

REVENUE DEPARTMENT[701]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 701—Chapter 275
“Rebate of Iowa Sales Tax Paid”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 423.4
State or federal law(s) implemented by the rulemaking: Iowa Code sections 423.2A and 423.4

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
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:

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Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
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Purpose and Summary

The purpose of this proposed rulemaking is to rescind Chapter 275 and adopt new Chapter 275, which consists of rules relating to and interpreting sales and use tax rebates granted to sanctioned automobile racetrack facilities, baseball and softball complexes, and raceway facilities. The rules provide a rebate’s scope and applicability and the methods for obtaining a rebate by the eligible entities. The Department proposes revisions to the rules for clarification and removal of portions of the rules that the Department has determined are unnecessary and duplicative of statutory language. The Department also renumbered some rules due to other edits and for organizational reasons.

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 may impose some costs on the eligible entities by requiring them to submit specific forms and information to obtain the rebate.

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

The public, including the eligible entities, will benefit from the proposed rulemaking since the rules provide information on a rebate’s scope, applicability, and form and the manner in which eligible entities may apply and obtain a rebate of the sales and use tax paid on sales occurring at the eligible entity. The rules provide guidance for the eligible entities on how to apply for the rebates and to help those entities understand what information to provide in order to obtain the rebates.

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 these proposed rules beyond what is provided in statute. There may be some quantitative impact on eligible entities to fill out the appropriate forms to seek a rebate. However, seeking a rebate is

voluntary. The rules prescribe the forms for obtaining the rebates, but these forms do not have an application fee or any other costs. The forms in conjunction with the proposed rulemaking may have a positive quantitative impact on eligible entities by clearly explaining the information required to obtain the refund and reducing the likelihood of confusion or uncertainty when applying for the rebate.

- Qualitative description of impact:

The qualitative benefit of this rulemaking beyond what is already provided by the statute is the value of having rules that describe the rebate process so that qualified entities have access to the information about a rebate's applicability and limitations to reduce confusion about what information is needed to process the rebates.

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 required to administer the relevant statutes because these are procedural rules required to implement the underlying statutes. These rebate programs are already ongoing, and this proposed rulemaking does not provide any significant changes to this process but adds clarification and removes unnecessary, outdated, and duplicative statutory language from the rules.

- Anticipated effect on state revenues:

There are no anticipated effects on state revenues beyond what is already contained in statute. The proposed rulemaking provides clarity about the process for eligible entities to obtain rebates from sales occurring at the eligible entity, making it more likely the correct amount is rebated.

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

The cost of inaction would be the failure to comply with the statutes' requirement that the Department establish procedures for the administration of the rebate processes, which the rules provide. The benefit of this proposed rulemaking is to provide eligible entities with information about the rebate process, requirements, and limitations so they can efficiently apply and obtain the rebate.

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 Department has considered what information to provide in the rules and what could be included on the forms used for the rebate process and concluded that this proposed rulemaking, in conjunction with the use of forms, will help guide eligible entities to provide the required information to process the rebate requests in an accurate and efficient manner.

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 rules for the rebate processes but determined that the proposed rulemaking, in conjunction with the use of forms, will provide useful information for eligible entities to obtain requested rebates in an efficient and accurate manner.

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

Proceeding without the proposed rulemaking would be defying the statutes' mandates about rules to administer the rebate processes and could harm eligible entities by limiting an eligible entity's knowledge about a rebate's applicability and the procedures related to obtaining a tax rebate.

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 proposed rulemaking does not have a substantial impact on small business since the underlying statute provides that tax rebates are only available to specific and defined entities.

Text of Proposed Rulemaking

ITEM 1. Rescind 701—Chapter 275 and adopt the following **new** chapter in lieu thereof:

CHAPTER 275
REBATE OF IOWA SALES TAX PAID

701—275.1(423) Sanctioned automobile racetrack facilities. Iowa Code section 423.4(5) provides for rebates of qualifying sales made at sanctioned automobile racetrack facilities. Definitions of key terms may be found in Iowa Code section 423.4(5) “a.”

275.1(1) Affidavit by owner or operator. The owner or operator of an automobile racetrack facility seeking a rebate allowed under Iowa Code section 423.4(5) of the sales tax imposed and collected by retailers upon sales of tangible personal property or services furnished to purchasers at the automobile racetrack facility must file with the department the following affidavit certifying that qualifications for the rebate have been met:

Iowa Department of Revenue
Sales Tax Rebate Affidavit

NAME OF AFFIANT	*	AFFIDAVIT FOR SANCTIONED
	*	AUTOMOBILE RACETRACK
ADDRESS OF AFFIANT	*	FACILITY
	*	

The undersigned duly swears that the named Automobile Racetrack Facility complies with criteria to be entitled to rebate of sales tax as required in Iowa Code section 423.4 as follows:

- a. The facility is sanctioned as an automobile racetrack facility;
- b. The sanctioned automobile racetrack facility is located as part of a racetrack and entertainment complex, including any museum attached to or included in the sanctioned automobile racetrack facility, but excluding any restaurant;
- c. The sanctioned automobile racetrack facility has not and will not receive any grants under the community attraction and tourism program pursuant to Iowa Code chapter 15F, subchapter II, or the vision Iowa program pursuant to Iowa Code chapter 15F, subchapter III;
- d. The sanctioned automobile racetrack facility is located on a maximum of 232 acres of Iowa land;
- e. The sanctioned automobile racetrack facility is located in a city with a population, as defined by this rule, of at least 14,500, but not more than 16,500;
- f. The city in which the sanctioned automobile racetrack facility is located is in a county with a population, as defined by this rule, of at least 35,000, but no more than 40,000;
- g. Construction of the sanctioned automobile racetrack facility was commenced on or before July 1, 2006;
- h. Cost of construction of the automobile racetrack facility upon completion is at least \$35 million; and
- i. There has not been a “change of control” as defined in the rules governing this program regarding the legal ownership or operation of the automobile racetrack facility.

The undersigned duly swears that he or she is the owner or operator of the sanctioned automobile racetrack facility or that the undersigned is the authorized representative of the sanctioned automobile racetrack facility and has the authority to sign this document. The undersigned swears that he or she has personal knowledge regarding the facts contained in this affidavit and that the statements set forth in this affidavit are true and accurate and that the sanctioned automobile racetrack facility has met all of the requirements as contained herein.

Name of Affiant
Position of Affiant

Date

275.1(2) Notification to the department of revenue. The owner or operator of the automobile racetrack facility will provide the department with the identity of all retailers at the automobile racetrack facility that will be collecting sales tax and is required to keep the information current. The owner or operator of the automobile racetrack facility will notify the department within ten days of the termination of a retailer from collecting sales tax at the racetrack facility. In addition, the owner or operator of the automobile racetrack facility will notify the department within ten days of the start-up of a retailer collecting sales tax at the automobile racetrack facility.

275.1(3) Limitations. The automobile racetrack facility rebate program applies only to transactions that occur on or after January 1, 2006, but before the end date provided in Iowa Code section 423.4(5), and for which sales tax was collected. Only the state sales tax is subject to rebate. Local option taxes paid and collected are not subject to rebate. Rebates of sales taxes to an automobile racetrack facility are not authorized for transactions that occur on or after the date of the change of control of the automobile racetrack facility. The rebate is limited to 5 percent.

275.1(4) Termination of rebate program. The rebate program for automobile racetrack facilities terminates on the earliest of the dates listed in Iowa Code section 423.4(5) "g."

275.1(5) Sourcing of sales. Advance ticket and admissions sales shall be considered occurring at the automobile racetrack facility regardless of where the transactions actually occur. Consequently, the state sales tax and any applicable local option tax in effect for the jurisdiction in which the automobile racetrack facility is located must be imposed.

Other types of sales eligible for rebate under this program include but are not limited to sales by vendors and sales at concessions, gift shops, and museums. However, sales by a restaurant on facility land are not subject to rebate.

275.1(6) Requirements to obtain a rebate of state sales tax by the racetrack facility. In order to obtain a rebate, a request is considered timely and complete when the authorized form containing all requested information is filed quarterly with the department.

This rule is intended to implement Iowa Code section 423.4(5).

701—275.2(423) Baseball and softball complex sales tax rebate.

275.2(1) Generally.

a. Rebate approval. An entity whose project pursuant to Iowa Code section 15F.207 is reviewed and recommended by the economic development authority and approved by the enhance Iowa board is entitled to rebates of qualifying sales tax in accordance with Iowa Code section 423.4(10) and this rule, not to exceed the amount awarded by the economic development authority.

b. Qualifying rebates. Qualifying rebates of Iowa state sales tax may be made to the owner or operator of a complex as defined in this rule for sales occurring on or after the project completion date for a period of ten years or the date the award was made, whichever is later. Qualifying rebates are for state sales tax only. Local option taxes are not subject to rebate under this program.

275.2(2) Definitions. For the purpose of this program, the definitions found in Iowa Code section 423.4(10) apply. In addition, the following definitions apply:

"Department" means the department of revenue.

"Eligible baseball and softball complex" or "complex" means a facility located in this state that has a project completion date that is after July 1, 2016, is designed and built to host baseball and softball games and has a cost of construction upon completion that is at least \$10 million. The boundaries of a "complex" may be a portion or the entirety of a premises. After granting an award to a complex, the enhance Iowa board shall describe in writing to the department the physical boundaries of the complex and provide the department a map illustrating the approved boundaries of the complex.

"Placed into service" means the first day a complex is able to host a baseball or softball game.

275.2(3) Notification to the department of revenue. The owner or operator of the complex shall provide the department with a copy of the award notice from the enhance Iowa board.

275.2(4) Retailer identification.

a. Identification of retailers. The owner or operator shall provide the department with the identity of all retailers at the complex that will be collecting sales tax, provide sales tax permit numbers for each retailer, and keep the information current.

b. Notification to department. The owner or operator of the complex shall notify the department within ten days of the start-up or termination of a retailer collecting sales tax at the complex. For purposes of this subrule, termination occurs

when the retailer provides notice to the owner or operator that the retailer will no longer collect sales tax at the complex or after one calendar year expires since the retailer collected sales tax at the complex.

c. Verification by department. The department shall verify the identity of a retailer collecting sales tax at the complex before rebates are paid for sales made by that retailer.

275.2(5) Baseball and softball complex rebate request form and filing requirements. To obtain the rebate, the owner or operator must submit a rebate request to the department on the authorized form furnished by the department. A properly completed form shall adhere to the following rules:

a. Who may file the claim. The claim must be filed by the owner or operator. Claims filed under the name of an affiliated entity will be denied.

b. Information regarding retailers making sales at the complex. The following information shall be provided:

- (1) Business name,
- (2) Responsible party,
- (3) Federal employer identification number (FEIN), and
- (4) Sales tax permit number, which must be associated with an address at the complex.

c. Sales at the complex. Information on sales at the complex and sales tax collected on those sales must be reported. Only sales by retailers meeting the requirements of paragraph 275.2(5) "b" and Iowa Code section 423.4(10) are eligible for rebate.

d. Additional information. The department may request any other additional information, from any person, necessary to verify the rebate.

e. Sworn statement. The department may require a sworn statement regarding the truthfulness and eligibility of the claim.

f. Filing frequency. The forms are due quarterly, on or before the last day of the month following the quarter in which the sales at the complex took place.

275.2(6) Fund transfers. The amount of sales tax revenues transferred from the general fund to the complex fund is that portion of sales tax receipts remaining in the general fund after other department transfers, as described in Iowa Code section 423.4(10) "e."

275.2(7) Termination of rebate program. The rebate program terminates 30 days following the date on which \$5 million in total rebates has been provided. The rebate award for each complex terminates on the earliest of the following dates:

- a.* Ten years after the project completion date; or
- b.* The date on which total rebates equal to the amount of the rebate award have been provided to the complex; or
- c.* The date of the change of control of the facility.

275.2(8) Sourcing of sales.

a. Generally. In general, sales are considered to occur "at the complex" if they occur within the boundaries identified in the physical description provided by the enhance Iowa board and are sourced to a location within those boundaries under Iowa Code section 423.15.

b. Advance ticket and admissions sales. Advance ticket and admissions sales shall be considered occurring at the baseball and softball complex regardless of where the transactions actually occur. Consequently, the state sales tax and any applicable local option tax in effect for the jurisdiction in which the facility is located must be imposed on the purchase price of advance ticket and admissions sales.

This rule is intended to implement Iowa Code section 423.4(10).

701—275.3(423) Raceway facility sales tax rebate. Qualifying rebates of Iowa state sales and use tax may be made to the owner or operator of a raceway facility that meets the requirements of Iowa Code section 423.4(11).

275.3(1) Definitions. For purposes of this rebate, unless further defined below, the terms used in this rule mean the same as defined in Iowa Code section 423.4(11). Additionally, "incurred date" means the date on which the payment for the project cost was made or the performance of the work that gave rise to the payment occurred, whichever is later.

275.3(2) Retailer identification.

a. Identification of retailers. The owner or operator shall provide the identity of all retailers at the raceway facility that will be collecting sales tax and provide the department with the sales tax permit number for each retailer. During the period in which rebates may be claimed, the owner or operator shall keep the information current.

b. Notification to department. The owner or operator shall notify the department within ten days of the termination or start-up of a retailer collecting sales tax at the raceway facility. For purposes of this subrule, termination occurs when the

retailer provides notice to the owner or operator that the retailer will no longer collect sales tax at the raceway facility or after one calendar year expires since the retailer collected sales tax at the raceway facility.

c. Verification by department. The department shall verify the identity of a retailer collecting sales tax at the raceway facility before rebates are paid for sales made by that retailer.

275.3(3) Project cost report and rebate form and filing requirements. To request a rebate, the owner or operator must timely submit a project cost report and rebate request to the department on the authorized form, furnished by the department, in addition to the retailer sales report, as described in subrule 275.3(4). A properly completed rebate form shall contain the following:

a. Documentation and information required.

- (1) Invoices for project costs.
- (2) An explanation of how each cost meets the definition of “project costs.”
- (3) The date each cost was incurred and the date each cost was paid.

b. Additional information. The department may request any other additional information, from any person, necessary to verify the rebate.

c. Sworn statement. The department may require a sworn statement regarding the truthfulness and eligibility of the report.

d. Filing frequency. To be considered timely, the form and supporting documentation must be provided to the department within 90 days of the date the project cost was paid. Generally, this report is filed quarterly with the rebate request form; however, the project cost report may be filed more frequently if necessary to meet the 90-day filing requirement. Project cost reports and rebate forms will not be accepted on or after the earliest date provided in Iowa Code section 423.4(11) “g.”

275.3(4) Raceway facility retailer sales report and filing requirements. The owner or operator must submit a retailer sales report to the department on the authorized form furnished by the department. A properly completed form shall contain the following.

a. Who may file the claim. Rebate claims shall only be filed by the owner or operator. Claims filed under the name of an affiliated entity will be denied.

b. Information regarding retailers making sales at the raceway facility. Retailer information must include:

- (1) Business name,
- (2) Responsible party,
- (3) Federal employer identification number (FEIN), and
- (4) Sales tax permit number.

c. Sales at the raceway facility. Sales occurring at the raceway facility and sales tax collected on those sales must be reported. Only sales by retailers meeting the requirements of paragraph 275.3(4) “b” and Iowa Code section 423.4(11) “c”(3) are eligible for the rebate.

d. Additional information. The department may request any other additional information, from any person, necessary to verify the rebate.

e. Sworn statement. The department may require a sworn statement by the retailer and the owner or operator regarding the truthfulness and eligibility of the claim.

f. Filing frequency. The forms are due quarterly, on or before the last day of the month following the quarter in which the sales at the raceway facility took place.

275.3(5) Sourcing of sales.

a. Generally. In general, sales are considered to occur at the raceway facility if they occur within the boundaries of the raceway facility portion of the fairgrounds and are sourced to that raceway facility under Iowa Code section 423.15.

b. Advance ticket and admissions sales. Advance ticket and admissions sales shall be considered occurring at the raceway facility regardless of where the transactions actually occur. Consequently, the state sales tax and any applicable local option tax in effect for the jurisdiction in which the raceway facility is located must be imposed on the sales price of advance ticket and admissions sales.

275.3(6) Local option sales tax. Local option taxes imposed under Iowa Code chapter 423B are not eligible for rebate under this program.

This rule is intended to implement Iowa Code section 423.4(11).