CHAPTER 423A

HOTEL AND MOTEL TAX

Personal liability of officers and partners, see §421.26
Former ch 423A, that was transferred from ch 422A in Code 2005 pursuant to 2003 Acts, 1st Ex, ch 2, §203, 205, repealed; continuation of hotel and motel taxes imposed under former ch 423A; 2005 Acts, ch 140, §28, 29

423A.1 Short title.
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423A.1 Short title.

This chapter may be cited as the *"Hotel and Motel Tax Act"*.

2005 Acts, ch 140, §19, 28, 29

423A.2 Definitions.

1. For the purposes of this chapter, unless the context otherwise requires:

a. *"Department"* means the department of revenue.

b. *"Lessor"* means any person engaged in the business of renting lodging to users.

c. *"Lodging"* means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, or manufactured or mobile home which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. Lodging does not include rooms that are not used for sleeping accommodations.

d. *"Person"* means the same as the term is defined in section 423.1.

e. *"Renting"* or *"rent"* means a transfer of possession or control of lodging for a fixed or indeterminate term for consideration and includes any kind of direct or indirect charge for such lodging or its use.

f. *"Sales price"* means the consideration for renting of lodging and means the same as the term is defined in section 423.1.

g. *"User"* means a person to whom lodging is rented.

2. All other words and phrases used in this chapter and defined in section 423.1 have the meaning given them by section 423.1 for the purposes of this chapter.

2005 Acts, ch 140, §20, 28, 29; 2009 Acts, ch 179, §137; 2011 Acts, ch 25, §143

423A.3 State-imposed hotel and motel tax.

A tax of five percent is imposed upon the sales price for the renting of any lodging if the renting occurs in this state. The tax shall be collected by any lessor of lodging from the user of that lodging. The lessor shall add the tax to the sales price of the lodging, and the state-imposed tax, when collected, shall be stated as a distinct item, separate and apart from the sales price of the lodging and the local tax imposed, if any, under section 423A.4.

2005 Acts, ch 140, §21; 2006 Acts, ch 1010, §103

Referred to in **§15J.2**, **§15J.5**, **§423A.5**

423A.4 Locally imposed hotel and motel tax.

1. A city or county may impose by ordinance of the city council or by resolution of the board of supervisors a hotel and motel tax, at a rate not to exceed seven percent, which shall be imposed in increments of one or more full percentage points upon the sales price from the renting of lodging. The tax when imposed by a city shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only outside incorporated areas within that county.

2. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the hotel and motel tax, the county auditor

shall give written notice by sending a copy of the abstract of votes from the favorable election to the director of revenue.

3. A local hotel and motel tax shall be imposed on January 1 or July 1, following the notification of the director of revenue. Once imposed, the tax shall remain in effect at the rate imposed for a minimum of one year. A local hotel and motel tax shall terminate only on June 30 or December 31. At least forty-five days prior to the tax being effective or prior to a revision in the tax rate or prior to the repeal of the tax, a city or county shall provide notice by mail of such action to the director of revenue. The director shall have the authority to waive the notice requirement.

4. *a.* A city or county shall impose or repeal a hotel and motel tax or increase or reduce the tax rate only after an election at which a majority of those voting on the question favors imposition, repeal, or change in rate. However, a hotel and motel tax shall not be repealed or reduced in rate if obligations are outstanding which are payable as provided in section 423A.7, unless funds sufficient to pay the principal, interest, and premium, if any, on the outstanding obligations at and prior to maturity have been properly set aside and pledged for that purpose.

b. If the tax applies only within the corporate boundaries of a city, only the registered voters of the city shall be permitted to vote. The election shall be held at the time of the regular city election or at a special election called for that purpose. If the tax applies only in the unincorporated areas of a county, only the registered voters of the unincorporated areas of the county shall be permitted to vote. The election shall be held at the time of the general election or at a special election called for that purpose.

2005 Acts, ch 140, §22; 2007 Acts, ch 186, §24; 2008 Acts, ch 1115, §105
Referred to in **§423A.3**, **§423A.5**, **§423A.7**

423A.5 Exemptions.

1. There are exempted from the provisions of this chapter and from the computation of any amount of tax imposed by section 423A.3 all of the following:

a. The sales price from the renting of lodging which is rented by the same person for a period of more than thirty-one consecutive days.

b. The sales price from the renting of sleeping rooms in dormitories and in memorial unions at all universities and colleges located in the state of Iowa.

2. There is exempted from the provisions of this chapter and from the computation of any amount of tax imposed by section 423A.4 all of the following:

a. The sales price from the renting of lodging or rooms exempt under subsection 1.

b. The sales price of lodging furnished to the guests of a religious institution if the property is exempt under section 427.1, subsection 8, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally.

2005 Acts, ch 140, §23; 2008 Acts, ch 1184, §58, 59; 2009 Acts, ch 179, §138, 139

423A.6 Administration by director.

1. The director of revenue shall administer the state and local hotel and motel tax as nearly as possible in conjunction with the administration of the state sales tax law, except that portion of the law which implements the streamlined sales and use tax agreement. The director shall provide appropriate forms, or provide on the regular state tax forms, for reporting state and local hotel and motel tax liability. All moneys received or refunded one hundred eighty days after the date on which a city or county terminates its local hotel and motel tax and all moneys received from the state hotel and motel tax shall be deposited in or withdrawn from the general fund of the state.

2. If a reinvestment district is established under chapter 15J, beginning the first day of the calendar quarter beginning on the reinvestment district's commencement date, the director of revenue shall, subject to remittance limitations established by the economic development authority board pursuant to section 15J.4, subsection 3, transfer from the general fund of the state to a district account created in the state reinvestment district fund for each reinvestment district established under chapter 15J, the amount of the new state

hotel and motel tax revenue, determined in section 15J.5, subsection 2, paragraph "*b*", in the district. Such transfers shall cease pursuant to section 15J.8.

3. The director, in consultation with local officials, shall collect and account for a local hotel and motel tax and shall credit all revenues to the local transient guest tax fund created in section 423A.7. Local authorities shall not require any tax permit not required by the director of revenue.

4. Section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection 1, and sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 through 423.42, and 423.47, consistent with the provisions of this chapter, apply with respect to the taxes authorized under this chapter, in the same manner and with the same effect as if the state and local hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding this subsection, the director shall provide for quarterly filing of returns and for other than quarterly filing of returns both as prescribed in section 423.31. The director may require all persons who are engaged in the business of deriving any sales price subject to tax under this chapter to register with the department. All taxes collected under this chapter by a retailer or any individual are deemed to be held in trust for the state of Iowa and the local jurisdictions imposing the taxes.

2005 Acts, ch 140, §24; 2007 Acts, ch 126, §70; 2013 Acts, ch 119, §10; 2014 Acts, ch 1092, §91; 2014 Acts, ch 1093, §23

See Code editor's note on simple harmonization at the end of Vol VI

Section amended

423A.7 Local transient guest tax fund.

1. A local transient guest tax fund is created in the department which shall consist of all moneys credited to such fund under section 423A.6.

2. All moneys in the local transient guest tax fund shall be remitted at least quarterly by the department, pursuant to rules of the director of revenue, to each city in the amount collected from businesses in that city and to each county in the amount collected from businesses in the unincorporated areas of the county.

3. Moneys received by the city from this fund shall be credited to the general fund of the city, subject to the provisions of subsection 4.

4. The revenue derived from any local hotel and motel tax authorized by section 423A.4 shall be used as follows:

a. Each county or city which levies the tax shall spend at least fifty percent of the revenues derived therefrom for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities or the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the county or city for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the city or county and surrounding areas.

b. The remaining revenues may be spent by the city or county which levies the tax for any city or county operations authorized by law as a proper purpose for the expenditure within statutory limitations of city or county revenues derived from ad valorem taxes.

c. Any city or county which levies and collects the local hotel and motel tax authorized by section 423A.4 may pledge irrevocably an amount of the revenues derived therefrom for each of the years the bonds remain outstanding to the payment of bonds which the city or county may issue for one or more of the purposes set forth in paragraph "*a*". Any revenue pledged to the payment of such bonds may be credited to the spending requirement of paragraph "*a*".

d. (1) The provisions of chapter 384, division III, relating to the issuance of corporate purpose bonds, apply to the issuance by a city of bonds payable as provided in this section and the provisions of chapter 331, division IV, part 3, relating to the issuance of county purpose bonds, apply to the issuance by a county of bonds payable as provided in this section. The

provisions of chapter 76 apply to the bonds payable as provided in this section except that the mandatory levy to be assessed pursuant to section 76.2 shall be at a rate to generate an amount which together with the receipts from the pledged portion of the local hotel and motel tax is sufficient to pay the interest and principal on the bonds. All amounts collected as a result of the levy assessed pursuant to section 76.2 and paid out in the first instance for bond principal and interest shall be repaid to the city or county which levied the tax from the first available local hotel and motel tax collections received in excess of the requirement for the payment of the principal and interest of the bonds and when repaid shall be applied in reduction of property taxes.

(2) The amount of bonds which may be issued under section 76.3 shall be the amount which could be retired from the actual collections of the local hotel and motel tax for the last four calendar quarters, as certified by the director of revenue. The amount of tax revenues pledged jointly by other cities or counties may be considered for the purpose of determining the amount of bonds which may be issued. If the local hotel and motel tax has been in effect for less than four calendar quarters, the tax collected within the shorter period may be adjusted to project the collections for the full year for the purpose of determining the amount of the bonds which may be issued.

e. A city or county, jointly with one or more other cities or counties as provided in chapter 28E, may pledge irrevocably any amount derived from the revenues of the local hotel and motel tax to the support or payment of bonds issued for a project within the purposes set forth in paragraph "*a*" and located within one or more of the participatory cities or counties or may apply the proceeds of its bonds to the support of any such project. Revenue so pledged or applied shall be credited to the spending requirement of paragraph "*a*".

f. (1) A city or county acting on behalf of an unincorporated area may, in lieu of calling an election, institute proceedings for the issuance of bonds under this section by causing a notice of the proposal to issue the bonds, including a statement of the amount and purpose of the bonds, together with the maximum rate of interest which the bonds are to bear, and the right to petition for an election, to be published at least once in a newspaper of general circulation within the city or unincorporated area at least ten days prior to the meeting at which it is proposed to take action for the issuance of the bonds.

(2) If at any time before the date fixed for taking action for the issuance of the bonds a petition signed by eligible electors residing in the city or the unincorporated area equal in number to at least three percent of the registered voters of the city or unincorporated area is filed, asking that the question of issuing the bonds be submitted to the registered voters of the city or unincorporated area, the council or board of supervisors acting on behalf of an unincorporated area shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds.

(3) The proposition of issuing bonds under this section is not approved unless the vote in favor of the proposition is equal to a majority of the vote cast.

(4) If no petition is filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the council or board of supervisors acting on behalf of an unincorporated area may proceed with the authorization and issuance of the bonds.

(5) Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under this section without otherwise complying with this paragraph.

2005 Acts, ch 140, §25; 2011 Acts, ch 25, §143

Referred to in **§331.427**, **§423A.4**, **§423A.6**