

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to rules necessary to implement the streamlined sales and use tax agreement and providing an opportunity for public comment

The Revenue Department hereby proposes to rescind Chapter 204, “Rules Necessary to Implement the Streamlined Sales and Use Tax Agreement,” 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 chapter 423, subchapter IV.

Purpose and Summary

The purpose of this proposed rulemaking is to readopt Chapter 204. The Department proposes revisions to the chapter to remove portions of the rules that the Department determined are obsolete or unnecessary or that duplicate statutory language. Iowa has been a member of the Streamlined Sales Tax Governing Board and a party to the Streamlined Sales and Use Tax Agreement (SSUTA) since October 1, 2005. The goal of the SSUTA is to maintain uniformity of definitions of certain sales and use tax-related terms, state and local tax bases, sourcing rules, and administration, among other features. In order to maintain compliance with the SSUTA, Iowa statutes, rules, and policies must comply with each provision of the SSUTA. Iowa Code chapter 423, subchapter VI, is the Uniform Sales and Use Tax Act Administration, which outlines Iowa’s intent to enter into the SSUTA to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for sellers. Chapter 204 contains rules interpreting the Uniform Sales and Use Tax Act Administration and additional rules necessary to maintain compliance with the SSUTA and help the public understand tax policies that Iowa has adopted as part of implementing the SSUTA.

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 p.m. 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 204 and adopt the following **new** chapter in lieu thereof:

CHAPTER 204
RULES NECESSARY TO IMPLEMENT THE STREAMLINED SALES
AND USE TAX AGREEMENT

701—204.1(423) Allowing use of the lowest tax rate within a database area and use of the tax rate for a five-digit area when a nine-digit zip code cannot be used. Any database maintained by the department that displays tax rates and tax jurisdictional boundaries based on either a five-digit or nine-digit zip code system shall, if an area encompassing one zip code has two or more rates of tax, provide to retailers a means of identifying and applying the lowest rate within the area for use in computing tax due. If a nine-digit zip code designation is not available for a street address or if a seller is unable to determine the nine-digit zip code designation of a purchaser after exercising due diligence to determine the designation, the seller may apply the lowest rate for the five-digit zip code area.

This rule is intended to implement Iowa Code section 423.55.

701—204.2(423) Permissible categories of exemptions.

204.2(1) Definitions.

“*Entity-based exemption*” means an exemption based on who purchases the product or who sells the product.

“*Product-based exemption*” means an exemption based on the description of the product and not based on who purchases the product or how the purchaser intends to use the product.

“*Use-based exemption*” means an exemption based on the purchaser’s use of the product.

204.2(2) Product-based exemptions. Iowa will enact a product-based exemption without restriction only if the agreement does not have a definition for the product or for a term that includes the product. If the agreement has a definition for the product or for a term that includes the product, Iowa will exempt all items included within the definition but will not exempt only part of the items included within the definition unless the agreement sets out the exemption for part of the items as an acceptable variation.

204.2(3) Entity-based and use-based exemptions. Iowa will enact an entity-based or a use-based exemption without restriction only if the agreement has no definition for the product whose use or purchase by a specific entity is exempt or for a term that includes the product. If the agreement has a definition for the product whose use or specific purchase is exempt, Iowa will enact an entity-based or a use-based exemption that applies to that product only if the exemption utilizes the agreement’s definition of the product. If the agreement does not have a definition for the product whose use or specific purchase is exempt but has a definition for a term that includes the product, Iowa has the power to enact an entity-based or a use-based exemption for the product without restriction.

This rule is intended to implement Iowa Code chapter 423, subchapter IV.

701—204.3(423) Requirement of uniformity in the filing of returns and remittance of funds. Any model 1, 2, or 3 seller may submit its sales or use tax returns in a simplified format that does not include more data fields than permitted by the governing board. The department will require only one remittance for each return except as otherwise allowed by the agreement. If any additional remittance is required, it will only be required from sellers that have collected more than \$30,000 in sales and use taxes in Iowa during the preceding calendar year. The amount of the additional remittance shall be determined through a calculation method rather than actual collections and shall not require the filing of an additional return.

This rule is intended to implement Iowa Code chapter 423, subchapter IV.

701—204.4(423) Allocation of bad debts. If a seller is entitled under Iowa Code section 423.21 to deduct bad debts owed to the seller and those bad debts consist of any sales price or purchase price upon which tax has been paid to the state of Iowa as well as a state or states other than Iowa, then allocation of the bad debt is allowed. The seller must support an allocation of the bad debts between Iowa and the other state or states through the proper accounting of its books and records.

This rule is intended to implement Iowa Code chapter 423, subchapter IV.

701—204.5(423) Purchaser refund procedures. Iowa law allows a purchaser to seek a return of overcollected sales or use taxes from the seller who collected them. More information is contained in Iowa Code section 423.45(2). In connection with any purchaser’s request of a seller that the seller return sales or use tax alleged to have been overcollected, the seller to whom the request is directed shall be rebuttably presumed to have a reasonable business practice if, in the collection of such sales or use tax, the seller uses either a provider or a system, including a proprietary system, which is certified by this state and has remitted all taxes collected by the use of that provider system to the department, less any deductions, credits, or collection allowances.

This rule is intended to implement Iowa Code chapter 423, subchapter IV.

701—204.6(423) Relief from liability for reliance on taxability matrix. Iowa provides and maintains a taxability matrix in a database that is in a downloadable format approved by the governing board. All sellers and certified service providers are relieved from liability to Iowa and any jurisdiction imposing a local option tax under Iowa Code chapter 423B or 423E for having charged and collected the incorrect

amount of sales or use tax resulting from the seller's or certified service provider's reliance on erroneous data provided by that taxability matrix.

This rule is intended to implement Iowa Code chapter 423, subchapter IV.

701—204.7(423) Effective dates of taxation rate increases or decreases when certain services are furnished. Certain taxable services are usually furnished over an extended period of time (e.g., utilities, janitorial, and ministorage services), and the user of such a service is billed at regular intervals (e.g., monthly or quarterly). The beginning date when a rate change is imposed on the sales price of this type of service differs, depending upon whether a rate increase or rate decrease is involved. If the rate of taxation has been increased, the beginning date of the rate change shall be the first day of the first billing period occurring on or after the effective date of the rate increase. If the rate of taxation has been decreased, the new rate shall apply to bills rendered on or after the effective date of the rate decrease.

This rule is intended to implement Iowa Code chapter 423, subchapter IV.