

CHAPTER 221  
MISCELLANEOUS NONTAXABLE TRANSACTIONS

[Prior to 9/7/22, see Revenue Department[701] Ch 214]

Chapter rescission date pursuant to Iowa Code section 17A.7: 8/28/29

**701—221.1(423) Sales of prepaid merchandise cards.** Sales of prepaid merchandise cards (other than prepaid telephone calling cards) are not sales of tangible personal property and are not sales for which the sales price is subject to Iowa tax. If a purchaser uses a prepaid merchandise card to purchase taxable tangible personal property or taxable services, sales tax is computed on the sales price at the time of the sale and deducted from the prepaid amount remaining on the merchandise card.

EXAMPLE: Customer A purchases a prepaid merchandise card from ABC Clothing Company in the amount of \$200. Customer A purchases a sweater for \$50 from ABC Clothing Company. ABC Clothing Company will debit A's card \$53.00 ( $\$50 \times 1.06$ ) for the state sales tax rate of 6 percent or \$53.50 ( $\$50 \times 1.07$ ) if a local option sales tax rate of 1 percent is applicable.

This rule is intended to implement Iowa Code section 423.1(47).

[ARC 8163C, IAB 7/24/24, effective 8/28/24]

**701—221.2(423) Demurrage charges.** Charges for returning tangible personal property after the agreed-upon date that are true demurrage charges supported by a written agreement do not constitute taxable sales, and the charges are exempt from tax.

This rule is intended to implement Iowa Code sections 423.1(51) and 423.2.

[ARC 8163C, IAB 7/24/24, effective 8/28/24]

**701—221.3(423) Beverage container deposits.** Tax does not apply to beverage container deposits. This rule is also applicable to all mandatory beverage container deposits required under the provisions of Iowa Code chapter 455C, including deposits on items sold through vending machines.

This rule is intended to implement Iowa Code chapter 455C.

[ARC 8163C, IAB 7/24/24, effective 8/28/24]

**701—221.4(423) Advertising agencies, commercial artists and designers as an agent or as a nonagent of a client.**

**221.4(1) In general.**

*a.* A true agency relationship depends upon the facts with respect to each transaction. An agent is one who represents another, called the principal, in dealings with third persons. Advertising agencies, commercial artists, and designers (collectively referred to herein this subrule as "agencies" or "agency") may act as agents on behalf of their clients in dealing with third persons, or they may act on their own behalf. To the extent agencies act as agents of their clients in acquiring tangible personal property, these agencies are neither purchasers of the property with respect to the supplier nor sellers of the property with respect to their principals.

*b.* When agencies act as agents of their clients in purchasing property for their clients, the tax applies to the sales price from the sale of such property to the agencies. Unless such agencies act as true agents, they will be regarded as the retailers of tangible personal property furnished to their clients and the tax will apply to the total sales price received for such property.

*c.* To establish that a particular acquisition is made in the capacity of an agent for a client, the agency shall act as follows:

(1) The agency must clearly disclose to the supplier the name of the client for whom the agency is acting as an agent.

(2) The agency must obtain, prior to the acquisition, and retain written evidence of agent status with the client.

(3) The price billed to the client, exclusive of any agency fee, must be the same as the amount paid to the supplier. The agency may make no use of the property for its own account, such as commingling the

property of a client with another, and the reimbursement for the property should be separately invoiced or shown separately on the invoice to the client.

*d.* Some charges may represent reimbursement for tangible personal property acquired by the agency as agents for its clients and compensation for performing of agency services related thereto. When an agency establishes that it has acquired tangible personal property as an agent for its clients, tax does not apply to the charge made by the agency to its client for reimbursement charges by a supplier or to the charges made for the performance of the agency's services directly related to the acquisition of personal property. Such agencies acting as agents shall not issue resale certificates to suppliers.

*e.* Agencies act as retailers of all items of tangible personal property produced or fabricated by their own employees when they sell to their clients. Agencies are not agents of their clients with respect to the acquisition of materials incorporated into items of tangible personal property prepared by their employees and sold at retail to their clients.

**221.4(2)** *Scope.* The scope of this rule is not confined simply to advertising agencies, commercial artists, and designers, but also applies to all other businesses whose activities would bring them within the scope of this rule (e.g., printers).

This rule is intended to implement Iowa Code sections 423.2 and 423.5.

[ARC 8163C, IAB 7/24/24, effective 8/28/24]

### **701—221.5(422,423) Films and other media, exempt rental and sale.**

#### **221.5(1)** *Exempt rental.*

*a.* The sales price from the rental of films, video and audio tapes or discs, records, photos, copy, scripts, or other media used for the purpose of transmitting that which can be seen, heard, or read shall not be taxable if the lessee either:

(1) Imposes a charge for the viewing or rental of the media and that charge will be subject to Iowa sales or use tax, or

(2) Broadcasts the contents of the media for public viewing or listening.

*b.* The sales price from lessees who are film exhibitors or who rent discs or other media would ordinarily be exempt from tax under this rule. The rental of media for reproduction of images into newspapers or periodicals will not be exempt from tax under this rule since neither of the criteria in paragraph 221.5(1) "a" or "b" will occur. The rental of films, video discs, and other media for home viewing is not exempt from tax.

**221.5(2)** *Exempt sale.* Sales price from the sale to persons regularly engaged in the business of leasing or renting media of motion picture films, video and audio tapes or discs, and records, or any other media that can be seen, heard, or read, are exempt from tax if the ultimate leasing or renting of the media is subject to Iowa sales or use tax.

This rule is intended to implement Iowa Code section 423.3(41).

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