

REVENUE DEPARTMENT[701]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 701—Chapter 218
“Sales and Services Related to Vehicles”

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(6), 423.2(6), 423.2(7), 423.3(56), and 423.4(10)

Public Hearing

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

November 21, 2023
9 to 11 a.m.

Via video/conference call:
meet.google.com/pmv-smfj-zwf
Or dial: 1.413.369.1186
PIN: 243 048 107#

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

Purpose and Summary

The purpose of this proposed rulemaking is to rescind and adopt a new Chapter 218. The Department proposes revisions to the chapter to remove portions of the rules that the Department determined are obsolete, unnecessary, or duplicative of statutory language. This chapter also contains rules that previously existed in other chapters that the Department determined fit better with the subject matter contained in this chapter. This chapter describes the Department’s interpretation of the underlying statutes to help the public understand the taxability of sales and services relating to vehicles.

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 classes of persons.
 - Classes of persons that will benefit from the proposed rulemaking:
The public will benefit from clarification about the taxability of sales and services relating to vehicles.

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 as a result of the proposed rules.
 - Qualitative description of impact:
These rules reduce uncertainty about the taxability of sales and services relating to vehicles. Failing to adopt them would lead to confusion, questions to the Department, and potential errors.

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 statute.
 - 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 taxation of sales and services relating to vehicles.
5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:
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 taxation of sales and services relating to vehicles.
6. Alternative methods considered by the agency:
- Description of any alternative methods that were seriously considered by the agency:
The Department did not seriously consider any alternative methods.
 - Reasons why alternative methods were rejected in favor of the proposed rulemaking:
Proceeding without these rules would lead to confusion about the taxability of sales and services relating to vehicles.

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 rules do not make any special distinctions for small businesses. The rules do not impose any requirements on businesses, other than taxation requirements imposed by the underlying statutes.

Text of Proposed Rulemaking

ITEM 1. Rescind 701—Chapter 218 and adopt the following **new** chapter in lieu thereof:

CHAPTER 218
SALES AND SERVICES RELATED TO VEHICLES

701—218.1(423) Armored car. Persons engaged in the business of either providing armored car service to others or converting a vehicle into an armored car are selling a service subject to sales tax. For purposes of this rule, “armored car” means a wheeled vehicle affording defensive protection by use of a metal covering or other elements of ordinance.

This rule is intended to implement Iowa Code section 423.2(6) “b.”

701—218.2(423) Vehicle repair.

218.2(1) In general. Persons engaged in the business of repairing vehicles are selling a service subject to sales tax. Rule 701—225.4(423) contains more information on purchases made by auto body shops.

218.2(2) Definitions. For purposes of this rule:

“Repair” includes any type of restoration, renovation or replacement of any motor, engine, working parts, accessories, body, or interior of a vehicle. “Repair” does not include the installation of new parts or accessories, which are not replacements, added to a vehicle.

“Vehicle” means the same as defined in Iowa Code section 321.1(90).

218.2(3) Disposal fees. Fees charged with the disposal of any item in connection with the performance of this service are subject to sales tax if the disposal fee of the item is not separately contracted for or itemized in the billing of the repair service. If the disposal fee is itemized or separately contracted for, the disposal fee is not subject to sales tax. Items that may be subject to disposal fee include but are not limited to air filters, batteries, oil, or tires.

This rule is intended to implement Iowa Code section 423.2(6) “c.”

701—218.3(423) Motorcycle, scooter, and bicycle repair.

218.3(1) In general. Persons engaged in the business of repairing motorcycles, scooters, and bicycles are selling a service subject to sales tax.

218.3(2) Definitions. For purposes of this rule:

“Bicycle” includes human-powered bicycles and electric bicycles.

“Motorcycle” includes autocycles.

“Repair” means the same as defined in rule 701—211.1(423).

This rule is intended to implement Iowa Code section 423.2(6) “ag.”

701—218.4(423) Battery, tire, and allied.

218.4(1) Batteries in general. Persons engaged in the business of installing, repairing, maintaining, restoring, or recharging batteries and any services related to or connected therewith are selling a service subject to sales tax.

218.4(2) Tires in general. Persons engaged in the business of installing, repairing, or maintaining tires and any services related to or connected therewith are selling a service subject to sales tax.

218.4(3) Disposal fees. Disposal fees charged in connection with the performance of the services identified in this rule are subject to sales tax if the disposal fee is not itemized or separately contracted for in the billing for the charge of the service. If the disposal fee charged in connection with the performance of the services identified in this rule are itemized or separately contracted for, then the disposal fee is not subject to sales tax. Items that may be subject to disposal fee include but are not limited to air filters, oil, tires, and batteries.

This rule is intended to implement Iowa Code sections 423.2(6) “d” and 423.2(7) “a”(1).

701—218.5(423) Boat repair.

218.5(1) In general. Persons engaged in the business of repairing watercraft are selling a service subject to sales tax.

218.5(2) Definitions. For purposes of this rule:

“Repair” means the same as defined in rule 701—211.1(423).

“Watercraft” means the same as defined in Iowa Code section 462A.2.

This rule is intended to implement Iowa Code section 423.2(6) “h.”

701—218.6(423) Vehicle wash and wax.

218.6(1) In general. Persons engaged in the business of vehicle washing and waxing are selling a service subject to sales tax, whether performed by hand, machine, or coin-operated device. Rule 701—225.7(423) contains more information on purchases of inputs in vehicle wash and wax services.

218.6(2) Definition. For purposes of this rule:

“Vehicle” means the same as defined in Iowa Code section 321.1(90).

This rule is intended to implement Iowa Code section 423.2(6) “i.”

701—218.7(423) Wrecker and towing.

218.7(1) In general. Persons engaged in the business of towing any vehicle are selling a service subject to sales tax. Included in this are services charges for a person to travel to any place to lift, extricate, tow, or salvage a vehicle.

218.7(2) Definitions. For purposes of this rule:

“Towing” includes any means of pushing, pulling, carrying, or freeing any vehicle from mud, snow, or any other impediment, including any incidental hoisting. “Towing” does not include transporting operable vehicles from one location to another when no operative aspect of the vehicle is integral to the transporting.

“*Vehicle*” means the same as defined in Iowa Code section 321.1(90).

This rule is intended to implement Iowa Code sections 423.1(7) and 423.2(6) “*bn.*”

701—218.8(423) Flying service.

218.8(1) *In general.* Persons engaged in the business of teaching a course of instruction in the art of operation and flying of an airplane, and instructions in repairing, renovating, reconditioning an airplane, or any other related service are selling a service subject to sales tax.

218.8(2) *Not included.* Flying services do not include those relating to agricultural aerial application, those relating to aerial commercial and chartered transportation services, and those services exempted by rule 701—211.2(423).

218.8(3) *Flight instruction charges.* Charges relating to flight instruction can be taxable or nontaxable. Taxable charges include but are not limited to the sales price for the following:

- a. Instructors’ services, ground instruction, and ground school.
- b. Students learning to fly with an instructor and dual flying.
- c. Rental of a plane. Rule 701—218.9(423) contains more information.

This rule is intended to implement Iowa Code section 423.2(6) “*s.*”

701—218.9(423) Aircraft rental.

218.9(1) *In general.* Persons engaged in the business of renting aircraft for 60 days or less are selling a service subject to sales tax.

218.9(2) *Definition.* For purposes of this rule:

“*Aircraft*” means the same as defined in Iowa Code section 328.1. “*Aircraft*” also includes any drone aircraft or any aircraft transporting only the pilot.

This rule is intended to implement Iowa Code section 423.2(6) “*bf.*”

701—218.10(423) Snowmobiles, motorboats, and certain other vehicles. The sales price of snowmobiles, all-terrain vehicles, dirt bikes, race karts or go-carts, and motorboats is taxable when purchased and not classified as vehicles subject to registration.

This rule is intended to implement Iowa Code chapter 423.

701—218.11(423) Motor fuel, special fuel, electric fuel, aviation fuels and gasoline.

218.11(1) *In general.* The sales price from the sale of motor fuel, including ethanol, special fuel, and electric fuel is exempt from sales tax if (1) the fuel is consumed for highway use, in watercraft, or in aircraft, (2) the Iowa fuel tax has been imposed and paid, and (3) no refund or credit of fuel tax has been made or will be allowed. The sales price from the sale of special fuel for diesel engines used in commercial watercraft on rivers bordering Iowa is exempt from sales tax, even though no fuel tax has been imposed and paid, providing the seller delivers the fuel to the owner’s watercraft while it is afloat.

218.11(2) *Refunds or credits of motor fuel and special fuel.* Claims for refund or credit of fuel taxes under the provisions of Iowa Code chapter 452A must be reduced by any sales or use tax owing the state unless a sales tax exemption is applicable. Generally, refund claims or credits are allowed where fuel is purchased tax-paid and used for purposes other than to propel a motor vehicle or used in watercraft.

218.11(3) *Refunds of tax on fuel purchased in Iowa and consumed outside of Iowa.* Even though fuel is purchased in Iowa, fuel tax is paid in Iowa, and the fuel tax is subject to refund under the provisions of division III of Iowa Code chapter 452A relating to interstate motor vehicle operations, the refund of the fuel tax does not subject the purchase of the fuel to sales tax.

218.11(4) *Tax base.* The basis for computing the Iowa sales tax will be the retail sales price of the fuel less any Iowa fuel tax included in such price. Federal excise tax should not be removed from the sales price in determining the proper sales tax due. Rule 701—288.12(423) contains more information.

This rule is intended to implement Iowa Code section 423.3(56).

701—218.12(423) Ships, barges, and other waterborne vessels. Tax will not be imposed upon the use, within Iowa, of any ship, barge, or other waterborne vessel if that use is primarily for the transportation of property or cargo for hire on the rivers bordering this state. This exemption is also applicable to tangible personal property used as material in the construction of

or as a part for the repair of any such ship, barge, or waterborne vessel. The use must be on a river or rivers bordering Iowa, not on any river or rivers bounded on both banks by Iowa territory.

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