

REVENUE DEPARTMENT[701]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 701—Chapter 204
“Rules Necessary to Implement the Streamlined Sales and Use Tax Agreement”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 421.14, 422.68, and 423.42
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 423, subchapter IV

Public Hearing

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

October 25, 2023
9 a.m. to 12 noon

Via video/conference call:
meet.google.com/cox-brcn-tok?hs=122&authuser=0

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Revenue no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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P.O. Box 10457
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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 section 423, subchapter VI, is the Uniform Sales and Use Tax Administration Act, 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 Administration Act 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.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
The proposed rules do not create costs for any class of persons.
 - Classes of persons that will benefit from the proposed rulemaking:

The public, including retailers and purchasers, will benefit from the rules because they provide clarification on a variety of topics, such as the simplification of filing returns, whether a seller is entitled to the allocation of bad debts, how to return overcollection of sales tax, and what tax rate applies when a service is furnished over an extended period of time. The rules also explain the taxability matrix and define relevant terms.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

There is no economic impact associated with the rules beyond what is contained in statute. If sellers did not understand their rights or obligations, there would be a risk of overcollecting or undercollecting sales tax. The Iowa Department of Revenue Tax Research Bureau has estimated the fiscal impact of Iowa's participation in the SSUTA based on an analysis of Iowa sales tax returns filed by streamlined sales tax certified service providers. For purposes of this estimate, it is assumed that the fiscal impact of participation equates to 100 percent of revenues reported on such returns. (Although it is likely that many sellers who participate in the streamlined sales tax program would be required to remit Iowa sales tax in lieu of the program and would do so, it is not possible to estimate the extent to which this is the case.) Based on the foregoing information and assumptions, participation in the agreement yielded Iowa sales tax revenues of \$49.6 million in FY 2023. Iowa sales tax revenues associated with streamlined sales tax have increased steadily since FY 2020, when they were \$14.8 million.

- Qualitative description of impact:

Without these rules, Iowa would no longer be in compliance with the SSUTA and would not benefit from membership. Not having these rules would also lead to confusion from sellers about their rights and responsibilities and lead to an increased number of questions to the Department.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no costs to the agency of implementing the rules beyond those that would otherwise be required to administer the statutes and the SSUTA.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The cost of inaction would be failing to update the chapter to remove obsolete language and language that is duplicative of the statute. The benefit of the rules is reducing confusion about the applicability of the described statutes and the requirements of the SSUTA.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The proposed rulemaking is not costly or intrusive. The purpose of these rules is to provide definitions and clarification of provisions of the SSUTA. The Department considered the option of not having rules explaining the provisions of the SSUTA but determined that the rules provide useful clarification to the public, including sellers that participate in the SSUTA.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Because these rules are necessary to maintain compliance with the SSUTA, the Department did not consider proceeding without rules. The Department did think carefully about the language and eliminated language where it was unnecessary or outdated.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Iowa must have these rules in order to maintain compliance with the SSUTA, so there is no alternative available. Additionally, failing to have these rules at all would lead to confusion about sellers' responsibilities under the SSUTA.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Rule 701—204.3(423) benefits small businesses by limiting the Department’s ability to require additional remittances from sellers that have collected less than \$30,000 in the prior year. The other rules do not have a substantial impact on small business. The rules do not impose any requirements on businesses, other than requirements imposed by the underlying statutes and the SSUTA.

Text of Proposed Rulemaking

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.