

REVENUE DEPARTMENT[701]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 701—Chapter 200
“Definitions”

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 sections 423.1, 423.2, 423.3, 423.6 and 423.45

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:

Alana Stamas
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.350.3932
Email: alana.stamas@iowa.gov

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.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The proposed rulemaking does not create costs for any classes of persons.

- Classes of persons that will benefit from the proposed rulemaking:

The public will benefit from the proposed rulemaking because it provides a clear understanding about what each term means when used in other administrative rules.

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 this rule beyond what is contained in statute. If the public does not understand what a term means in another administrative rule, there is a risk of missing important information about the taxability or the exemption from taxation of something members of the public buy or sell.

- Qualitative description of impact:

The qualitative benefit of this rulemaking beyond what is already provided in statute is the value of having clear definitions for terms used in other rules that are not already defined in statute to reduce confusion about the meaning, scope, and applicability of terms in other rules.

3. Costs to the State:

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

There are no costs to the State beyond what is already required to administer the relevant statutes.

- Anticipated effect on state revenues:

There is no anticipated effect on state revenues; however, clarification of these terms makes it more likely that the correct amount of tax will be remitted.

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

The costs of inaction would be failing to update this rule to remove unnecessary and duplicative statutory language. The benefit is providing taxpayers with definitions so they can better understand the context and scope of other administrative rules. The Department considered the costs and benefits of not providing definitions for commonly used terms and concluded providing definitions for terms not otherwise defined in statute provides essential assistance to taxpayers.

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.

6. Alternative methods considered by the agency:

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

The Department considered the option of not providing definitions of these terms but determined the definitions provide useful guidance to taxpayers.

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

Proceeding without this rulemaking would harm taxpayers by limiting their understanding of the meaning, scope, and applicability of other administrative rules.

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?

The rulemaking does not have a substantial impact on small business. The rule provides definitions for terms used throughout other administrative rules, and the definitions are the same for individuals and businesses of different sizes.

Text of Proposed Rulemaking

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 purpose 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 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.