CHAPTER 203
ELEMENTS INCLUDED IN AND EXCLUDED FROM A TAXABLE SALE AND SALES PRICE

[Prior to 9/7/22, see Revenue Department[701] Ch 212]

Rules in this chapter include cross references to provisions in 701—Chapter 26 that were applicable prior to July 1, 2004.

701—203.1(423) Tax not to be included in price. When a retailer prices an article for retail sale and displays or advertises the same to the public with that price marked, the price so marked or advertised shall include only the sales price of such article unless it is stated on the price tag that the price includes tax.

EXAMPLE. The advertised or marked price is $1. When a sale is made, the purchaser pays or agrees to pay $1.05, which represents the purchase price plus tax, which, when added, becomes a part of the sale price or charge.

This rule does not prohibit advertising or displaying the sale price plus tax or the price including tax, as shown in the following examples:

"This dress—$10 plus tax"; "This dress—$10 plus 50 cents tax"; or "This dress—$10.50 including tax."

When a retailer conspicuously advertises in such manner and position so that it may be readily seen and read by the public that the price "includes tax," the retailer will be allowed to determine sales price by dividing the total of such retailer's price which includes tax by the applicable percentage. For example, a retailer in a jurisdiction that has the state sales tax plus a 1 percent local option tax would use a factor of 106 percent.

However, where an invoice is given to the purchaser as a part of the sale, either the invoice must show the tax separately from the retailer's price or it must be stated on each invoice that tax is included in the retailer's price. If the invoice states "tax included," the seller may determine sales price by the applicable percent method described above. It shall be the responsibility of the retailer that uses or has used the applicable percent method for reporting to provide proof that the retailer has complied with the method of advertising or displaying the retailer's price, as described above.

This rule is intended to implement Iowa Code sections 423.14 and 423.24.

[**ARC 6508C**, IAB 9/7/22, effective 10/12/22]

701—203.2(423) Finance charge. Interest or other types of additional charges that result from selling on credit or under installment contracts are not subject to sales tax when such charges are separately stated and when such charges are in addition to an established cash sales price. However, if finance charges are not separately stated and a sale is made for a lump sum amount, the tax is due on the total retailer's price.

When interest and other types of additional charges are added as a condition of a sale in order to obtain title rather than as a charge to obtain credit where title to goods has previously passed, such charges will be subject to tax even though they may be separately stated. *State ex rel. Turner v. Younker Bros., Inc.,* 210 N.W.2d 550 (Iowa 1973); *Road Machinery Supplies of Minneapolis, Inc. v. The Commissioner of Revenue,* Minnesota Tax Court of Appeals, 1977, 2 Minn. CCH State Tax Reporter II 200-835, 1977 WL 963 (Minn. Tax.). See rule 701—213.3(423) relating to conditional sales contracts.

This rule is intended to implement Iowa Code section 423.1(47)*"b"*(2).

[**ARC 6508C**, IAB 9/7/22, effective 10/12/22]

701—203.3(423) Retailers' discounts, trade discounts, rebates and coupons.

203.3(1) *Retailers' discounts.* A retailer's discount reduces the retailer's price of a property or service with the remainder being the actual sales price of the goods charged in the account. The purchaser entitled to the discount will never owe the retailer's price as a debt, the debt being the sales price after the agreed discount has been deducted. The word "discount" means "to buy at a reduction." *Benner Tea Company v. Iowa State Tax Commission,* 252 Iowa 843, 109 N.W.2d 39 (1961).

Any discount a retailer allows that reduces a retailer's price to a sales price is a proper deduction when collecting and reporting tax. This is not the case when the retailer offers a discount to a purchaser but bills and collects tax on the retailer's price rather than on the sales price. The customer must receive the benefit of the discount, for sales tax purposes, in order for the retailer to exclude the discount from the sales price when collecting and reporting tax.

Certain retailers bill their customers on a gross and net basis, with the difference considered to be a discount for payment purposes. When a customer does not resolve the bill within the net payment period, tax shall apply on the gross charge shown on the billing, the gross charge having become the taxable sales price by virtue of the customer's failure to take the action which allows the discount to be taken.

203.3(2) *Rebates.* A "rebate" is a return of part of an amount paid for a product. Manufacturers' rebates are not discounts and cannot be used to reduce the sales price received from a sale or to reduce the purchase price of a product. This subrule applies even though the rebate is used by the retailer to reduce the retailer's price to a sales price or is used by the purchaser as a down payment. The rebate is considered a transaction between the manufacturer and the purchaser. See 1972 O.A.G. 332.

203.3(3) *Coupons.* Coupons issued by the producer of a product are not discounts and cannot be used as an abatement from the retailer's price of the product. Coupons issued by the retailer which actually reduce the price of the product to the purchaser are treated as a discount as provided in subrule 212.3(1). *Saxon-Western Corporation v. Mahin,* 369 N.E.2d 1185 (Ill. 1979).

EXAMPLE 1. C acquires a 30¢ off coupon issued by manufacturer of A-B Bandaids for A-B Bandaids. The coupon can be redeemed at a store which sells the product. C goes to store D and purchases a box of A-B Bandaids which shows a price of $1.50. C pays $1.20 plus the 30¢ coupon. D is reimbursed the 30¢ for the coupon by the manufacturer. Tax is due on the $1.50 because D's total sales price is $1.50. The coupon is not used as a discount in this situation.

EXAMPLE 2. E offers a two-for-the-price-of-one coupon for its super hamburger. Each hamburger normally sells for $2. The coupon can only be redeemed at E's retail store. F acquires the coupon and redeems it at E's store. The purchase price for F was $2 for both hamburgers. The tax is due on the $2 because this amount is the sales price for E, even though the value of the two hamburgers would normally be $4. In this situation, the sales price for the two hamburgers is $2.

203.3(4) *Trade discounts.* A "trade discount" is a discount from a seller's list price which is offered to a class or category of customer, e.g., retailers or wholesalers. Trade discounts given or allowed by manufacturers, distributors, or wholesalers to retailers or by manufacturers or distributors to wholesalers and payments made by manufacturers, distributors, or wholesalers directly to retailers or by manufacturers or distributors to wholesalers to reduce the sales price of a manufacturer's, distributor's, or wholesaler's product (e.g., cigarettes) or to promote the sale or recognition of the manufacturer's, distributor's, or wholesaler's product are not to be included in any taxable sales price. This subrule does not apply to coupons issued by manufacturers, distributors, or wholesalers to consumers; see subrule 212.3(3).

This rule is intended to implement Iowa Code section 423.1(47)*"b"*(1).

[**ARC 6508C**, IAB 9/7/22, effective 10/12/22]

701—203.4(423) Excise tax included in and excluded from sales price.

203.4(1) An excise tax which is not an Iowa sales or use tax may be excluded from the sales price or purchase price of the sale or use of property or taxable services only if all of the following conditions exist:

a. The excise tax is imposed upon the identical sales price on which the Iowa sales tax is imposed or upon the purchase price which measures the amount of taxable use or upon a use identical to the Iowa taxable use and not upon some event or activity which precedes or occurs after the sale or use.

b. The legal incidence of the excise tax falls upon the purchaser who is also responsible for payment of the Iowa sales tax. The purchaser must be obligated to pay the excise tax either directly to the government in question or to another person (e.g., the retailer) who acts as a collector of the tax. See *Gurley v. Rhoden,* 421 U.S. 200, 95 S. Ct. 1605, 44 L.Ed.2d 110 (1975) for a description of the

circumstances under which the legal, as opposed to the economic, burden of an excise tax falls upon the purchaser.

c. The name of the excise tax is specifically stated, and the amount of the excise tax is separately set out on the invoice, bill of sale, or another document which embodies a record of the sale.

EXAMPLE 1. The federal government imposes an excise tax upon the act of manufacturing tangible personal property within the United States. The amount of the tax is measured as a percentage of the price for the first sale of the property, which is usually to a wholesaler. However, one particular manufacturer sells its manufactured goods at retail in Iowa. Even if this tax meets the requirements for exclusion of paragraphs *"b"* and *"c"* above, it is not excludable because it does not meet the requirements of paragraph *"a."* The tax is not imposed upon the act of selling but upon the prior act of manufacturing. The tax is merely measured by the amount of the proceeds of the sale.

EXAMPLE 2. The federal government imposes an excise tax of 4 percent on a retailer's sales price from sales of tangible personal property. The law allows the retailer to separately identify and bill a customer for the tax. However, if a retailer fails to pay the tax, the government cannot collect it from a purchaser, and if the government assesses tax against the retailer and secures a judgment requiring the retailer to pay the tax, the retailer that has failed to collect the tax from a purchaser on the initial sale has no right of reimbursement from the purchaser. This tax is not excludable from Iowa excise tax. Its economic burden falls upon the purchaser. However, since neither the government nor the retailer has any legal right to demand payment of the tax from a purchaser, the legal incidence of the tax is not upon the purchaser; and the tax would not meet the requirements of paragraph *"b"* above.

203.4(2) The following federal excise taxes are to be included in the sales price upon which Iowa sales tax is to be paid for purposes of collecting Iowa sales tax:

a. The federal gallonage taxes imposed by 26 U.S.C. Sections 5001, 5041, and 5051 on distilled spirits, wines, and beer.

b. The tax imposed by 26 U.S.C. Section 5701 with regard to cigars, cigarettes, cigarette papers and tubes, smokeless tobacco, and pipe tobacco.

c. The federal tax imposed under 26 U.S.C. Section 4081 on gasoline.

d. The federal tax imposed by 26 U.S.C. Section 4071 which expires October 1, 2005, on tires.

203.4(3) The following excise taxes are excluded from the amount of the sales price:

a. The federal tax imposed by 26 U.S.C. Section 4251(a) on the communication services of local telephone service, toll telephone service, and teletypewriter exchange service.

b. The federal tax imposed by 26 U.S.C. Section 4051 upon the first retail sale of automobile and truck chassis and bodies; truck trailer and semitrailer chassis and bodies and tractors of the kind chiefly used for highway transportation in combination with trailers or semitrailers.

This rule is intended to implement Iowa Code section 423.1(47)*"b"*(3).

[**ARC 6508C**, IAB 9/7/22, effective 10/12/22]

701—203.5(423) Trade-ins.

203.5(1) Trade-ins. When tangible personal property is traded toward the purchase price of other tangible personal property, the sales price shall be only that portion of the purchase price which is payable in money to the retailer if the following conditions are met:

a. The tangible personal property is traded to a retailer, and the property traded is the type normally sold in the regular course of the retailer's business; and

b. The tangible personal property traded to a retailer is intended by the retailer to be ultimately sold at retail; or

c. The tangible personal property traded to a retailer is intended to be used by the retailer or another in the remanufacturing of a like item.

EXAMPLE 1. A owns a car valued at $5,000. A trades his used car to XY car dealer for a used car valued at $12,000. XY car dealer normally sells used cars. Use tax would be due on the $7,000 in money which A paid to XY car dealer, as both conditions *"a"* and *"b"* have been met.

EXAMPLE 2. John Doe has a pickup truck with a value of $2,000. John wants a boat, so he offers to trade his $2,000 pickup to ABC boat dealer for the purchase of a boat valued at $5,000. ABC boat

dealer is a new and used boat dealer. ABC boat dealer agrees to accept the $2,000 pickup and $3,000 cash in trade for the boat. In this example, the tax would be computed on $5,000. The trade-in provision would not apply because condition *"a"* has not been met. The property traded is not the type of property normally sold by ABC boat dealer in the regular course of the boat dealer's business.

EXAMPLE 3. ABC Corporation trades 500 bushels of corn and $500 cash to the local cooperative elevator for the purchase of various hand tools. In its regular course of business, the local cooperative elevator sells grain for processing into bread. The trade-in provision in this example would not apply because condition *"b"* has not been met. When ultimately sold by the cooperative elevator, the grain traded toward the purchase price of the hand tools is sold for processing and not at retail.

EXAMPLE 4. Hometown Appliance store is in the business of selling stoves, refrigerators, and other various appliances in Iowa. Hometown Appliance has a refrigerator valued at $650. Customer A wishes to trade a used refrigerator toward the purchase price of the new refrigerator. Hometown Appliance agrees to accept A's used refrigerator at a value of $150 toward the purchase price of the new refrigerator. A pays Hometown Appliance $500 in cash. The trade-in provision applies as both conditions *"a"* and *"b"* have been met, and tax would be due on the $500.

Several months later, Hometown Appliance sells the used refrigerator it received from customer A to the local school district, which is exempt from sales tax on its purchase. The trade-in provision on the original transaction is still applicable because both conditions *"a"* and *"b"* were met. The sale is "at retail," even if the sales price is exempt from tax.

EXAMPLE 5. ABC Auto Supply is in the business of selling various types of automobile and farm implement supplies. The normal selling price for a car generator is $80. ABC Auto Supply allows a $20 trade-in credit to any customer who wishes to trade in an unworkable generator. At the time ABC Auto Supply accepts the unusable generator, it knows that the generator will not be sold at retail; however, ABC Auto Supply also knows that the generator will be sold to XYZ Company, which is in the business of rebuilding generators by using existing parts plus new parts. In this example, the trade-in provision would apply since conditions *"a"* and *"c"* have been met.

203.5(2) All the provisions of subrule 212.5(1) apply to the trade-in of vehicles subject to registration when the trade involves retailers of vehicles.

When vehicles subject to registration are traded among persons who are not retailers of vehicles subject to registration, the conditions set forth in 212.5(1) need not be met. The purchase price is only that portion of the purchase price represented by the difference between the total purchase price of the vehicle subject to registration acquired and the value of the vehicle subject to registration traded.

This rule applies only when a vehicle is traded for tangible personal property, regardless of whether the transaction is between a retailer and a nonretailer or between two nonretailers. The vehicle traded in must be owned by the person(s) trading in the vehicle. It is presumed that the name or names indicated on the title of the vehicle dictate ownership of the vehicle as set forth in Iowa Code chapter 321.

EXAMPLE 1. John Doe has an automobile with a value of $2,000. John and his neighbor Bill Jones, who has an automobile valued at $3,500, decide to trade automobiles. John pays Bill $1,500 cash. Vehicles subject to registration are subject to use tax, which is payable to the county treasurer at the time of registration. In this example, John would owe use tax on $1,500 since this is the amount John paid Bill and tax is only due on the cash difference. Bill would not owe any use tax on the vehicle acquired through the trade.

EXAMPLE 2. Joe has a Ford automobile with a value of $5,000. Joe and his friend Jim, who has a Chevrolet automobile also valued at $5,000, decide to trade automobiles. Joe and Jim make an even trade, automobile for automobile, with no money changing hands. In this example, there is no tax due on either automobile because there is no exchange of money.

203.5(3) Trade for services. The trade-in provisions referenced in Iowa Code section 423.1(47)*"a"*(7) and found in Iowa Code section 423.3(59) do not apply to taxable enumerated services. When taxable enumerated services are traded, the sales price would be determined based on the value of the service or other consideration.

EXAMPLE: A and B agree that A will purchase a car which B now owns. The two parties agree on a purchase price of $9,000. In return for transfer of title from B, A agrees to pay B $7,000 in cash

and to paint B's house with paint provided by B. A and B agree that the value of B's house painting services is $2,000. House painting is a taxable enumerated service; rule 701—219.13(423) contains more information about this service. Since the trade-in provisions are not applicable to the value of taxable enumerated services, the purchase price of the car is $9,000 and not $7,000.

203.5(4) Three-way trade-in transactions. In a three-way transaction, the agreement provides that a lessee sell to a third-party dealer a vehicle (or other tangible personal property) which the lessee owns. The lessor then purchases another vehicle from the third-party dealer at a reduced price and leases the vehicle to the lessee. The difference between the reduced sale price and retail price of the vehicle is not allowed as a trade-in on the vehicle for use tax purposes.

EXAMPLE. A enters into a three-way agreement with B, the lessor. Under the terms of the contract, A sells a 2005 Ford Taurus owned by A to C, a used car dealer. The retail price for the Ford Taurus is $30,000. C then sells the Ford Taurus to B for the reduced price of $25,000. B then leases the Ford Taurus to A for a period of 12 months. The $5,000 difference between the reduced sale price and the retail price of the vehicle is not allowed as a trade-in on the sale of the vehicle for use tax purposes. See also *Reynolds Motor Co. et al. v. Iowa Dep't. of Revenue,* Equity 72050, Dist. Ct. of Scott Cty., Iowa, August 28, 1987.

This rule is intended to implement Iowa Code sections 423.1(47)*"a"*(7) and 423.3(59).
[**ARC 6508C**, IAB 9/7/22, effective 10/12/22; **ARC 6704C**, IAB 11/30/22, effective 1/4/23]

701—203.6(423) Installation charges when tangible personal property is sold at retail. When the sale of tangible personal property includes a charge for installation of the personal property sold, the current rate of tax shall be measured on the entire sales price from the sale. The installation charges would not be taxable if the installation service is not an enumerated service, and where a sales agreement exists, the installation charges are separately contracted. If the written contract contains no provisions separately itemizing such charges, tax is due on the full contract price with no deduction for installation charges, whether or not such installation charges are itemized separately on the invoice.

If the installation services are enumerated services, the installation charges would not be taxable if (1) the services are exempt from tax (e.g., the services are performed on or connected with new construction, reconstruction, alteration, expansion or remodeling of a building or structure); or the services are rendered in connection with the installation of new industrial machinery or equipment, and (2) where a sales agreement exists, the installation charges are separately contracted. If the written contract contains no provisions separately itemizing such charges, tax is due on the full contract price with no deduction for installation charges, whether or not such installation charges are itemized separately on the invoice. If no written contract exists, the installation charges must be separately itemized on the invoice to be exempt from tax. See rule 701—219.13(423).

This rule is intended to implement Iowa Code sections 423.1(47)*"a"*(5) and 423.1(47)*"b"*(4).
[**ARC 6508C**, IAB 9/7/22, effective 10/12/22]

701—203.7(423) Service charge and gratuity. When the purchase of any food, beverage or meal automatically and invariably results in the inclusion of a mandatory service charge to the total price for such food, beverage or meal, the amounts so included shall be subject to tax. The term "service charge" means either a fixed percentage of the total price of or a charge for food, a beverage or a meal.

The mandatory service charge shall be considered: (1) a required part of a transaction arising from a taxable sale and a contractual obligation of a purchaser to pay to a vendor a charge arising directly from and as a condition of the making of the sale and (2) a fixed labor cost included in the price for food, a beverage or a meal even though such charge is separately stated from the charge for the food, beverage or meal.

When a gratuity is voluntarily given for food, a beverage or a meal, it shall be considered a tip and not subject to tax. *Cohen v. Playboy Club International, Inc.,* 19 Ill. App. 3d 215, 311 N.E.2d 336; *Baltimore Country Club, Inc. v. Comptroller of Treasury,* 272 Md. 65, 321 A.2d 308.

This rule is intended to implement Iowa Code sections 423.1(47) and 423.2(1).
[**ARC 6508C**, IAB 9/7/22, effective 10/12/22]

701—203.8(423) Payment from a third party. The sales price from the sales of tangible personal property, services, or enumerated services includes consideration received by the seller from third parties. The following conditions shall apply:

203.8(1) The seller actually receives consideration from a party other than the purchaser, and the consideration is directly related to a price reduction or discount on the sale;

203.8(2) The seller has an obligation to pass the price reduction or discount through to the purchaser;

203.8(3) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

203.8(4) One of the following criteria is met:

a. The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

b. The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a "preferred customer" card that is available to any patron does not constitute membership in such a group); or

c. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

This rule is intended to implement Iowa Code chapter 423.

[**ARC 8021B**, IAB 7/29/09, effective 9/2/09; **ARC 6508C**, IAB 9/7/22, effective 10/12/22]

701—203.9(423) Taxation of transactions due to rate change. The following provisions shall apply in determining whether or not a transaction is subject to an existing rate of sales or use tax or to a new rate of sales or use tax. In the examples contained in the rest of this rule, assume that a bill has been enacted into law which increases the sales and use tax rate from 6 to 7 percent and that the effective date of this bill is July 1.

203.9(1) *General principles.* A change in the sales tax rate applies to a sale of tangible personal property and specified digital products if delivery of the property or product under a contract of sale occurs on or after the effective date of the legislation which changes the rate of taxation. The intent of the parties to the contract for sale determines when delivery occurs. However, in the event the intent is not readily established from the contract, the rules set out in the Uniform Commercial Code (Iowa Code chapter 554) shall apply in order to determine the place of delivery.

In the examples below, so long as delivery under a contract for sale occurs on or after July 1, the 7 percent sales tax rate applies. It is not necessary that any other aspects of the sale, such as payment for the delivered property, occur on or after that date.

In the three examples immediately below, "delivery" is physical transfer of possession of the tangible personal property directly from the seller to the purchaser. However, see subrule 14.3(2) for examples of delivery which do not involve transfer of possession directly from the buyer to the seller, and subrule 14.3(3) which explains a type of delivery which does not involve any physical transfer of possession of property.

EXAMPLE A: A enters into a sales contract to purchase a riding lawn mower from B. This contract (offer and acceptance) is entered into on June 20. B delivers the lawn mower to A on June 28, and A pays B for the lawn mower on July 3. Since delivery, under the contract for sale, occurred prior to July 1, the sales tax in this example is computed at the rate of 6 percent.

EXAMPLE B: A wants to purchase a home computer from B. On June 28, A orders the computer from B and the parties agree that the contract of sale is made if and when B makes delivery of the home computer to A. B delivers the computer on July 10. In this example, the sales tax is at the rate of 7 percent because delivery was not made until July 10. It is the delivery after July 1, rather than the lack of the valid contract of sale prior to that date, which determines that the rate of tax shall be 7 rather than 6 percent.

EXAMPLE C: On May 1, A enters into a conditional sales contract with B to purchase a television set. The contract requires A to make monthly installment payments for 36 months, beginning June 1. The contract also requires B to deliver the television to A on or before July 15. B retains title to the television set solely for the purpose of securing payment from A. A makes the first monthly payment to B on June 1. B delivers the television to A on the last day allowable, July 15. The 7 percent rate will apply. See subrule 14.3(4) for more discussion of conditional sales.

203.9(2) *Shipment by carrier.* The following principles shall be used to determine the conditions under which delivery is made pursuant to a contract for sale when the retailer utilizes a carrier to ship tangible personal property to a purchaser. If the contract for sale makes no reference of an F.O.B. (free on board) or F.A.S. (free along side) point or of any other point at which title and risk of loss with regard to the tangible personal property are transferred from the retailer to the purchaser and contains no other indication of a delivery point, it shall be presumed that delivery of the property occurs when the seller transfers possession of the property to the carrier. If property is sold under a C.I.F. (cost, insurance and freight) or a C. & F. (cost and freight) contract, it shall also be presumed that delivery occurs when the retailer transfers possession of the property to the carrier. If a contract for sale makes mention of an F.O.B. or F.A.S. point, it shall be presumed that the parties intended delivery of the property at the time the property reaches that point.

203.9(3) *Constructive delivery.* "Constructive delivery" has occurred if the retailer and the purchaser agree that title, risk of loss, and right of possession to tangible personal property have passed from the retailer to the purchaser; that is, the parties agree that a sale has occurred, but actual physical possession of the property remains with the retailer or someone other than the buyer after the sale. If parties to a contract of sale have agreed upon constructive delivery, the sale occurs at the time of constructive delivery and not at the time of transfer of physical possession of the property from buyer to seller or at an F.O.B., F.A.S., or similar type of point.

EXAMPLE: A owns an art gallery in Des Moines. Art collector B from Cedar Rapids visits the gallery. Collector B wishes to purchase a painting that is very large. However, collector B cannot immediately transport the painting back to Cedar Rapids. On June 1, A and B sign a contract for the sale of the painting. Title to the painting, risk of loss, and the right to take possession of the painting immediately pass to B. However, the parties also agree that B can store the painting with A in return for a small monthly charge. B inquires of various parties whether or not they would be willing to transport the painting from Des Moines to Cedar Rapids. B finds no one satisfactory to do this and eventually signs a separate contract for transport with A in which A agrees to do the transporting. The transport of the painting is accomplished on September 1. The painting was delivered from A to B in Des Moines on June 1. Thus, its sale occurred on that date rather than September 1. Delivery was accomplished with the "constructive" delivery which occurred on June 1 rather than by the physical transfer of possession from A to B which occurred on September 1. Because of this, the rate of tax is 6 and not 7 percent.

203.9(4) *Conditional sales.* A "conditional sale" is no different from an absolute sale, except in the matter of payment. *Hansen v. Kuhn,* 284 N.W. 249, 226 Iowa 794 (1939). A conditional sale has not occurred until delivery under a contract of conditional sale has occurred. See Example C in subrule 14.3(1) for an example of a conditional sales contract in which delivery of the property under the contract occurred long after the making of the contract and after the buyer had made several payments under the contract. As soon as delivery has occurred, tax on the sales price of the sale is due to the department. See rule 701—16.47(423) for additional discussion of conditional sales.

203.9(5) *Use tax—changed rate of taxation on the use of tangible personal property and specified digital products.* A changed use tax rate applies to the use of tangible personal property and specified digital products in Iowa when the first taxable use occurs on or after the effective date of the legislation which changes the rate of tax. In the following example, assume that the change in the use tax rate is from 6 to 7 percent and that the legislation which enacts this change is effective as of July 1.

EXAMPLE: On May 24, A and B enter into a contract for A's purchase of a machine from B. Under the contract, delivery of the machine to A is to occur outside the state of Iowa, F.O.B., Minneapolis, Minnesota. On June 27, A takes delivery of the machine in Minneapolis. A then transports the machine into Iowa on July 2. A's transport of the machine into Iowa constitutes a use of the machine by A in

Iowa for the first time. Under these circumstances, the machine is subject to the 7 percent rate since the tax rate in effect at the time of first use, July 2, governs if property is purchased outside of Iowa.

203.9(6) *Changed rate for the sales tax on enumerated services.* A changed sales tax rate on enumerated services applies if services are rendered, furnished, or performed in Iowa on or after the effective date of the legislation which changes the rate. The date upon which the parties enter into a service contract is not of importance in determining whether the old rate or new rate is applicable. Nor, for the purpose of computing the sales tax, is it important to know when the product or result of the service is used by the ultimate user. This situation must be distinguished from the application of use tax to services. For use tax purposes, the date when the product or result of the service is used may be important. See subrule 14.3(7). For the purposes of this subrule and subrules 14.3(7), 14.3(8), and 14.3(9), assume that the rate of tax is being raised from 6 to 7 percent and that the effective date of the legislation which increases the rate is July 1.

EXAMPLE A: On June 1, A and B enter into a service contract in which B agrees to provide testing laboratory services to A. B performs these services in Iowa on June 26. The results of these services are forwarded to A on July 8, and A observes those results and makes use of them on that latter day. Under these circumstances, the testing laboratory services were subject to service tax at the rate of 6 percent because B rendered, furnished, or performed the services on June 26, which is prior to July 1.

EXAMPLE B: On June 1, B offers to perform testing laboratory services for A. A and B agree that the offer is not accepted until B actually performs the test laboratory services. The services are performed on July 5, and the results forwarded to A on July 8. Under these circumstances, the testing laboratory services are subject to tax at the 7 percent rate. The services are subject to that rate because the services were rendered on July 5 and not because the parties entered into the contract for services on July 5. As in Example A above, if a contract had been entered into before July 1, and the services performed after that date, service tax at the 7 percent rate would still have been applicable.

EXAMPLE C: On June 7, A enters into a service contract with B for the repair of A's automobile. The contract provides that A shall make installment payments for 12 months. The automotive repairs are extensive. B begins repair of the automobile on June 9 and completes repair on June 27. Since sales tax is due when the service is rendered, furnished, or performed, the tax is 6 percent of the contract price. Installment payments made on and after July 1 do not accrue any greater rate of tax. This situation is different from a service contract entered into prior to July 1, which requires periodic payments for continuous services, as set forth under subrule 14.3(8).

EXAMPLE D: A, a civic center, contracts with B, an orchestra, to perform on July 10. The contract is made on May 26. A sells tickets of admission for B's July 10 concert. The tickets are sold in the month of June and from July 1 to and including July 9. All ticket sales in June are subject to tax at the 6 percent rate, and all ticket sales in July are subject to tax at the 7 percent rate. In this example, the contract between A and B is not a taxable service contract. The taxable events are the sales of admission tickets between A and the purchasers of the tickets. The date when a ticket is delivered to a purchaser controls whether the tax rate is 6 or 7 percent.

203.9(7) *Changed rate of use tax on services.* If the product or result of a taxable service rendered, furnished, or performed outside of this state is first used in this state on or after July 1, the 7 percent use tax rate applies.

EXAMPLE: On June 14, A and B enter into a contract for repair of A's machine, the repair to be done outside of Iowa. On June 28, the machine is delivered to B who performs the taxable service of machine repair and returns the machine to A in Iowa on July 1. Under these circumstances, the product or result of the taxable machine repair service is first used by A on July 1; therefore, the 7 percent tax rate applies.

203.9(8) *Service contracts requiring periodic payments.* If parties enter into a service contract prior to July 1, and the contract requires periodic payments, payments made on or after July 1 under the contract are subject to the 7 percent sales or use tax rate.

EXAMPLE A: A and B enter into an agreement for the lease of equipment on April 1. The lease is for a term of five years and requires monthly payments. A is the lessee and B is the lessor. For all rental payments made on or after July 1, the tax rate is 7 percent.

EXAMPLE B: On May 1, A joined a private club and paid membership fees for the privilege of participating in athletic sports provided to club members. A must make periodic payments every three months. These payments are made in January, April, July, and October. Under these circumstances, A's July payment and payments made subsequently are subject to tax at the rate of 7 percent.

203.9(9) *Gas, electricity, water, heat, solid waste collection, sewer, pay television, and communication services.* The sales price from the sales, furnishing, or service of gas, electricity, water, heat, and communication service are subject to the sales, services, and use tax at the 7 percent rate when the date of billing the customer falls on or after July 1. The sales price from the services of solid waste collection and disposal, sewer, and pay television are also treated in this manner.

EXAMPLE A: A is the customer of the B water utility. A receives a bill from B on July 5. The billing date is July 1, and the bill is for water provided during the month of June. Under these circumstances, sales tax should be billed at the rate of 7 percent, because the date of billing is July 1.

EXAMPLE B: A is the customer of the B electric utility company. A receives a bill from the B company on July 2. There is no billing date set forth on the bill. The bill was mailed by the B company to A on June 28. Under these circumstances, the billing date is June 28, and the sales tax should be billed at the rate of 6 percent. Had B listed a billing date in its books and records as a receivable different than the mailing date, i.e., June 26, this latter date (June 26) would be considered the billing date.

EXAMPLE C: A is the customer of the B rural electric cooperative (REC). A is responsible for reading its meter and remitting the proper amount for electricity and sales tax to B. B, in its tariff filed with the Interstate Commerce Commission (ICC), has set forth the first date of each month as the last day for its customers to read their meters. B does not send a bill to A. Under these circumstances of customer self-billing where no bill is sent by B to A, the first date of each month is the billing date and where that date falls on July 1 and the first date of each month thereafter, the sales tax should be paid at the rate of 7 percent.

If the date set forth in the tariff had been the last day of the month, then a self-billing attributable to June 30 would require payment of sales tax at the 6 percent rate.

EXAMPLE D: A is the customer of B telephone company. A receives a bill from B company on July 3, covering intrastate long distance telephone calls in June and local service in July. The billing date on the face of the bill is June 28. Under these circumstances, all telephone services, local and intrastate long distance, should be billed sales tax at the rate of 6 percent.

If, in this example, the billing date on the bill had been July 1, the sales tax should be billed at the rate of 7 percent for all telephone services, local and intrastate long distance.

This rule is intended to implement Iowa Code section 423.2.

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