

# REVENUE DEPARTMENT[701]

## Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 701—Chapter 201  
“Sales and Use Tax Permits”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 421.14, 423.25, 423.36, and 423.42

State or federal law(s) implemented by the rulemaking: Iowa Code sections 423.36, 252J.7, 423.2, 423.40, and 421.17

### Public Hearing

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

November 8, 2023  
9 a.m. to 12 noon

Via video/conference call:  
[meet.google.com/msc-ekdk-xws](https://meet.google.com/msc-ekdk-xws)  
PH: 262.864.1688  
PIN: 672 555 995#

### 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:

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](mailto:nick.behlke@iowa.gov)

### Purpose and Summary

The purpose of this rulemaking is to rescind Chapter 201 and adopt a new Chapter 201 related to sales and use tax permits. Chapter 201 describes the requirements surrounding sales and use tax permits. The rules in this chapter are intended to help the public understand how to obtain a permit and what is required to obtain one.

The citation in 701—subrule 201.2(3) to 701—Chapter 19 refers to a chapter that will be adopted in a future rulemaking.

### 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 class of persons.

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

These rules help the public understand their obligations and common procedures related to obtaining and maintaining a sales and use tax permit. Any member of the public who has a sales and use tax permit or needs to obtain one will therefore benefit from this chapter.

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 known economic or other quantitative impact of this chapter. However, the guidance offered by this chapter likely encourages compliance with sales and use tax procedures.

- Qualitative description of impact:

The qualitative impact of this chapter is to provide guidance to sales and use tax permit holders.

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:

Because these rules describe procedures related to sales and use tax permits, the guidance contained in these rules will likely encourage compliance with state sales and use tax laws.

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 rules to remove language that is duplicative of statute and language that is unclear. The benefit would be providing guidance to the public about the Department's policies on sales and use tax permits.

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 the rules is to provide guidance on how to obtain a permit and how to remain in compliance with the requirements of holding a permit.

6. Alternative methods considered by the agency:

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

The Department considered the possibility of not providing rules on these topics but determined that providing guidance on sales and use tax permits was necessary.

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

Proceeding without these rules would lead to confusion about the requirements to obtain a permit and to maintain a permit.

## 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?

There is no substantial impact on small business through this chapter. There is no difference in how these rules treat small businesses as opposed to other entities.

## Text of Proposed Rulemaking

ITEM 1. Rescind 701—Chapter 201 and adopt the following **new** chapter in lieu thereof:

### CHAPTER 201 SALES AND USE TAX PERMITS

#### **701—201.1(423) Permit required.**

**201.1(1) *Permit requirement.*** A person shall not make taxable sales of tangible property, specified digital products, or services until the person has received a permit from the department.

**201.1(2) *Purchases subject to use tax.*** A person liable for use tax under Iowa Code section 423.34 is required to file a sales and use tax return with the department, reporting and remitting use tax on all property or taxable service purchased for use in Iowa during the tax period covered by the return, unless the seller from whom the purchase is made is registered with the department and has collected sales or use tax on the purchase.

**201.1(3) *Sales subject to use tax.*** A remote seller as defined in rule 701—207.1(423) making sales into Iowa or sales of tangible personal property, specified digital products, or taxable services without meeting or exceeding the sales threshold

as defined in rule 701—207.1(423) may register for a sales and use tax permit to collect use tax on such sales. The person collecting use tax on these sales shall report these sales as sales subject to use tax on the sales and use tax return. Rule 701—207.6(423) contains additional information about sales tax collection obligations for out-of-state persons.

**201.1(4) Infrequent purchases.** A person who does not regularly make purchases subject to use tax but needs to remit tax may use the Iowa non-permit use tax return available via GovConnectIowa or by other means as prescribed by the department. If a person owes less than \$1,200 per year in use tax, the person does not need to obtain a permit and may file the Iowa non-permit use tax return.

This rule is intended to implement Iowa Code section 423.36.

### **701—201.2(423) Application for permit.**

#### **201.2(1) Permit application.**

*a.* An application for a sales and use tax permit shall be made via GovConnectIowa or by other means prescribed by the department, and the applicant shall furnish all information requested on such form. An application for a permit for a business operating under a trade name shall state the trade name, as well as the individual owner's name, in the case of a sole proprietorship by an individual, or the trade name and the name of all partners in the case of a partnership. The application shall state the date when the applicant will begin making taxable sales from the location for which the application is made.

*b.* There is no charge for a sales and use tax permit. If a person makes retail sales from more than one location, each location from which taxable sales of tangible personal property, specified digital products, or services will occur shall be required to hold a permit.

#### **201.2(2) Signatures required.**

*a. Applications.* The application shall be signed by the owner in the case of a sole proprietorship or a single-member LLC, or otherwise by an individual authorized to act on behalf of the business under rule 701—7.6(17A,22,421,422).

*b. Electronic applications.* For electronically transmitted applications, the signature must comply with rule 701—8.2(17A,421) unless more specified requirements are described on the form.

**201.2(3) Retroactive permits and returns for prior periods.** A person may indicate on a permit application that the effective date of the permit is in a prior tax period. Returns must be filed for all prior tax periods dating back to the effective date of the permit. Penalty and interest applies pursuant to Iowa Code sections 421.27 and 423.40. Submission of a retroactive permit application makes a person ineligible for a voluntary disclosure agreement for those prior tax periods and does not prohibit the department from enforcing provisions of Iowa Code section 423.40 if applicable. 701—Chapter 19 contains more information about the voluntary disclosure program.

**201.2(4) Address only required for retail sales locations.** If a person is subject to sales tax and has physical presence or economic presence and is not making sales exclusively through a marketplace facilitator, the person shall provide a location for its sales and use tax permit.

**201.2(5) Seasonal filers.** A seasonal business retailer with sales in up to four months during the calendar year may register to file a return and remit tax as a seasonal filer. The retailer will be expected to only file returns for the specific months in which the retailer conducts business as indicated by the retailer upon registration. The retailer will not be expected to file a return or remit tax for the other months of the year. Like any other retailer, the seasonal retailer must still notify the department when it ceases operation permanently; if it does not, it will receive a nonfiler notice from the department.

EXAMPLE: Retailer A plans to start selling Christmas trees annually starting in 2022. Retailer A only plans to sell trees in November and December each year. Retailer A may request to be designated as a seasonal filer such that it only is required to file returns for November and December each year. Retailer A fails to file a sales and use tax return for November 2029. Retailer A will receive a notice from the department even if Retailer A stopped selling trees after 2028.

This rule is intended to implement Iowa Code section 423.36.

**701—201.3(423) Retailers selling nontaxable goods and services.** Persons regularly engaged in selling tangible personal property or a specified digital product that is exempt from tax, making nontaxable transactions, or performing a service that is not enumerated in Iowa Code section 423.2 shall not be required to obtain a sales tax permit. However, if the retailer makes taxable sales or provides taxable services, the retailer will be required to hold a permit under the provisions of this chapter and Iowa Code section 423.36.

This rule is intended to implement Iowa Code section 423.36.

**701—201.4(423) Obtaining a new permit after voluntarily canceling a prior permit.** A person who previously held and canceled a permit who wishes to re-engage in business shall apply to the department for a new permit and file any previously unfiled tax returns. Upon receipt of the proper clearance for previous tax returns, a new permit may be issued if the relevant persons described in Iowa Code section 423.36 are not substantially delinquent in paying any tax due that is administered by the department.

This rule is intended to implement Iowa Code section 423.36.

**701—201.5(423) Permit not transferable—sale of business.** If a permit is held by a single-member LLC or a sole proprietor, the permit is not transferable. An entity that is not a single-member LLC or a sole proprietorship may, upon the sale of the business, transfer its permit to a new owner that is not a single-member LLC or a sole proprietorship.

This rule is intended to implement Iowa Code section 423.36.

**701—201.6(423) Change of location.** A business changing its location shall cancel its original permit and apply for a new permit. If a business does not have a stationary location, the business shall report its mailing address as its location.

This rule is intended to implement Iowa Code section 423.36.

**701—201.7(423) Change of ownership or business organization.**

**201.7(1) Change of business entity.** A retailer changing its business entity shall apply for a new permit under the name of the new entity. This includes but is not limited to such entity changes as proprietorship to partnership, partnership to corporation, or any combination thereof.

**201.7(2) Change of ownership.** A business that changes ownership shall cancel its permit and reapply with the new federal employer identification number (FEIN).

This rule is intended to implement Iowa Code section 423.36.

**701—201.8(423) Change of legal or operating name of a business.**

**201.8(1) Change to legal name.** A retailer changing its legal name but maintaining its ownership may continue to use its existing sales and use tax permit. The retailer shall notify the department of the change in legal name and shall provide any form of documentation requested by the department proving the change in name before the department will change the legal name for the permit.

**201.8(2) Change to operating name.** A retailer changing its operating, or “doing business as,” name may continue using its existing sales and use tax permit. The retailer shall notify the department of the change in operating name. The department may require any documentation to update the operating name associated with the permit.

This rule is intended to implement Iowa Code section 423.36.

**701—201.9(423) Trustees, receivers, executors and administrators.** By virtue of their appointment, trustees, receivers, executors and administrators who continue to operate, manage or control a business involving the sale of tangible personal property, specified digital products, or taxable services or engage in liquidating the assets of a business by means of sales made in the usual course of trade shall collect and remit tax on inventory and non-inventory items. A permit of a ward, decedent, cestui que trust, bankrupt, assignor or debtor for whom a receiver has been appointed, which is valid at the time a fiduciary relation is created, shall continue to be a valid permit for the fiduciary to continue the business for a reasonable time or to close out the business for the purpose of settling an estate or terminating or liquidating a trust or receivership.

This rule is intended to implement Iowa Code section 423.36.

**701—201.10(423) Substantially delinquent tax—denial of permit.**

**201.10(1) Substantial delinquency factors.** For purposes of Iowa Code section 423.36, the department will consider the following nonexclusive factors when considering whether an applicant is substantially delinquent in paying a tax such that a permit application will be denied:

1. The amount of tax delinquent.
2. The number of filing periods for which a tax remains due and unpaid.
3. The length of time a tax has been unpaid.
4. The amount of tax, interest, or penalty owed in relation to the applicant’s total financial resources.
5. Additional factors, which may be considered based on the specific facts and circumstances of each application.

**201.10(2) Child support noncompliance.** The department will deny a permit to any applicant or permittee, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, until the unit furnishes the department with a withdrawal of the certificate of noncompliance. The department will not deny a permit to any applicant that is an entity if the department has received a certificate of noncompliance from the child support recovery unit in regard to an individual that is an owner or officer of the entity.

This rule is intended to implement Iowa Code section 252J.7 and 423.36.

**701—201.11(423) Substantially delinquent tax—revocation of permit.**

**201.11(1) Substantial delinquency of tax.** The department may revoke a permit if the permit holder has become substantially delinquent in paying any tax that is administered by the department or the interest or penalty on the tax. The department will consider the nonexclusive factors set forth in subrule 201.10(1) to determine whether there is a substantial delinquency.

**201.11(2) Child support noncompliance.** The holder of a revoked permit will not be permitted to obtain a new permit if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance. The department will not revoke a permit from an entity if the department has received a certificate of noncompliance from the child support recovery unit in regard to an individual that is an owner or officer of the entity.

This rule is intended to implement Iowa Code section 423.36.

**701—201.12(423) Obtaining a new permit after revocation.**

**201.12(1)** If a taxpayer's permit is revoked, the taxpayer may apply for a new permit. The new permit application will be granted or denied based on terms and conditions set forth by the department. Terms and conditions include payment of any tax liability that may be due to the department.

**201.12(2)** Upon revocation of a sales and use tax permit, the taxpayer will be required to pay all delinquent tax liabilities, to file returns, and to refrain from taxable occurrences under Iowa Code section 423.2 prior to the issuance of a new sales tax permit, and the director may require the taxpayer to post a bond.

**201.12(3)** The director may impose a waiting period during which the person must refrain from taxable occurrences pursuant to the penalties of Iowa Code section 423.40, not to exceed 90 days, to issue a new permit after a revocation. The department may require a sworn affidavit, under penalty of perjury, stating that the person has fulfilled all requirements of said order of revocation and stating the dates on which the person refrained from taxable occurrences.

**201.12(4)** Each of the following situations will be considered one offense, for the purpose of determining the waiting period to reinstate a revoked permit or issue a new permit after a revocation, unless otherwise noted.

- a. Failure to post a bond as required.
- b. Failure to file a return timely.
- c. Failure to pay tax timely (including dishonored checks, failure to pay, and late payments).
- d. Failure to file a return and pay tax shown on the return timely (counts as two offenses).

**201.12(5)** The administrative law judge or director of revenue may order a waiting period after the revocation not to exceed:

- a. Five days for one through five offenses.
- b. Seven days for six through seven offenses.
- c. Ten days for eight through nine offenses.
- d. Thirty days for ten offenses or more.

**201.12(6)** The administrative law judge or director of revenue may order a waiting period not to exceed:

- a. Forty-five days if the second revocation occurs within 24 months of the first revocation.
- b. Sixty days if the second revocation occurs within 18 months of the first revocation.
- c. Ninety days if the second revocation occurs within 12 months of the first revocation.
- d. Ninety days if the third revocation occurs within 36 months of the second revocation.

**201.12(7)** A new permit will not be issued following revocation if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder until the unit furnishes the department with a withdrawal of the certificate of noncompliance. The department will not deny a permit to any applicant that is an

entity if the department has received a certificate of noncompliance from the child support recovery unit in regard to an individual that is an owner or officer of the entity.

This rule is intended to implement Iowa Code sections 423.2, 423.36, and 423.40.

**701—201.13(423) Administrative cancellation of permit.** The department may cancel a permit upon verification by the department that the permit is no longer in use.

This rule is intended to implement Iowa Code section 421.17(37).