

**701—19.1(422,423) General information.** Iowa Code section 422.43 imposes a tax upon the gross receipts from the sales of tangible personal property, consisting of goods, wares or merchandise sold at retail in this state to consumers and users. Also subject to tax are certain enumerated services. Those relating to the construction industry include carpentry; roof, shingle and glass repair; electrical repair and installation; equipment and other tangible personal property rental; excavating and grading; house and building moving; laboratory testing; landscaping; machinery operator services; machine repair of all kinds; oilers and lubricators; painting, papering, and interior decorating; pipe fitting and plumbing; wood preparations; termite, bug, roach, and pest eradicators; tin and sheet metal repair; welding; well drilling; and wrecking services. Under Iowa law, contractors are consumers or users of certain tangible personal property. Contractors may also be retailers of tangible personal property and taxable enumerated services. It should be noted that these services are exempt from taxation when performed on or in connection with new construction, reconstruction, alteration, expansion, or remodeling of a building or structure. The services of a general building contractor, architect or engineer are therefore exempt from tax when performed on or in connection with new construction, reconstruction, alteration, expansion, or remodeling. (Codified in section 422.43 of the 1979 Code.) See rule 701—26.2(422). For the purposes of this exemption, a structure is defined as that which is artificially built up or composed of parts joined together in some definite manner and which also has some obvious or apparent functional use or purpose. Nonexclusive examples of structures include: buildings; roads, whether paved or otherwise; dikes; drainage ditches; and ponds. See rule 19.11(422,423) relating to structures.

This chapter details the obligation of contractors, contractor-retailers, retailers, and repairpersons to pay or collect sales tax on the gross receipts from sales of building materials, supplies, equipment, and other tangible personal property and the obligation of these parties to collect tax or claim exemption for their performances of taxable services. How one is classified, whether as a contractor, contractor-retailer, retailer, or repairperson is the basis for determining many of those obligations. It can be very difficult for a person starting a business to determine if that business will be engaged in contracting, retailing, a combination of the two, or providing repair services. However, one status must be chosen. Any reasonable assessment of a new business's status will be honored by the department. A status, once chosen, should not be changed, unless it has become clear from an extended course of dealing that the business has become something other than what it was established to be. For instance, if a business is founded to engage in contracting and purchases construction materials based on the fact that it is a contractor, but the founder must sell construction materials at retail if the business is to survive, and after two years' operation half the revenue is from construction contracts and half from retail sales, then the business has become a contractor-retailer and henceforth should purchase construction materials based on that status. Changing the status of a business from job to job to avoid the obligation to pay or collect tax is not a lawful activity.

Iowa Code section 423.2 imposes a tax that is assessed upon tangible personal property purchased for use in this state and on taxable services which are rendered, furnished or performed in Iowa or where the product or result of such service is used in Iowa. "Use" of tangible personal property in Iowa is defined to mean and include the exercise by any person of any right or power over tangible personal property incident to the ownership of that property.

See 701—Chapters 12 and 30 of the rules regarding the filing of returns, penalty and interest.