

701—219.10(423) Contracts with equipment sales (mixed contracts). Construction contracts or contracts for reconstruction, alteration, expansion, or remodeling with equipment sales, commonly known as mixed contracts, place a dual burden on the contractor, as a contractor is a consumer of construction materials and also a retailer of the machinery and equipment.

219.10(1) *Out-of-state supplier.* As a consumer by statute of construction building materials, supplies, and building equipment, a contractor is required to pay sales tax to the supplier at the time of purchase or remit use tax to the department if purchasing building materials, supplies, and building equipment from an out-of-state supplier.

219.10(2) *When machinery and equipment do not become real property.* Machinery and equipment must be purchased for resale by the contractor if the machinery and equipment does not become real property. This means that the contractor does not pay tax to a supplier at the time of purchase of machinery and equipment, but instead, the contractor is responsible for collecting sales tax on the sales price from a sponsor and remitting it to the department.

EXAMPLE: Company A contracts with Company B to have Company B build a new building and install all of the production machinery and equipment for the new building. Company B must pay tax on its purchases of building materials and supplies that lose their identity as tangible personal property and become a component part of the real property. Company B also purchases some refrigeration units for the new building that maintain their identity as tangible personal property. These units must be purchased tax-free by Company B because they will be resold. Company B would then charge Company A the tax on the units that retain their identity as tangible personal property. The installation charges for the units that remain as tangible personal property would be part of the total sales price subject to tax unless they are separately contracted or, if no written contract exists, are separately itemized on the billing from Company B to Company A. If the installation charges involve the performance of one or more enumerated services, they would be subject to sales tax even when separately contracted for or separately itemized on the billing from Company B to Company A.

219.10(3) *Lump-sum amount.* In a mixed contract, the elements of the contract should be separated for sales tax purposes. When a mixed construction contract is let for a lump-sum amount, the machinery and equipment furnished and installed shall be considered, for the purposes of this rule only, as being sold by the contractor for an amount equal to the cost of the machinery and equipment.

219.10(4) *Permits.* Persons required to collect sales tax in Iowa under machinery and equipment contracts or a mixed contract are required to have a sales and use tax permit.

This rule is intended to implement Iowa Code section 423.2(1) "b."

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