

CHAPTER 253
STATE-IMPOSED AND LOCALLY IMPOSED HOTEL AND
MOTEL TAXES

[Prior to 12/17/86, Revenue Department[730]]
[Prior to 9/7/22, see Revenue Department[701] Ch 103]

701—253.1(423A) Definitions.

253.1(1) *Incorporation of definitions.* To the extent they are consistent with Iowa Code chapter 423A and this chapter, all other words and phrases used in this chapter shall mean the same as defined in Iowa Code section 423.1 and rule 701—200.1(423).

253.1(2) *Chapter-specific definitions.* For purposes of this chapter, unless the context otherwise requires:

“*Land use district*” means a district created under Iowa Code chapter 303, subchapter IV.

“*Locally imposed tax*” means the hotel and motel tax levied by Iowa Code section 423A.4.

“*Retailer*” means a person required to collect hotel and motel tax, including but not limited to lodging providers, lodging facilitators, and lodging platforms.

“*State-imposed tax*” means the hotel and motel tax levied by Iowa Code section 423A.3.

“*Tax*” or “*hotel and motel tax*” means the state-imposed hotel and motel tax levied by Iowa Code section 423A.3 and any locally imposed hotel and motel tax levied by Iowa Code section 423A.4.

This rule is intended to implement Iowa Code sections 423A.2, 423A.3, and 423A.4.
[ARC 3750C, IAB 4/11/18, effective 5/16/18; ARC 4195C, IAB 12/19/18, effective 1/23/19; ARC 6508C, IAB 9/7/22, effective 10/12/22]

701—253.2(423A) Administration.

253.2(1) *Generally.* The department is charged with the administration of the tax, subject to the rules, regulations, and direction of the director. The department is required to administer the tax as nearly as possible in conjunction with the administration of the state sales tax except that portion of the law which implements the streamlined sales and use tax agreement.

253.2(2) *Incorporation of 701—Chapter 11.* Except as otherwise stated in this chapter, the requirements of 701—Chapter 11 shall apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

This rule is intended to implement Iowa Code section 423A.6.
[ARC 4195C, IAB 12/19/18, effective 1/23/19; ARC 6508C, IAB 9/7/22, effective 10/12/22]

701—253.3(423A) Tax imposition and exemptions.

253.3(1) *Tax imposed.* A state-imposed tax of 5 percent is imposed upon the sales price for the rental of any lodging if the lodging is located in this state. A locally imposed tax of up to 7 percent is imposed to the extent permitted by Iowa Code section 423A.4.

253.3(2) *Exemptions.* The only exemptions from the hotel and motel tax are those in Iowa Code section 423A.5. The exemptions apply to both the state-imposed tax and the locally imposed tax under Iowa Code chapter 423A.

This rule is intended to implement Iowa Code sections 423A.3, 423A.4, and 423A.5.
[ARC 4195C, IAB 12/19/18, effective 1/23/19; ARC 6508C, IAB 9/7/22, effective 10/12/22]

701—253.4(423A) Filing returns; payment of tax; penalty and interest.

253.4(1) *Incorporation of 701—Chapter 202.* Except as otherwise stated in this chapter, the requirements of 701—Chapter 202 shall apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

253.4(2) *Quarterly returns only.* Retailers required to collect hotel and motel tax must file returns on a quarterly basis; retailers may not file annual returns.

253.4(3) *Combined sales/hotel and motel tax return.*

a. On the quarterly sales tax return, a retailer shall report the gross sales subject to the hotel and motel tax for the entire quarter, listing allowable deductions and calculating 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 and must be stated and computed separately even though total tax liability may be paid with a single remittance.

b. The quarterly returns 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.

253.4(4) *Application of partial payments.*

a. 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.

b. 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: 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. Hotel files its quarterly sales tax return accompanied by a \$500 partial payment. The \$500 partial payment would be applied based on the following computation:

$$\begin{array}{r} 600 \\ \hline 1,000 \end{array} \times 500 = \$300 \quad \text{Hotel and motel tax}$$

$$\begin{array}{r} 400 \\ \hline 1,000 \end{array} \times 500 = \$200 \quad \text{State sales tax}$$

253.4(5) *Application of payments upon termination by a land use district.* If a land use district terminates its local hotel and motel tax, lodging within the district becomes subject to any local hotel and motel tax imposed by a city or county within the corporate boundaries of that district on the date of termination. If a city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district after the date on which the land use district terminates its local hotel and motel tax shall be treated as collected from or refunded to lodging in such city or county. If no city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district at least 180 days after the date on which the land use district terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund as described in Iowa Code section 423A.6(1).

This rule is intended to implement Iowa Code sections 423A.3, 423A.4, and 423A.6.
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701—253.5(423A) Permits.

253.5(1) *Incorporation of 701—Chapter 201.* Except as otherwise stated in this chapter, the requirements of 701—Chapter 201 shall apply to retailers required to collect hotel and motel tax in the same manner that those requirements apply to all sellers and retailers making sales subject to state sales tax.

253.5(2) *Sales tax permit required.*

a. There is no separate hotel and motel tax permit; retailers required to collect and remit hotel and motel tax shall obtain an Iowa sales tax permit.

b. Any person not in the business of renting rooms to transient guests but that facilitates rentals of lodging at varying locations in Iowa to transient guests may register once under this chapter. A lodging facilitator shall not be required to register under this chapter if the lodging facilitator and its affiliates do not exceed the transaction and sales thresholds in Iowa Code section 423A.5A.

This rule is intended to implement Iowa Code sections 422.70, 423.37, 423.39, 423A.3, and 423A.4. [ARC 4195C, IAB 12/19/18, effective 1/23/19; ARC 6398C, IAB 7/13/22, effective 7/1/22; ARC 6508C, IAB 9/7/22, effective 10/12/22]

701—253.6(423A) Special collection and remittance obligations.

253.6(1) Exclusion from facilitation fee; itemization.

a. Exclusion from the definition of facilitation fee. The commission that a lodging provider pays to a lodging facilitator or lodging platform is not a facilitation fee. See Iowa Code section 423A.2(1)“d.”

b. Itemization of taxes required. Retailers shall add the state-imposed tax and the locally imposed tax, if any, to the sales price of the lodging, and each tax, when collected, shall be stated as a distinct item, separate and apart from the other tax and from the sales price of the lodging.

c. Itemization of components of sales price not required. A retailer is not required to separately itemize any component part of the sales price as separate and distinct from the rest of the sales price, including discount room charges, facilitation fees, or other similar charges. Regardless of how such fees are presented to a user, they are included in the definition of “sales price” as defined by Iowa Code section 423A.2(1)“k” and are subject to the hotel and motel taxes.

253.6(2) Obligations of lodging providers.

a. Rentals without lodging facilitators or lodging platforms. A lodging provider must collect and remit the hotel and motel tax on the entire sales price of the rental if the transaction does not involve a lodging facilitator or lodging platform. In transactions without lodging facilitators or lodging platforms, only the lodging provider has a hotel and motel tax collection and remittance obligation on the transaction. See example 1C below.

b. Rentals involving lodging facilitators. See subrule 253.6(3) for obligations of a lodging provider in rental transactions involving a lodging facilitator.

EXAMPLE 1A: Lodging provider. H owns a hotel located in Iowa. H offers rooms for rent to transient guests. Users can book rooms directly with H—in person, by phone, or through H’s website—or through lodging facilitators. H is a lodging provider. See Iowa Code section 423A.2(1).

EXAMPLE 1B: Lodging provider—property management company. M offers property management and listing services on behalf of lake homeowners. O owns a lake home. O enters into an agreement with M, under which M will manage the property, list the property for rent, enter into rental agreements with users, and receive money from users for the rental of the property.

The lake home is lodging. See Iowa Code section 423A.2(1)“e.” M is a lodging provider as a consequence of operating and managing the lodging and making the lodging available for rent. See Iowa Code section 423A.2(1)“h.” M must collect and remit the hotel and motel tax to the department.

EXAMPLE 1C: Collection and remittance by a lodging provider. H operates a hotel and is a lodging provider. A user books a room by calling H’s telephone number and paying a sales price of \$100 to rent the room for one night. H’s hotel is located in a jurisdiction with a 7 percent locally imposed hotel and motel tax. H shall charge the user \$112. H shall add the \$5 state-imposed tax as separate and apart from the sales price and separate and apart from the locally imposed tax. H shall add the \$7 locally imposed tax as separate and apart from the sales price and separate and apart from the state-imposed tax. H shall remit \$12, the total hotel and motel tax, to the department. See Iowa Code section 423A.5A.

253.6(3) Obligations of retailers in transactions involving lodging facilitators. Where a user rents lodging through a lodging facilitator, the lodging facilitator shall collect from the user the hotel and motel tax on the entire sales price paid by the user to the lodging facilitator and the lodging provider shall collect from the user the hotel and motel tax on the entire sales price paid by the user to the lodging

provider. The remittance obligations of the retailers depend on whether the lodging facilitator charges the user for facilitating the user's rental of the lodging.

a. Remittance of tax when lodging facilitators do not charge the user a facilitation fee. If the lodging facilitator does not charge the user a facilitation fee, the lodging facilitator shall transmit to the lodging provider the entire hotel and motel tax collected from the user. The lodging provider shall receive the hotel and motel tax transmitted from the lodging facilitator. The lodging provider shall remit that tax, together with any hotel and motel tax collected by the lodging provider directly from the user, to the department. See examples 2D and 2F below.

b. Remittance of tax when lodging facilitators charge the user a facilitation fee. If the lodging facilitator charges the user a facilitation fee, the lodging facilitator shall transmit to the lodging provider the portion of the hotel and motel tax attributable to the discount room charge that is charged by the lodging provider and shall remit to the department the remaining hotel and motel tax, which represents tax on the facilitation fee charged to the user. The lodging provider shall receive the hotel and motel tax transmitted from the lodging facilitator and shall remit that tax, together with any hotel and motel tax collected by the lodging provider directly from the user, to the department. See examples 2C and 2D below.

c. Examples.

EXAMPLE 2A: Lodging facilitator—online travel company. F operates an online travel company. On its website, F allows users to search for, book, and pay for hotel rooms. F's website includes listings from various hotels. Users are allowed to pay for the hotel room through a checkout page on F's website. F retains a portion of each sale as compensation for arranging the rental.

A user finds and selects a hotel room in Iowa on F's website. The user pays for the room through F's website. The lodging provider that owns the hotel is not an affiliate of F. The total price charged to the user includes an amount retained by F for arranging the rental of the hotel room. In this transaction, F is a lodging facilitator. See Iowa Code section 423A.2(1) "c," "d," and "f." The amount F retains from the user as compensation for arranging the rental is a facilitation fee. See Iowa Code section 423A.2(1) "d."

EXAMPLE 2B: Lodging facilitator—travel agency. T operates a travel agency. T allows customers to book hotel rooms in Iowa by coming to T's office or by calling one of T's agents. A user books a hotel room in Iowa through T. The user pays T a sales price of \$120. Of this amount, \$100 is consideration for renting the room. The remaining \$20 is a fee paid to T for coordinating the rental. In this transaction, T is a lodging facilitator. The \$20 fee T charges the user is a facilitation fee, which is included in the sales price. See Iowa Code section 423.2(1) "k."

EXAMPLE 2C: Lodging rented through a lodging facilitator. H operates a hotel and is a lodging provider. F operates an online travel company and is therefore a lodging facilitator. A user books a room at H's hotel through F's website. The total sales price charged to the user is \$100. The \$100 sales price includes a \$20 facilitation fee that is retained by F. H charges F a discount room charge of \$80.

The lodging is located in a jurisdiction with a locally imposed hotel and motel tax of 7 percent. The total price F must charge to the user is \$112, which is the sum of the sales price, the 5 percent state-imposed hotel and motel tax, and the 7 percent locally imposed hotel and motel tax.

F shall add the \$5 state-imposed tax as separate and apart from the sales price and separate and apart from the locally imposed tax. F shall add the \$7 locally imposed tax as separate and apart from the sales price and separate and apart from the state-imposed tax. On any document F provides to the user confirming the transaction, F must separately state the sales price (\$100), the state-imposed tax (\$5), and the locally imposed tax (\$7). See paragraph 253.6(1) "b." F is not required to identify to the user the portion of the sales price attributable to either the discount room charge or the facilitation fee. See paragraph 253.6(1) "c."

F shall remit to H that portion of hotel and motel taxes collected on \$80, the sales price that represents the discount room charge. See Iowa Code section 423A.5A. F remits \$9.60 hotel and motel tax (i.e., 12 percent hotel and motel tax rate × \$80 discount room charge) to H. F remits \$2.40 hotel and motel tax (i.e., 12 percent hotel and motel tax rate × \$20 facilitation fee) to the department. H remits the \$9.60 hotel and motel tax to the department.

EXAMPLE 2D: Additional sales price paid to a lodging provider. Assume the same facts as in example 2C. However, at check-in time, the user upgrades with H to a larger room for an additional sales price of \$50. The user pays this additional \$50 directly to H. H must charge the user \$56, which is the sum of the additional sales price, the 5 percent state-imposed hotel and motel tax, and the 7 percent locally imposed hotel and motel tax. H remits the \$6 hotel and motel tax, as well as the \$9.60 hotel and motel tax received from F as described in example 2C, to the department.

EXAMPLE 2E: Lodging rented through a travel agent who retains a fee. Assume the same facts as in example 2C. However, instead of booking the hotel room through F's online travel company, the user books the hotel room through travel agency T, and T handles the transaction the same as the online travel company in example 2C.

The result is the same as example 2C. T has the same collection and remittance obligations as F in example 2C.

EXAMPLE 2F: Lodging rented through a travel agent who only receives a commission from the hotel. H owns a hotel and is a lodging provider. A user books a room for one night at H's hotel using T, a travel agency. The total sales price is \$100. T coordinates the user's payment by collecting and transmitting the \$100 sales price plus tax from the user to H. T is a lodging facilitator. T does not retain any part of the user's \$100 payment nor impose an additional fee to the user for facilitating the transaction with H. After the user has stayed at H's hotel, T receives a \$20 commission from H. T and H are not affiliates.

The lodging is located in a jurisdiction with a locally imposed hotel and motel tax of 7 percent. The commission H pays to T is not a facilitation fee. See Iowa Code section 423A.2(1) "d" and paragraph 253.6(1) "a." Therefore, there is no hotel and motel tax applied to the commission paid to T. T is required to collect \$12 of hotel and motel tax (12 percent combined hotel and motel tax rate \times \$100 sales price) and remit the \$12 to H when T facilitates payment of the sales price to H. H must receive the \$12 tax on the sales price from T and must then remit the entire \$12 tax to the department. T does not have an obligation to remit any hotel and motel tax to the department on this transaction.

253.6(4) *Obligations of lodging platforms.* Where a retailer is a lodging platform, the retailer must collect and remit to the department the hotel and motel tax on the entire sales price of the transaction.

EXAMPLE 3A: Lodging platform—home-sharing marketplace. Z operates a home-sharing platform. Z allows individual property owners to list rooms or entire properties with sleeping accommodations for rent to transient guests on the home-sharing platform. Users search, book, and pay for lodging through Z's platform.

O lists O's house on Z's home-sharing platform. O is not an affiliate of Z. A user books and pays for O's listing using Z's home-sharing platform. In this transaction, Z is a lodging platform. See Iowa Code section 423A.2(1) "g."

EXAMPLE 3B: Lodging platform—home-sharing marketplace collection and remittance. Z operates the home-sharing platform described in example 3A. O owns a cabin in Iowa. The cabin is located in a local jurisdiction that imposes a 7 percent locally imposed hotel and motel tax. O lists O's property for short-term rentals on Z's marketplace. O offers O's property for rent for a three-day weekend for \$900. When listing O's property, O also requires the guests pay a \$20 towel fee and a \$50 cleaning fee. On this transaction, Z imposes a \$30 service charge on the user for processing the transaction on Z's website. A user reserves and pays for the cabin on Z's website.

The total sales price is \$1,000 (i.e., \$900 lake home rental + \$20 towel fee + \$50 cleaning fee + \$30 service charge) before taxes. Z must charge the user \$1,120. Z shall add the \$50 state-imposed tax as separate and apart from the sales price and separate and apart from the locally imposed tax. Z shall add the \$70 locally imposed tax as separate and apart from the sales price and separate and apart from the state-imposed tax. As a lodging platform, Z does not remit any part of the \$120 in tax to O. Z shall remit the \$120 in tax to the department. See Iowa Code section 423A.5A.

This rule is intended to implement Iowa Code sections 422.70, 423.37, 423.39, 423A.3, 423A.4, and 423A.5A.

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701—253.7(423A) Certification of funds.

253.7(1) *Certification of funds.* Within 45 days after the date that the quarterly returns and payments are due, the director will certify to the treasurer of state the amount of locally imposed tax to be transferred from the general fund to the local transient guest tax fund that is to be distributed to each city, county, and land use district that has adopted the tax. Payments received after the date of certification will remain in the general fund until the next quarterly certification.

253.7(2) *Revenues credited to local fund.* All locally imposed hotel and motel tax 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 locally imposed hotel and motel tax report or remittance, whether resulting from delinquencies or audits.

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

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