of mink, other

nondomesticated furbearing animals, and nondomesticated fowl (other than ostriches, rheas, and emus) continue to be excluded from the term “agricultural production.” The above list of exclusions and inclusions within the term “agricultural production” is not exhaustive. “Agricultural products” includes flowering, ornamental, or vegetable plants and those products of aquaculture and silviculture.

“*Aquaculture*” means the cultivation of aquatic animals and plants, including fish, shellfish, and seaweed, in natural or controlled marine or freshwater environments.

“*Chemical*” means a substance that is primarily used for producing a chemical effect. A chemical effect results from a chemical process wherein the number and kind of atoms in a molecule are changed in form (e.g., where oxygen and hydrogen are combined to make water). A chemical process is distinct from a physical process wherein only the state of matter changes (e.g., where water is frozen into ice or heated into steam).

“*Domesticated fowl*” means any domesticated bird raised as a source of food, either eggs or meat. “Domesticated fowl” includes, but is not limited to, chickens, ducks, turkeys, pigeons, ostriches, rheas, and emus that are raised for meat rather than for racing or as pets. Excluded from the meaning of “domesticated fowl” are nondomesticated birds, such as pheasants, raised for meat or any other purpose.

“*Livestock*” means domestic animals that are raised on a farm as a source of food or clothing. “Livestock” includes cattle, sheep, hogs, goats, chickens, ducks, turkeys, ostriches, rheas, emus, bison, and farm deer. “Farm deer” means the same as defined in Iowa Code section 170.1 and commonly includes animals belonging to the Cervidae family, such as fallow deer, red deer or elk and sika. However, “farm deer” does not include unmarked free-ranging elk. Fish and any other animals that are products of aquaculture are considered to be “livestock” as well.

Excluded from the term “livestock” are horses, mules, other draft animals, dogs, cats, and other pets. Also excluded from the term “livestock” are mink, bees, or other nondomesticated animals even if raised in captivity and even if raised as a source of food or clothing. Also excluded from “livestock” is any animal raised for racing.

“*Plants*” means fungi such as mushrooms and crops commonly grown in this state such as corn, soybeans, oats, hay, alfalfa hay, wheat, sorghum, and rye. Also included within the meaning of the term “plants” are flowers, shrubs, and fruit trees. Excluded from the meaning of the term “plants” are products of silviculture, such as trees raised for Christmas trees and any trees raised to be harvested for wood.

“*Reagent*” means a substance used for various purposes (i.e., in detecting, examining, or measuring other substances; in preparing materials; in developing photographs) because it takes part in one or more chemical reactions or biological processes. A reagent is also a substance used to convert one substance into another by means of the reaction that it causes. To be a reagent for purposes of the exemption, a substance must be primarily used as a reagent.

“*Silviculture*” means the establishment, growth, care, and cultivation of trees. “Silvicultural activities” includes logging. “Silvicultural products” includes trees raised and offered for sale for Christmas trees and any trees raised to be harvested for wood.

“*Solvent*” means a substance in which another substance can be dissolved and that is primarily used for that purpose.

“*Sorbent*” means a solid material, often in a powder or granular form, that acts to retain another substance, usually on the sorbent’s surface, thereby removing the other substance from the gas or liquid phase. The sorbent and the second material bond together at the molecular or atomic scale via physiochemical interactions. A substance is not a sorbent based on an ability to absorb heat or thermal energy.

“*Tax*” means the tax imposed upon retail sales or use of tangible personal property, specified digital products, or taxable services.

This rule is intended to implement Iowa Code chapter 423.