

CHAPTER 235
REBATE OF IOWA SALES TAX PAID

701—235.1(423) Sanctioned automobile racetrack facilities. Effective July 1, 2005, qualifying rebates of Iowa state sales tax may be made to the owner or operator of a sanctioned automobile racetrack facility as defined in this rule for sales occurring on or after January 1, 2006, and ending June 30, 2016. This rebate program should be viewed as a pilot project as a means to increase tourism in the state. Qualifying rebates are for state sales tax only. Local option taxes are not subject to rebate under this program.

235.1(1) Definitions.

a. For the purpose of this program, prior to July 1, 2009, the following definitions apply:

“Automobile racetrack facility” means a sanctioned automobile racetrack facility located as part of a racetrack and entertainment complex, including any museum attached to or included in the racetrack facility, but excluding any restaurant, and which facility is located, on a maximum of 232 acres, in a city with a population of at least 14,500 but not more than 16,500 residents, which city is located in a county with a population of at least 35,000 but not more than 40,000 residents, and where the construction on the racetrack facility commenced not later than one year following July 1, 2005, and the cost of the construction upon completion was at least \$35 million.

“Change of control” means any of the following:

1. Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the automobile racetrack facility such that at least 60 percent of the equity interests in the legal entity cease to be owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.

2. The original owners of the legal entity that is the owner or operator of the automobile racetrack facility shall collectively cease to own more than 50 percent of the voting equity interests of such legal entity or shall otherwise cease to have effective control of such legal entity.

“Iowa corporation” means a corporation incorporated under the laws of Iowa where at least 60 percent of the corporation’s equity interests are owned by individuals who are residents of Iowa.

“Owner or operator” means a for-profit legal entity where at least 60 percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and that is the owner or operator of an automobile racetrack facility and is primarily a promoter of motor vehicle races.

“Population” means the population based upon the 2000 certified federal census.

b. For the purpose of this program, on and after July 1, 2009, the following definitions apply:

“Automobile racetrack facility” means a sanctioned automobile racetrack facility located as part of a racetrack and entertainment complex, including any museum attached to or included in the racetrack facility, but excluding any restaurant, and which facility is located, on a maximum of 232 acres, in a city with a population of at least 14,500 but not more than 16,500 residents, which city is located in a county with a population of at least 35,000 but not more than 40,000 residents, and where the construction on the racetrack facility commenced not later than one year following July 1, 2005, and the cost of the construction upon completion was at least \$35 million.

“Change of control” means any of the following:

1. Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the automobile racetrack facility such that less than 25 percent of the equity interests in the legal entity is owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.

2. The original owners of the legal entity that is the owner or operator of the automobile racetrack facility shall collectively cease to own at least 25 percent of the voting equity interests of such legal entity.

“Iowa corporation” means a corporation incorporated under the laws of Iowa where at least 25 percent of the corporation’s equity interests are owned by individuals who are residents of Iowa.

“Owner or operator” means a for-profit legal entity where at least 25 percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and that is the owner or operator of an automobile racetrack facility and is primarily a promoter of motor vehicle races.

“Population” means the population based upon the 2000 certified federal census.

235.1(2) Affidavit by owner or operator. The owner or operator of an automobile racetrack facility seeking a rebate of sales tax imposed and collected by retailers upon sales of any goods, wares, merchandise, 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

235.1(3) 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 are 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.

235.1(4) Limitations. The automobile racetrack facility rebate program applies only to transactions that occur on or after January 1, 2006, but before January 1, 2016, and for which sales tax was collected. Only the state sales tax is subject to rebate. The rebate is limited to 5 percent. 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.

235.1(5) Termination of rebate program. The rebate program for automobile racetrack facilities is a pilot program that terminates on the earliest of the following dates:

- a. June 30, 2016; or
- b. Thirty days following the date on which \$12,500,000 in total rebates have been provided; or
- c. Thirty days following the date of the change of control of the automobile racetrack facility.

235.1(6) 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.

235.1(7) Requirements to obtain a rebate of state sales tax by the racetrack facility.

- a. The rebate request must be submitted to the department on the authorized department form;
- b. The rebate request form must be filed with the department in a timely manner, with the filing requirement being quarterly; and
- c. All the information requested on the rebate request form must be completed.

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

[ARC 9434B, IAB 3/23/11, effective 4/27/11]

701—235.2(423) Baseball and softball complex sales tax rebate.

235.2(1) Generally.

a. *Rebate approval.* The economic development authority and the enhance Iowa board are authorized by the general assembly and the governor to oversee the application and award process for the baseball and softball complex sales tax rebate, created in Iowa Code section 15F.207. An entity whose project is reviewed and recommended by the economic development authority and approved by the enhance Iowa board is entitled to rebate of qualifying sales tax in accordance with Iowa Code section 423.4(10) as amended by 2018 Iowa Acts, Senate File 2417, 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.

235.2(2) Definitions. For the purpose of this program, the definitions in Iowa Code section 423.4(10) as amended by 2018 Iowa Acts, Senate File 2417, 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.

235.2(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.

235.2(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.

235.2(5) Baseball and softball complex rebate request form and filing requirements. The owner or operator must submit a rebate request to the department on the authorized form. The form will be made available on the department’s website. 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 235.2(5) “b” and Iowa Code section 423.4(10) as amended by 2018 Iowa Acts, Senate File 2417, 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.

235.2(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 2018 Iowa Acts, Senate File 2417, section 174.

235.2(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.

235.2(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 2018 Iowa Acts, Senate File 2417, section 174, and Iowa Code section 423.4 as amended by 2018 Iowa Acts, Senate File 2417.

[ARC 0402C, IAB 10/17/12, effective 11/21/12; ARC 4144C, IAB 11/21/18, effective 12/26/18]

701—235.3(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) as amended by 2018 Iowa Acts, Senate File 2407. The maximum rebate is limited to project costs incurred and paid on or after May 16, 2018, and before January 1, 2025, or \$1.8 million, whichever is less.

235.3(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) as amended by 2018 Iowa Acts, Senate File 2407.

“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.

235.3(2) Retailer identification.

a. Identification of retailers. Prior to or in conjunction with the filing of its initial rebate request, 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.

235.3(3) Project cost report and rebate form and filing requirements. The owner or operator must submit a project cost report and rebate request to the department on the authorized form. The report and rebate form will be made available on the department’s website. 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. 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 date on which \$1.8 million in total rebates has been provided, or June 30, 2025, whichever is earlier.

235.3(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. The form will be made available on the department’s website. A properly completed form shall contain the following.

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 raceway facility. The following information shall be provided:

- (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 235.3(4) “b” and Iowa Code section 423.4(11) as amended by 2018 Iowa Acts, Senate File 2407, are eligible for rebate. Only sales occurring on or after January 1, 2015, and before January 1, 2025, 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.

235.3(5) Raceway facility retailer sales report for sales occurring on or after January 1, 2015, and before May 16, 2018.

a. Sales report required. A comprehensive raceway facility retailer sales report comprising sales occurring at the raceway facility on or after January 1, 2015, and before May 16, 2018, must be filed by the owner or operator by March 30, 2019.

b. Report requirements. The report must include a list of retailers that meet the requirements of subrule 235.3(2), all information described in subrule 235.3(4), and any other information requested by the department to calculate the eligible sales that occurred at the raceway facility during that time period. The report shall be in the same or substantially similar format as the quarterly raceway facility retailer sales report required by subrule 235.3(4).

235.3(6) 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.

235.3(7) 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 sections 423.2(11) and 423.4(11) as amended by 2018 Iowa Acts, Senate File 2407.

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