423.36 Permits required to collect sales or use tax — applications — revocation.

1. A person shall not engage in or transact business as a retailer making taxable sales of tangible personal property or furnishing services within this state or as a retailer making taxable sales of tangible personal property or furnishing services for use within this state, unless a permit has been issued to the retailer under this section, except as provided in subsection 7. Every person desiring to engage in or transact business as a retailer shall file with the department an application for a permit to collect sales or use tax. Every application for a sales or use tax permit shall be made upon a form prescribed by the director and shall set forth any information the director may require. The application shall be signed by an owner of the business if a natural person; in the case of a retailer which is an association or partnership, by a member or partner; and in the case of a retailer which is a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of the person's authority.

2. *a.* Notwithstanding subsection 1, if any person will make taxable sales of tangible personal property or furnish services to any state agency, that person shall, prior to the sale, apply for and receive a permit to collect sales or use tax pursuant to this section. A state agency shall not purchase tangible personal property or services from any person unless that person has a valid, unexpired permit issued pursuant to this section and is in compliance with all other requirements in this chapter imposed upon retailers, including but not limited to the requirement to collect and remit sales and use tax and file sales and use tax returns.

b. For purposes of this subsection, "*state agency*" means any executive, judicial, or legislative department, commission, board, institution, division, bureau, office, agency, or other entity of state government.

3. To collect sales or use tax, the applicant must have a permit for each place of business in the state of Iowa. The department may deny a permit to an applicant who is substantially delinquent in paying a tax due, or the interest or penalty on the tax, administered by the department at the time of application or if the applicant had a previous delinquent liability with the department. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any delinquent tax, penalty, or interest or if a partner had a previous delinquent liability with the department. If the applicant is a corporation, a permit may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest or if any officer having a substantial legal or equitable interest in the ownership of the corporation had a previous delinquent liability with the department.

4. *a.* The department shall grant and issue to each applicant a permit for each place of business in this state where sales or use tax is collected. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated or at a place of relocation within the same county if the ownership remains the same.

b. If an applicant is making sales outside Iowa for use in this state or furnishing services outside Iowa, the product or result of which will be used in this state, that applicant shall be issued one use tax permit by the department applicable to these out-of-state sales or services.

5. Permits issued under this section are valid and effective until revoked by the department.

6. If the holder of a permit fails to comply with any of the provisions of this subchapter or of subchapter II or III or any order or rule of the department adopted under those subchapters or is substantially delinquent in the payment of a tax administered by the department or the interest or penalty on the tax, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department, the director may revoke the permit. The director shall send notice by mail to a permit holder informing that person of the director's intent to revoke the permit and of the permit holder's right to a hearing on the matter. If the permit holder petitions the director for a hearing on the proposed revocation, after giving ten days' notice of the time and place of the hearing in accordance with section 17A.18, subsection 3, the matter may be heard and a decision rendered. The director may restore permits after revocation. The director

shall adopt rules setting forth the period of time a retailer must wait before a permit may be restored or a new permit may be issued. The waiting period shall not exceed ninety days from the date of the revocation of the permit.

7. *a.* Sellers who are not regularly engaged in selling at retail and do not have a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at state, county, district, or local fairs, carnivals, or the like, shall report and remit the sales tax on a temporary basis, under rules the director shall provide for the efficient collection of the sales tax. This subsection applies to sellers who are temporarily engaged in furnishing services.

b. Persons engaged in selling tangible personal property or furnishing services shall not be required to obtain or retain a sales tax permit for a place of business at which taxable sales of tangible personal property or taxable performance of services will not occur.

8. The provisions of subsection 1, dealing with the lawful right of a retailer to transact business, as applicable, apply to persons having receipts from furnishing services enumerated in section 423.2, except that a person holding a permit pursuant to subsection 1 shall not be required to obtain any separate sales tax permit for the purpose of engaging in business involving the services.

9. *a.* Except as provided in paragraph "*b*", purchasers, users, and consumers of tangible personal property or enumerated services taxed pursuant to subchapter II or III of this chapter or chapter 423B may be authorized, pursuant to rules adopted by the director, to remit tax owed directly to the department instead of the tax being collected and paid by the seller. To qualify for a direct pay tax permit, the purchaser, user, or consumer must accrue a tax liability of more than four thousand dollars in tax under subchapters II and III in a semimonthly period and make deposits and file returns pursuant to section 423.31. This authority shall not be granted or exercised except upon application to the director and then only after issuance by the director of a direct pay tax permit.

b. The granting of a direct pay tax permit is not authorized for any of the following:

(1) Taxes imposed on the sales, furnishing, or service of gas, electricity, water, heat, pay television service, and communication service.

(2) Taxes imposed under section 423.26, section 423.26A, and chapter 423C.

2003 Acts, 1st Ex, ch 2, §129, 205; 2008 Acts, ch 1113, §113; 2008 Acts, ch 1134, §66; 2008 Acts, ch 1184, §57; 2010 Acts, ch 1108, §9, 15; 2012 Acts, ch 1110, §20; 2013 Acts, ch 122, §3

Referred to in §423.31, 423.40, 423B.5, 423E.3

[T] NEW subsection 2 and former subsections 2 – 8 renumbered as 3 – 9