

CHAPTER 104
HOTEL AND MOTEL—
FILING RETURNS, PAYMENT OF TAX, PENALTY, AND INTEREST
[Prior to 12/17/86, Revenue Department[730]]

701—104.1(423A) Returns, time for filing. On the quarterly sales tax return, every retailer shall report the gross sales subject to the hotel and motel tax for the entire quarter, listing allowable deductions and figuring tax for the entire quarter. The information required for the computation of the hotel and motel tax liability shall be separate from that required for the computation of the retail sales tax liability. Such information and computation must be stated and computed separately, even though the total tax liability may be paid with a single remittance.

The quarterly reports are due on the last day of the month following the end of the calendar quarter during which the tax is collected. If a person is required to collect the hotel and motel tax and file a monthly deposit for retail sales tax purposes, the monthly deposit should not include the hotel and motel tax collected during the period covered by the deposit.

When the due date falls on a Saturday, Sunday or legal holiday, the return is due the first business day following the Saturday, Sunday or legal holiday. If a return is placed in the mail, properly addressed and postage paid, and postmarked on or before the due date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Sales and Use Tax Processing, Department of Revenue, Hoover State Office Building, P.O. Box 10412, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code sections 421.14 and 423.31 and 2005 Iowa Code Supplement section 423A.6.

701—104.2(423A) Remittances. The correct amount of tax collected and due shall accompany the forms prescribed by the department. The name, address and sales tax permit number of the sender and amount of tax for the quarterly remittance shall be stated. Every return shall be signed and dated. Reporting forms and a self-addressed return envelope shall be furnished by the department to the retailer; and, when feasible, every retailer shall use them when completing and mailing the return and remittance. All remittances shall be made payable to the Treasurer of the State of Iowa.

This rule is intended to implement Iowa Code section 423.31 and 2005 Iowa Code Supplement section 423A.6.

701—104.3(423A) Permits. An Iowa sales tax permit will be required under this chapter. However, the director may require all persons responsible for collecting and remitting a hotel-motel tax to register with the department.

Any person not in the business of renting rooms to transient guests, but who regularly rents rooms or residences at varying locations to transient guests, may register once under this chapter.

This rule is intended to implement 2005 Iowa Code Supplement section 423A.6.

701—104.4(423A) Sale of business. A retailer subject to the provisions of the Iowa Code relating to the hotel and motel tax who sells the business shall file a return within the month following the sale and pay all tax due. Any unpaid tax is due prior to the transfer of title of any personal property to the purchaser and, if unpaid, becomes delinquent one month after the sale.

A retailer discontinuing business shall maintain records for a period of three years from the date of discontinuing business unless a release from the provision is given in writing by the department.

This rule is intended to implement Iowa Code sections 422.51(2), 422.52, 423.31, and 423.33 and 2005 Iowa Code Supplement section 423A.6.

701—104.5(423A) Bankruptcy, insolvency or assignment for benefit of creditors. In cases of bankruptcy, insolvency or assignment for the benefit of creditors by the taxpayer, the taxpayer shall immediately file a return with the tax being due.

This rule is intended to implement Iowa Code section 423.31(6) and 2005 Iowa Code Supplement section 423A.6.

701—104.6(423A) Claim for refund of tax. Refunds of tax shall be made only to those who have actually paid the tax. A person or persons may designate the retailer to collect the tax as an agent for purposes of receiving a refund of tax. Anyone claiming a refund shall prepare the claim on the prescribed form furnished by the department.

A claim for refund shall be filed with the department within three years from the date the tax became due or one year from the date of payment, whichever is later, stating in detail the reasons and facts and, if necessary, attaching supporting documents on which the claim for refund is based. If the claim for refund is denied, and the person wishes to protest the denial, the department will consider a protest to be timely if filed no later than 60 days following the date of denial. See rule 701—7.8(17A).

This rule is intended to implement Iowa Code section 423.47 and 2005 Iowa Code Supplement section 423A.6.

[ARC 0251C, IAB 8/8/12, effective 9/12/12]

701—104.7(423A) Application of payments. Since a combined hotel and motel tax and quarterly state sales tax return is utilized by the department, all payments received with the return will be applied to satisfy state sales tax and hotel and motel tax liabilities, which include penalty and interest. Application of partial payments received with the tax return and any subsequent partial payment received for that tax period will be applied based on a ratio formula, unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2)“d.” The denominator in the ratio shall be the total of the hotel and motel tax due and the state sales tax due less any monthly sales tax deposits. The numerators in the ratio formula shall be the amounts of hotel and motel tax due and the net state sales tax due.

EXAMPLE: XYZ hotel owes a total of \$1,000 in net state sales tax and hotel and motel tax for the quarter. Of the \$1,000 owed, \$600 is for hotel and motel tax and \$400 is for state sales tax. XYZ files its quarterly sales tax return accompanied by a \$500 partial payment. The \$500 partial payment would be applied based on the following computation:

$$\begin{array}{r} \frac{600}{1000} \times 500 = \$300 \text{ Hotel and motel tax} \\ \frac{400}{1000} \times 500 = \$200 \text{ State sales tax} \end{array}$$

All revenues received under Iowa Code chapter 423A are to be credited to the “local transient guest tax fund.” Revenues include all interest and penalties applicable to any hotel and motel tax report or remittance, whether resulting from delinquencies or audits. All revenues received or moneys refunded 180 days after the date on which a city or county terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund. The 180-day limitation applies to actual receipts or disbursements and not to accrued but unpaid tax liabilities or potential refunds.

This rule is intended to implement 2005 Iowa Code Supplement section 423A.7.

701—104.8(423A) Interest and penalty.

104.8(1) Penalties. See rule 701—10.6(421) for the calculation of penalty for tax periods beginning on or after January 1, 1991.

104.8(2) Interest. Tax not paid by the due date of the return shall draw interest at the rate described in rule 701—10.2(421). Payments made are first credited to penalty and interest due and then to the

tax liability. See *Ashland Oil Co. v. Iowa Department of Revenue and Finance*, 452 N.W.2d 162 (Iowa 1990).

This rule is intended to implement Iowa Code section 423A.6.
[ARC 7761B, IAB 5/6/09, effective 6/10/09]

701—104.9(423A) Request for waiver of penalty. See rule 701—10.6(421) for the statutory provisions to penalty for tax periods beginning on or after January 1, 1991.

This rule is intended to implement Iowa Code section 423A.6.
[ARC 7761B, IAB 5/6/09, effective 6/10/09]

701—104.10(423A) Extension of time for filing. Upon a proper showing of the necessity for extending the due date, the director is authorized to grant an extension of time in which to file a return. The extension shall not be granted for a period longer than 30 days. The request for the extension must be received on or before the original due date of the return. It will be granted only if the person requesting the extension shall have paid by the twentieth day of the month following the close of such quarter, 90 percent of the estimated tax due.

This rule is intended to implement Iowa Code section 423.31 and 2005 Iowa Code Supplement section 423A.6.

701—104.11(421,423A) Personal liability of corporate officers and partners for unpaid tax. If a retailer fails to pay hotel or motel tax due, any officer of a corporation or association or any partner of a partnership who has control of, supervision of, or the authority for remitting the hotel or motel tax payments and has a substantial legal or equitable interest in the ownership of the corporation or partnership is personally liable for payment of the tax, interest, and penalty if the failure to pay the tax is intentional. The dissolution of a corporation, association, or partnership does not discharge a responsible person's liability for failure to pay tax. Rule 701—12.15(422,423) describes this liability in more detail. The statements of the rule are made with reference to sales tax, but are also applicable to personal liability for hotel and motel tax.

This rule is intended to implement Iowa Code section 421.26 and 2005 Iowa Code Supplement chapter 423A.

701—104.12(421,423A) Good faith exception for successor liability. For taxes due and unpaid, an immediate successor's liability for unpaid hotel and motel tax is extinguished if the immediate successor can show that its purchase of the business owing the tax was done "in good faith." See rule 701—12.14(422,423) for a detailed analysis of immediate successor liability and the "good faith" exception to that liability.

This rule is intended to implement Iowa Code section 421.28 and 2005 Iowa Code Supplement chapter 423A.

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