

701—33.6(422,423) Exemption for property used in Iowa only in interstate commerce. In determining whether property used in interstate commerce is exempt from Iowa use tax, the following four circumstances will be considered. Any person claiming that use of property in Iowa is exempt from tax by virtue of its use in interstate commerce must prove that:

1. The use does not have a substantial nexus with Iowa; or
2. Iowa use tax is not fairly apportioned; or
3. Imposition of Iowa use tax results in discrimination against interstate commerce; or
4. The use tax imposed is not fairly related to services provided by Iowa and which aid the retailer or user.

See *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 51 L.Ed.2d 326, 97 S.Ct. 1076 (1977) and *D. H. Holmes Company, Ltd. v. McNamara*, 100 L.Ed.2d 21, 108 S.Ct. 1619 (1988). The second prong, fair apportionment, will be satisfied where the tax credit, authorized by Iowa Code section 423.25, is granted. *D. H. Holmes*, 100 L.Ed.2d at 28.