

701—214.20(423) Grain bins. The Iowa Code exempts from sales and use tax the sales price from the sale of a grain bin, including material or replacement parts used to construct or repair a grain bin. “Grain bin” is defined by Iowa Code section 423.3(16A). Grain bins are real property, and grain bin materials are building materials as that term is used in rule 701—219.3(423).

214.20(1) *Property considered to be a grain bin or material used to construct a grain bin.* In general, materials that are permanently attached to a grain bin and are required to hold loose grain for drying or storage are used to construct a grain bin and thus exempt from sales and use tax. This generally does not include equipment used to move loose grain into or out of a grain bin. The following lists of exempt or taxable property are not exhaustive.

a. Exempt property:

- (1) Grain bins, including hopper bins.
- (2) Corrugated metal or other similar material for the sides or roof of a grain bin.
- (3) Steps, ladders, or staircases permanently attached to a grain bin.
- (4) Structural support towers for a grain bin or for steps, ladders, or staircases providing access to a grain bin.

(5) Catwalks.

(6) Roof vents permanently attached to a grain bin.

(7) Grain bin flooring and floor supports.

(8) Concrete pad or foundation under a grain bin.

(9) Stirring equipment permanently attached in a grain bin.

(10) Fans permanently attached to a grain bin.

(11) Temperature sensors or temperature cables permanently attached in a grain bin.

(12) Spreaders permanently attached in a grain bin.

(13) Sweeps or augers permanently attached in a grain bin.

(14) Bolts and other builders’ hardware permanently attached to a grain bin.

(15) Controls and devices to operate the above-listed property.

(16) Motors for the above-listed property.

(17) Replacement parts for the above-listed property.

b. Taxable property:

(1) Bucket elevators.

(2) Distributors.

(3) Receiving stations, including drag conveyors and dump pits.

(4) Pneumatic or air systems.

(5) Conveyors, including chain conveyors, belt conveyors, and drag conveyors.

(6) Anchors, bin jacks, or other construction equipment used to assemble, construct, repair, or replace a grain bin or part of a grain bin.

(7) Samplers.

(8) Scales or weighers.

(9) Other items that remain tangible personal property and are not permanently attached to a grain bin.

214.20(2) *Primarily used to hold loose grain for drying or storage.* Property is deemed to be “primarily used to hold loose grain for drying or storage” if it is used more than 50 percent of the time to hold loose grain for drying or storage.

214.20(3) *Claiming the exemption.*

a. A contractor must provide an exemption certificate to its supplier when purchasing grain bins, grain bin materials, or grain bin replacement parts in order to purchase them free from sales tax. The contractor entering into a construction contract with a sponsor to erect a grain bin or entering into a contract to repair a grain bin must also obtain an exemption certificate from the sponsor of the construction/repair contract to avoid accruing and remitting use tax on the grain bins, grain bin materials, and the grain bin replacement parts that were purchased tax-free from the contractor’s supplier.

b. The contractor must accrue use tax on the purchase price of the grain bins, grain bin materials, and grain bin replacement parts unless the contractor obtains an exemption certificate from the sponsor of the construction or repair contract. If the grain bin materials or replacement parts are not used in an exempt

manner or if an exemption certificate is not obtained, it is the contractor's responsibility to accrue and remit use tax. The contractor must not charge sales tax to the sponsor of a construction or repair contract because those materials and replacement parts remain building materials used in the performance of a construction contract.

EXAMPLE 1: Company A is in the business of constructing and repairing grain bins. Company A regularly purchases grain bin materials and replacement parts from its supplier. Company A may provide to its supplier an exemption certificate pursuant to Iowa Code section 423.3(16A) so that the materials and replacement parts are purchased tax-free.

A person, also known as a sponsor, enters into a construction contract with Company A to construct a grain bin on the sponsor's property. The sponsor provides an exemption certificate to Company A also pursuant to Iowa Code section 423.3(16A). Company A may now fulfill the construction contract without accruing and remitting use tax on the grain bin materials purchased from its supplier tax-free.

EXAMPLE 2: Assume the same facts as in Example 1, except that Company A does not provide an exemption certificate to its supplier when it purchases grain bin materials and replacement parts. The supplier must charge and collect from Company A sales tax on the full sales price of the grain bin materials and replacement parts.

The sponsor enters into a construction contract with Company A to erect a grain bin. Whether or not the sponsor provides an exemption certificate to Company A pursuant to Iowa Code section 423.3(16A), Company A may now fulfill the construction contract without accruing and remitting use tax on the grain bin materials because Company A paid sales tax on the sales price of the grain bin materials when it purchased them from its supplier.

EXAMPLE 3: Assume the same facts as in Example 2. The sponsor enters into a construction contract with Company A to erect a grain bin and provides an exemption certificate to Company A pursuant to Iowa Code section 423.3(16A). Company A may now file a refund claim with the department requesting that the department refund the sales tax that Company A paid to its supplier when it purchased the grain bin materials used in fulfilling the construction contract with the sponsor. Alternatively, Company A may claim a credit on its sales tax return(s) equal to the amount of sales tax paid to its supplier when it purchased the grain bin materials used in fulfilling the construction contract with the sponsor. The burden is on Company A to prove that the building materials for which the credit or refund is claimed were used in erecting a grain bin.

EXAMPLE 4: Assume the same facts as in Example 1, except that the sponsor does not provide an exemption certificate to Company A. Company A must now accrue and remit use tax on the cost of the materials used in fulfilling this construction contract.

EXAMPLE 5: Assume the same facts as in Example 1, except that the sponsor enters into a construction contract with Company A for the construction of a structure that is not a grain bin. Company A uses the materials that it had purchased tax-free from its supplier to fulfill this contract. Company A must now accrue and remit use tax on the cost of the materials used in fulfilling this construction contract.

EXAMPLE 6: Assume the same facts as in Example 1, except that the sponsor enters into a contract with Company A for the repair of a structure that is not a grain bin. Company A uses the materials that it had purchased tax-free from its supplier to fulfill this contract. When invoicing the sponsor, Company A must separately itemize the materials and the labor charges incurred in fulfilling this repair contract, and the sales price of the materials included on the invoice must include any mark-up. Company A is obligated to charge and collect sales tax on the materials and labor charges listed on the invoice.

EXAMPLE 7: Assume the same facts as in Example 1 except that, in addition to constructing the grain bin, the contractor provides and installs property, such as portable equipment, that remains tangible personal property after installation. As with the grain bin, grain bin materials, and grain bin replacement parts, the contractor purchases the portable equipment tax-free, not because it is exempt under this subrule, but because it is a purchase for resale. Unless the portable equipment qualifies for another exemption (such as in rule 701—214.1(423)), even if the contractor obtains an exemption certificate from the sponsor for the grain bin, grain bin materials, and replacement parts, the contractor must charge sales tax to the sponsor because the portable equipment remains tangible personal property and the contractor sells that equipment to the sponsor at retail.

This rule is intended to implement Iowa Code section 423.3.
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