

**701—217.3(423) Imposition of tax.**

**217.3(1)** *Taxable telecommunication service and ancillary service.* The sales price of the sale of telecommunication service and ancillary service are subject to Iowa sales or use tax. The following is a nonexclusive list of taxable telecommunication services:

- a. Air-to-ground radio telephone service;
- b. Ancillary services except detailed communications billing service;
- c. Conference bridging service;
- d. Fixed wireless service;
- e. Mobile wireless service;
- f. Pay telephone service;
- g. Postpaid calling service;
- h. Prepaid calling service;
- i. Prepaid wireless calling service;
- j. Private communication service;
- k. Residential telecommunication service.

**217.3(2)** *Other taxable services and circumstances.* The following is a description of services and circumstances under which certain charges associated with telecommunication service are subject to tax:

a. *Long distance charges.* Charges imposed or approved by the utilities division of the department of commerce that are necessary to secure long distance service in this state, for example, “end user intrastate access charges,” are taxable. These charges are taxable whether they result from an expense incurred from operations or are imposed by the mandate of the utilities division and unrelated to any expense actually incurred in providing the service.

b. *Sales price of services performed by another company.* The sales price collected by a company (selling company) from the end users of telecommunication services and ancillary services performed in this state by another company (providing company) are considered to be the taxable sales price of the selling company. The situation is similar to a consignment sale of tangible personal property. Tax must be remitted by the selling company.

c. *Directory assistance.* Charges for directory assistance service rendered in this state are subject to tax.

d. *Electrical and electronic installation and repair.* The sales price of the installation or repair of any inside wire that provides electrical current that allows an electronic device to function is subject to tax. The sales price is from the enumerated service of electrical and electronic repair and installation. The sales price of inside wire maintenance charges for services performed under a service or warranty contract is also subject to tax. Depending upon the circumstances, the sales price is for the enumerated service of electrical and electronic repair and installation or is incurred under an optional service or warranty contract for an enumerated service. In either event, the receipts are subject to tax.

e. *Electrical and electronic installation and repair: billing methodology.* The sales price of the repair or installation of inside wire or the repair or installation of any electronic device, including a telephone or telephone switching equipment, is subject to tax regardless of the method used to bill the customer for the service. These methods include but are not limited to:

- (1) A flat fee or a flat hourly charge that covers all costs, including labor and materials;
- (2) A premises visit or trip charge;
- (3) A single charge covering and not distinguishing between charges for labor and materials;
- (4) A charge with labor and material segregated; or
- (5) A charge for labor only.

f. *Nonitemized taxes and charges.* Any federal taxes or charges that are not separately stated or billed are subject to Iowa sales tax.

g. *Rental of tangible personal property.* The sales price of the rental of any device for home or office use or to provide a telecommunication service to others is taxable as the rental of tangible personal property. The sales price of rental includes rents, royalties, and copyright and license fees. Any periodic fee for maintenance of the device that is included in the sales price of the rental of the device is also subject to tax.

*h. Sales of tangible personal property.* The sale of any device, new or used, is subject to tax both when the device is in place on the customer's premises at the time of the sale and if the device is sold to the customer elsewhere. The sale of an entire inventory of devices may or may not be subject to tax, depending upon whether it qualifies for the casual sales exemption. More information is contained in Iowa Code section 423.3. Other exemptions may be applicable, as well.

*i. Mandatory charges or fees.* Any mandatory handling or other charges billed to a customer for sending the customer an electronic device by mail or by a delivery service are subject to tax. Charges for a mandatory service rendered in connection with the sale of tangible personal property are considered by the department to be a part of the sales price of the sale of the property itself and therefore subject to tax.

*j. Deposits.* Any portion of a deposit utilized by a company as payment for the sale of tangible personal property or a taxable service is subject to tax as part of the sales price.

*k. Municipal utilities.* Sales of telecommunication service and ancillary service to any tax-levying body used by or in connection with the operation of any municipally owned utility engaged in selling gas, electricity or heat to the general public are subject to tax. These sales are an exception to the exemption for federal and state government. More information is contained in subrule 217.4(5).

*l. Fax.* The service of sending or receiving any document commonly referred to as a "fax" from one point to another within this state is subject to sales tax.

EXAMPLE A: Company A is located in Des Moines, Iowa. Company A charges a customer \$2 to transmit a fax to Dubuque, Iowa. The \$2 is a taxable sales price. Midwest Telephone Company charges Company A \$500 per month for the intrastate communication service on the company's dedicated fax line. The \$500 is also a sales price from a taxable communication service.

EXAMPLE B: The XYZ Law Firm is located in Des Moines, Iowa. The firm owns a fax machine and uses the fax machine in the performance of its legal work to transmit and receive various documents. The firm does not perform faxing services but will, on billings for legal services to clients, separately state the amount of a billing that is attributable to expenses for faxing. For example, "bill to John Smith for \$1,000 for legal services performed, fax expenses that are part of this billing—\$30." The \$30 is not a sales price for the performance of any taxable service because the faxing service is only incidental to the performance of the nontaxable legal services.

This rule is intended to implement Iowa Code section 423.2(9).

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