

701—83.11(453A) Sales exempt from tax. Sales of tobacco products which the state is prohibited from taxing under the Constitution or the laws of the United States or under the Constitution of this state are exempt from the tax.

83.11(1) Sales to the federal government. Military post exchanges or instrumentalities of the federal government are not required to comply with the provisions of Iowa Code chapter 453A or pay the tax imposed thereunder. However, individuals who have purchased or obtained tobacco products from a federal instrumentality and come within the jurisdiction of the state are subject to the provisions of Iowa Code sections 453A.43(2) and 453A.50. *U.S. v. Tax Commission of Mississippi*, 421 U.S. 599, 95 S. Ct. 1872, 44 L.Ed.2d 404 (1975).

83.11(2) Sales by or to Indians. Sales by Indians to other Indians of their own tribe on federally recognized Indian reservations or settlements of which they are tribal members are exempt from the tax. The Indian sellers are subject to the record-keeping requirements of Iowa Code chapter 453A. The tobacco products must be purchased by the Indian seller with the tax included in the purchase price. The tax exemption is allowed to the Indian purchaser by the purchaser's filing a claim for refund of the tax paid or to the tribe of which the Indian purchaser is a member by the tribe's filing a claim for refund of the tax paid by the tribe on tobacco products sold to the Indian purchaser.

This rule is intended to implement Iowa Code section 453A.43(4).