

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rulemaking related to local option sales and services tax
and providing an opportunity for public comment**

The Revenue Department hereby proposes to rescind Chapter 270, “Local Option Sales and Services Tax,” 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 99F.10(6) and 423B.5.

Purpose and Summary

The purpose of this proposed rulemaking is to readopt Chapter 270. The Department proposes revisions to the chapter to remove portions of the rules that the Department determined are obsolete or unnecessary or are duplicative of statutory language. The proposed chapter describes the Department’s interpretation of the underlying statute to help the public understand local option taxes. These rules reduce uncertainty about when tax applies.

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 270 and adopt the following **new** chapter in lieu thereof:

CHAPTER 270 LOCAL OPTION SALES AND SERVICES TAX

701—270.1(423B) Definitions.

270.1(1) Incorporation of definitions. To the extent it is consistent with Iowa Code chapter 423B and this chapter, all other words and phrases used in this chapter shall mean the same as defined in Iowa Code section 423.1 and chapter 423B and rule 701—200.1(423).

270.1(2) Chapter-specific definitions. For purposes of this chapter, unless the context otherwise requires:

“City” means the same as defined in Iowa Code section 362.2(4).

“Local option tax” or “local option taxes” means the taxes imposed by Iowa Code chapter 423B.

“Most recent certified federal census” means the final count from the most recent decennial census conducted by the United States Department of Commerce, Bureau of the Census, as modified by subsequent certifications from the Bureau of the Census. If a subsequent certified census occurs that modifies the “most recent certified federal census” for a participating jurisdiction, then the formula set forth in this rule for computations for distribution of the tax shall reflect any population adjustments reported by the subsequent certified census.

“Unincorporated area of the county” means all areas of a county that are outside the corporate limits of all cities that are located within the geographical area of the county.

This rule is intended to implement Iowa Code section 423B.7.

701—270.2(423B) Imposition of local option taxes and notification to the department. This rule describes notification and other requirements as related to the department. More information on election forms and instructions can be found in 721—Chapter 21.

270.2(1) Notice to the department. Within ten days of the election at which a majority of those voting on the question of imposition, repeal, or change in the rate of tax vote in favor, the county auditor must give notice of the election results to the director by sending a copy of the abstract of votes and a copy of the sample ballot from the election.

270.2(2) Avoiding a lapse in tax due to expiration of a former local option tax. A jurisdiction that has a local option tax that is set to expire may vote to impose another local option tax. However, due to the required imposition dates previously set forth, there may be a lapse in the tax because of an expiration of the former local option tax and the required imposition dates for imposition of a local option tax. A local option jurisdiction may avoid a lapse in local option tax. To avoid a lapse in the tax, a jurisdiction may place on the ballot that the new local option tax will continue without repeal of the prior tax. If the required vote is in favor of imposition of the local option tax, the continued local option tax can be imposed so there is no lapse in the tax.

This rule is intended to implement Iowa Code section 423B.6.

701—270.3(423B) Administration.

270.3(1) Generally. The department is charged with the administration of the tax, once imposed, and must administer the tax as nearly as possible in conjunction with the administration of the state sales tax.

270.3(2) Incorporation of 701—Chapter 11. Except as otherwise stated in this chapter, the requirements of 701—Chapter 11 apply to retailers required to collect local option taxes in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code section 423B.6.

701—270.4(423B) Filing returns; payment of tax; penalty and interest.

270.4(1) Incorporation of 701—Chapter 202. Except as otherwise stated in this chapter, the requirements of 701—Chapter 202 apply to retailers required to collect local option tax in the same manner as those requirements apply to all sellers and retailers making sales subject to state sales tax.

270.4(2) Local tax collections not included to determine filing frequency. Local option tax collections are included in computation of the total tax to determine frequency of filing under Iowa Code section 423.31.

This rule is intended to implement Iowa Code section 423B.6.

701—270.5(423B) Permits. Except as otherwise stated in this chapter, the requirements of 701—Chapter 201 apply to retailers required to collect local option tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code section 423B.6.

701—270.6(423B) Sales subject to local option sales and services tax. All sales subject to sales tax under Iowa Code chapter 423 are subject to local option sales and services tax. There is no local option use tax.

270.6(1) Sourcing. The general sourcing rules described in Iowa Code section 423.15 and 701—Chapter 205 are used to determine whether a sale is subject to local option taxes and, if so, in what jurisdiction. A local sales and services tax is not applicable to transactions sourced to a place of business, as defined in Iowa Code section 423.1, of a retailer if such place of business is located in part within a city or unincorporated area of the county where the tax is not imposed.

270.6(2) *Sellers responsible for collecting local option sales and services tax.* Sales sourced to Iowa and made by sellers subject to Iowa Code section 423.1(48) or 423.14A are subject to local option sales and services tax.

This rule is intended to implement Iowa Code section 423B.5(1).

701—270.7(423B,423E) Sales not subject to local option tax, including transactions subject to Iowa use tax. The local option sales and services tax is imposed upon the same basis as the Iowa state sales and services tax, with the following exceptions:

1. Local option tax is not imposed on the sales price from the sale of tangible personal property and services that are excluded from local option tax as described in Iowa Code section 423B.5(1).

2. A local taxing jurisdiction is prohibited from taxing the sales price from a pay television service consisting of a direct-to-home satellite service to the extent precluded by Section 602 of the Telecommunications Act of 1996. A “local taxing jurisdiction” is any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local jurisdiction in the territorial jurisdiction of the United States, with the authority to impose a tax or fee, but does not include a state.

3. Sales subject to Iowa use tax. Since the local option tax is imposed only on the same basis and not on any greater basis than the Iowa sales and services tax, local option tax is not imposed on any transactions subject to Iowa use tax, including the one-time registration fee applicable to vehicles subject to registration or subject only to the issuance of a certificate of title. Also, exemptions that are applicable only to Iowa use tax cannot be claimed to exempt any transaction subject to local option sales tax.

This rule is intended to implement Iowa Code section 423B.5.

701—270.8(423B) Local option sales and services tax payments to local governments.

270.8(1) *County-imposed local sales and services tax; division of funds from accounts.* Division of the amount from each county’s account to be distributed is done with these steps.

a. The total amount in the county’s account to be distributed is first divided into two parts. One part is equal to 75 percent of the total amount to be distributed. The second part is the remainder to be distributed.

b. The part comprised of 75 percent of the total receipts to be distributed is further divided into an amount for each participating city or unincorporated area. This division is based upon the most recent certified federal census population and any subsequent certified census. Population for each participating city and unincorporated area is determined separately and totaled. The population for each sales tax-imposing city or unincorporated area is divided by the total population to produce a percentage for each city or the unincorporated area. The percentages are rounded to the nearest one-hundredth of a percent with the total of all percentages equal to 100 percent. Each government’s percentage is multiplied by 75 percent of the sales tax receipts to be distributed. Distributions are to be rounded to the nearest cent.

There are two types of certified federal censuses. The first is the usual decennial census that is always conducted throughout the entire area of any county imposing a local option sales tax.

The second type of certified federal census is the “interim” or “subsequent” census that is conducted between decennial censuses. An interim or subsequent census is not necessarily conducted within an entire county but may be used to count increases or decreases in only one or some of the jurisdictions within that county, for instance, one particular municipality. If an interim census is conducted within only certain participating jurisdictions of a county where a local option sales tax is imposed, the changes in population which that census reflects must be included within both the numerator and the denominator of the fraction that is used to compute the participating jurisdiction’s share of the revenue from the county’s account that is based on county population. Example 3 of this rule contains a demonstration of how an interim census can affect a population distribution formula.

c. The remaining 25 percent of the amount to be distributed is further divided based upon property taxes levied. The sum of property tax dollars to be used is the amount levied for the three years from July 1, 1982, through June 30, 1985, as obtained by using data from county tax rate reports and city tax

rate reports compiled by the department of management. Property taxes levied by participating cities or the board of supervisors, if the local sales tax is imposed in unincorporated areas, are to be determined separately, then totaled. The property tax amount for each sales tax-imposing city and the board of supervisors, if the sales tax is imposed in unincorporated areas, is divided by the totaled property tax to produce a percentage. The percentages are rounded to the nearest one-hundredth of a percent with the total of all percentages equal to 100 percent. Each percentage is multiplied by 25 percent of the sales tax receipts to be distributed. Distributions are to be rounded to the nearest cent.

d. For each participating city, or the board of supervisors if unincorporated areas of the county participate, the amount determined in paragraph 270.8(1) "c" is added to the amount found in paragraph 270.8(1) "b." This amount is then to be remitted to the appropriate local government.

In order to illustrate the division of local option sales and services tax receipts, the following examples are provided. The numbers are shown in an attempt to reflect reality but are hypothetical.

EXAMPLE 1: If a local option sales tax is approved for all of Pottawattamie County, the distribution of \$100,000 in countywide receipts would be made in this manner:

Step 1:

Distribution Basis	Amount
Population	\$ 75,000.00
Property Taxes Levied	25,000.00
Total	<u>\$100,000.00</u>

Step 2:

Jurisdiction	Certified Population		Receipts to be
	Number	Percentage	Distributed
Avoca	1,650	1.91%	\$ 1,432.50
Carson	716	0.83%	622.50
Carter Lake	3,438	3.98%	2,985.00
Council Bluffs	56,449	65.30%	48,975.00
Crescent	547	0.63%	472.50
Hancock	254	0.29%	217.50
Macedonia	279	0.32%	240.00
McClelland	177	0.20%	150.00
Minden	419	0.49%	367.50
Neola	839	0.97%	727.50
Oakland	1,552	1.80%	1,350.00
Treynor	981	1.13%	847.50
Underwood	448	0.52%	390.00
Walnut	897	1.04%	780.00
Unincorporated	<u>17,796</u>	<u>20.59%</u>	<u>15,442.50</u>
Total	<u>86,442</u>	<u>100.00%</u>	<u>\$75,000.00</u>

NOTE: The portion of the city of Shelby in Pottawattamie County is excluded.

Step 3:

Jurisdiction	Three-Year Total Taxes Levied		Receipts to be
	Amount	Percentage	Distributed
Avoca	\$ 454,556	0.82%	\$ 205.00
Carson	202,882	0.37%	92.50
Carter Lake	946,026	1.71%	427.50
Council Bluffs	30,290,732	54.81%	13,702.50
Crescent	7,732	0.01%	2.50
Hancock	56,705	0.10%	25.00
Macedonia	64,504	0.12%	30.00
McClelland	24,300	0.04%	10.00
Minden	155,112	0.28%	70.00
Neola	206,560	0.38%	95.00
Oakland	319,153	0.58%	145.00
Treynor	346,849	0.63%	157.50
Underwood	139,571	0.25%	62.50
Walnut	264,145	0.48%	120.00
Unincorporated	<u>21,782,457</u>	<u>39.42%</u>	<u>9,855.00</u>
Total	<u>\$55,262,284</u>	<u>100.00%</u>	<u>\$25,000.00</u>

Step 4:

Jurisdiction	Amount to be Distributed		Total
	By Population	By Taxes	Distribution
Avoca	\$ 1,432.50	\$ 205.00	\$ 1,637.50
Carson	622.50	92.50	715.00
Carter Lake	2,985.00	427.50	3,412.50
Council Bluffs	48,975.00	13,702.50	62,677.50
Crescent	472.50	2.50	475.00
Hancock	217.50	25.00	242.50
Macedonia	240.00	30.00	270.00
McClelland	150.00	10.00	160.00
Minden	367.50	70.00	437.50
Neola	727.50	95.00	822.50
Oakland	1,350.00	145.00	1,495.00
Treynor	847.50	157.50	1,005.00
Underwood	390.00	62.50	452.50
Walnut	780.00	120.00	900.00
Unincorporated	<u>15,442.50</u>	<u>9,855.00</u>	<u>25,297.50</u>
Total	<u>\$75,000.00</u>	<u>\$25,000.00</u>	<u>\$100,000.00</u>

EXAMPLE 2: If a local option sales tax is approved for Avoca, Oakland and Treynor in Pottawattamie County and \$10,000 is to be distributed, the distribution would be made in this manner:

Step 1:

Distribution Basis	Amount
Population	\$ 7,500.00
Property Taxes Levied	<u>2,500.00</u>
Total	<u>\$10,000.00</u>

Step 2:

Jurisdiction	Certified Population		Receipts to be
	Number	Percentage	Distributed
Avoca	1,650	39.45%	\$2,958.75
Oakland	1,552	37.10%	2,782.50
Treynor	<u>981</u>	<u>23.45%</u>	<u>1,758.75</u>
Total	<u>4,183</u>	<u>100.00%</u>	<u>\$7,500.00</u>

Step 3:

Jurisdiction	Three-Year Total Taxes Levied		Receipts to be
	Amount	Percentage	Distributed
Avoca	\$ 454,556	40.56%	\$1,014.00
Oakland	319,153	28.48%	712.00
Treynor	<u>346,849</u>	<u>30.96%</u>	<u>774.50</u>
Total	<u>\$1,120,558</u>	<u>100.00%</u>	<u>\$2,500.00</u>

Step 4:

Jurisdiction	Amount to be Distributed		Total
	By Population	By Taxes	Distribution
Avoca	\$2,958.75	\$1,014.00	\$ 3,972.75
Oakland	2,782.50	712.00	3,494.50
Treynor	<u>1,758.75</u>	<u>774.00</u>	<u>2,532.75</u>
Total	<u>\$7,500.00</u>	<u>\$2,500.00</u>	<u>\$10,000.00</u>

EXAMPLE 3: For the purposes of understanding this example, assume that the numbers for “certified population” from Step 2 of Example 2 immediately above are derived from the 1990 decennial census. Assume further that in 1993 an interim census is conducted by the Bureau of the Census in Avoca and Oakland only, and nowhere else in Pottawattamie County. As a result of that interim census, the Bureau of the Census certifies the population of Avoca to be 1,752 and the population of Oakland to be 1,493. The cities’ percentages of receipts to be distributed are recomputed in the following manner:

$$\text{Avoca's Percentage Equals } \frac{1,752}{1,752 + 1,493 + 981} = 41.45\%$$

$$\text{Oakland's Percentage Equals } \frac{1,493}{1,493 + 1,752 + 981} = 35.32\%$$

Amounts in Step 2 are then revised as follows:

Jurisdiction	Certified Population		Receipts to be
	Number	Percentage	Distributed
Avoca	1,752	41.46%	\$3,109.50
Oakland	1,493	35.33%	2,649.75
Treynor	<u>981</u>	<u>23.21%</u>	<u>1,740.75</u>
Total	<u>4,226</u>	<u>100.00%</u>	<u>\$7,500.00</u>

The “amount to be distributed by population” found in Step 4 of Example 2 would then be recomputed based on the new figures.

270.8(2) *City-imposed local option sales and services tax.* More information on the distribution of city-imposed local sales and services tax can be found in Iowa Code section 423B.7(1).

This rule is intended to implement Iowa Code section 423B.7.

701—270.9(423B) Allocation procedure when sourcing of local option sales tax remitted to the department is unknown. If the director is unable to determine from which county local option sales tax was collected, that local option sales tax shall be allocated among the various counties in which local option sales and services tax is imposed according to the following procedure:

1. The calculations performed under this procedure shall be performed at least quarterly, but in no event less often than the treasurer of the state is obligated to distribute shares of each county’s account in the local sales and services tax fund.

2. The total amount of receipts for which the director is unable to determine a county of collection that have accumulated since the last allocation of these receipts shall be added together to form one lump sum.

3. The amount of population (according to the most recent certified federal census) within the areas of each individual county in which a local option sales and services tax is imposed shall be determined.

4. The amount of population so determined in numbered paragraph “3” above for each county shall be added to the amount for every other county in Iowa in which the local option sales and services tax is imposed, until the figure for the amount of population of all areas of Iowa in which the local option sales and services tax is imposed is determined.

5. The sum determined to exist in numbered paragraph “2” above shall be multiplied by a fraction, the numerator of which is the population of any one county determined in numbered paragraph “3” above and the denominator of which is the number calculated by the method described in numbered paragraph “4.” The procedure described herein in numbered paragraph “5” shall be used until the amount of tax due to every county imposing local option sales and services tax is calculated. After calculations are complete, the treasurer of the state must distribute shares of each county’s account in the local sales and services tax fund. Characterization of the term “most recent certified federal census” can be found in rule 701—270.1(423B), and methods of rounding off percentages and monetary sums can be found in rule 701—270.8(423B).

This rule is intended to implement Iowa Code section 423B.7(1).

701—270.10(423B) Application of payments. Since a combined state sales and local option return is utilized by the department, all payments received will be applied to satisfy state sales tax and local option sales and services tax, which include tax, penalty and interest. Application of payments received with the tax return and any subsequent payments received will be applied based on a ratio formula, unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2) “d.” The ratio for applying all payments received with the return and all subsequent payments for the given tax period will be based upon the calculated total of state sales and local option sales and services tax due for the given tax period in relation to combined total payment of sales and local option sales and services tax actually received for that tax period.

This rule is intended to implement Iowa Code section 423B.7.

701—270.11(423B) Computation of local option tax due from mixed sales on excursion boats. Particular difficulties exist in calculating the amount of local option sales tax due for sales occurring on an excursion gambling boat sailing into and out of jurisdictions imposing the local option sales tax. Ordinarily, whether local option sales tax is payable to a particular jurisdiction is based on destination sourcing. More information can be found in Iowa Code section 423.15 and 701—Chapter 205. However, it can be quite difficult to determine if a moving excursion gambling boat is at any one point in time within or outside of a jurisdiction imposing the local option tax. Thus, it is difficult to determine if a delivery of property or provision of a service on the boat has occurred inside or outside of a local option tax jurisdiction. Because of this, the department will accept the use of any formula that rationally apportions the progress of an excursion gambling boat among jurisdictions that impose a local option tax and those that do not.

Below are four examples setting out two possible formulas for apportionment. Examples 1 and 3 utilize a “distance” formula for apportionment. Examples 2 and 4 utilize a “time” formula for apportionment. In Examples 1 and 2, state sales tax is included in the sales price of the taxable items. In Examples 3 and 4, state sales tax is added to taxable gross receipts. In all examples, local option sales tax is included in the sales price; also, for every example, it is assumed that the local option sales tax rate is 1 percent in every jurisdiction where it is imposed.

EXAMPLE 1: The excursion gambling boat “Auric” is based in Clinton. Assume that during a particular cruise there occurs \$10,000 worth of vending machine and nongambling game sales. State sales tax and local option tax must be included in the amounts charged for these vending machine and nongambling game sales. Assume that the Auric, on an ordinary cruise, travels round trip for 50 miles on the Mississippi River, 25 of those miles through waters that are part of a local option sales tax jurisdiction and 25 of those miles that are not. The amount of state sales tax due and the amount of local option sales tax (LOST) due using a “distance” apportionment formula are determined as follows:

1. $(25 \div 50) \times 0.01 = 0.005$
(miles in LOST jurisdiction \div total miles) \times LOST rate = effective LOST rate
2. $1 + 0.06 + 0.005 = 1.065$
 $1 + \text{state sales tax rate} + \text{effective LOST rate} = (1 + \text{effective total tax rate})$
3. $\$10,000.00 \div 1.065 = \$9,389.67$
Gross receipts \div (1 + effective total tax rate) = total sales
4. $\$9,389.67 \times 0.06 = \563.38
Total sales \times state tax rate = state tax amount
5. $\$9,389.67 \times 0.005 = \46.95
Total sales \times effective LOST rate = LOST amount
6. $\$563.38 + \$46.95 = \$610.33$
State tax amount + LOST amount = total tax amount

EXAMPLE 2: The excursion gambling boat “Blue Diamond” is based in Davenport. Assume that, as in Example 1, during a particular cruise there occurs \$10,000 worth of vending machine and nongambling game sales. Again, state sales tax and local option tax are included in the amounts charged for these vending machine and nongambling game sales. The Blue Diamond spends three hours on the water during an ordinary cruise. One hour is spent sailing in waters where no local option sales tax is imposed; two hours are spent in waters where the local option tax is imposed. In this case, the Blue Diamond’s operator can use a formula based on time spent sailing inside and outside of a local option tax-imposing jurisdiction rather than distance traveled within and without such a jurisdiction as in Example 1, so long as there is a reasonable amount of evidence to indicate that the formula reflects with some accuracy the ratio of nontaxable and taxable sales. The calculation is performed as follows:

1. $(2 \div 3) \times 0.01 = 0.00666$
(hours in LOST jurisdiction \div total hours) \times LOST rate = effective LOST rate
2. $1 + 0.06 + 0.00666 = 1.06666$
 $1 + \text{state sales tax rate} + \text{effective LOST rate} = (1 + \text{effective total tax rate})$
3. $\$10,000.00 \div 1.06666 = \$9,375.06$
Gross receipts \div (1 + effective total tax rate) = total sales

4. $\$9,375.06 \times 0.06 = \562.50
 Total sales \times state tax rate = state tax amount
 5. $\$9,375.06 \times 0.00666 = \62.44
 Total sales \times effective LOST rate = LOST amount
 6. $\$562.50 + \$62.44 = \$624.94$
 State tax due + LOST due = total tax amount

EXAMPLE 3: The excursion gambling boat “Golconda” is based in Dubuque. On an ordinary cruise, it will travel a round trip of 50 miles on the Mississippi River. During 25 of those 50 miles, the Golconda is passing through waters that are part of a local option sales tax jurisdiction. Assume that on one particular cruise, \$100,000 in taxable gross receipts is collected on the boat. Local option sales tax is included in the \$100,000 amount but not state sales tax. Thus, the total amount collected is \$106,000; \$100,000 in gross receipts, \$6,000 in state sales tax. Local option tax is calculated as follows:

1. $(25 \div 50) \times 0.01 = 0.005$
 (miles in LOST jurisdiction \div total miles) \times LOST rate = effective LOST rate
 2. $1 + 0.005 = 1.005$
 1 + effective LOST rate
 3. $\$100,000.00 \div 1.005 = \$99,502.49$
 Gross receipts including LOST \div (1+ effective LOST rate) = total sales
 4. $\$99,502.49 \times 0.06 = \$5,970.15$
 Total sales \times state tax rate = state tax amount
 5. $\$100,000.00 - 99,502.49 = \497.51
 Gross receipts including LOST – total sales = LOST amount
 6. $\$5,970.15 + \$497.51 = \$6,467.66$
 State tax due + LOST due = total tax amount
 7. $\$99,502.49 + \$497.51 + \$5,970.15 = \$105,970.15$

Total sales + LOST amount + state tax amount = total amount collected by vendor

EXAMPLE 4: The excursion gambling boat “Black Jack” is based in Davenport. Assume that during a particular cruise there is \$150,000 in taxable gross receipts collected on the Black Jack. The full amount collected is \$159,000; \$9,000 in state sales tax and \$150,000 in gross receipts. The Black Jack spends three hours on the water during an ordinary cruise. One hour is spent sailing in waters where no local option sales tax is imposed; two hours are spent in waters where the local option tax is imposed. In this case, as in Example 2, the Black Jack’s operator can use a formula based on time spent sailing inside and outside of a local option tax-imposing jurisdiction rather than distance traveled within and without such a jurisdiction so long as there is a reasonable amount of evidence to indicate that the formula reflects with some accuracy the ratio of nontaxable and taxable sales. In this example, tax is computed as follows:

1. $(2 \div 3) \times 0.01 = 0.00666$ effective LOST rate
 (hours in LOST jurisdiction \div total hours) \times LOST rate = effective LOST rate
 2. $1 + 0.00666 = 1.00666$
 1 + effective LOST rate
 3. $\$150,000.00 \div 1.00666 = \$149,007.61$
 Gross receipts including LOST but not state tax \div (1 + effective LOST rate) = total sales
 4. $\$149,007.61 \times 0.06 = \$8,940.46$
 Total sales \times state tax rate = state tax amount
 5. $\$150,000.00 - 149,007.61 = \992.39
 Gross receipts including LOST but not state tax – total sales = LOST amount
 6. $\$8,940.46 + \$992.39 = \$9,932.85$
 State tax amount + LOST amount = total tax amount
 7. $\$149,007.61 + \$992.39 + \$8,940.46 = \$158,940.46$

Total sales + LOST amount + state tax amount = total amount collected by vendor

Upon beginning operation, a licensee may choose to employ either the “distance” method of apportionment set out in Examples 1 and 3 or the “time” method set out in 2 and 4 above without informing the department in advance of filing a sales tax return of the licensee’s choice. A licensee

cannot use both methods of apportionment. If a licensee commencing operation wishes to use another method of apportionment, the licensee must petition the department for permission to use this alternative method and present whatever evidence the department shall rationally require that the alternative method better reflects the ratio of taxable to nontaxable sales before using the alternative method. Any licensee wishing to change from any existing method of apportionment to another method must also petition the department and receive permission to change its method of apportionment.

This rule is intended to implement Iowa Code sections 99F.10(6) and 423B.5.