

**701—219.11(423) Distinguishing machinery and equipment from real property.** A construction contract or a contract for reconstruction, alteration, expansion, or remodeling does not include a contract for the sale and installation of machinery or equipment. Machinery and equipment are tangible personal property when it is purchased and remains tangible personal property after installation. Generally, tangible personal property can be moved without causing damage or injury to itself or to the structure, does not bear the weight of the structure, and does not in any other manner constitute an integral part of a structure. Manufactured machinery and equipment that does not become permanently annexed to the realty remains tangible personal property after installation.

**219.11(1)** *Examples of tangible personal property that remains tangible personal property after installation.* Under normal conditions, the following nonexclusive list remains tangible personal property after installation.

- a. Furniture, including office furniture and equipment, washers and dryers, portable lamps, home freezers, portable appliances, and window air-conditioning units.
- b. Portable items such as casework, tables, counters, cabinets, lockers, athletic and gymnasium equipment, and other related easily movable property attached to the structure.
- c. Machinery, equipment, tools, appliances, and materials used exclusively as such by manufacturers, industrial processors, and others performing a processing function with the items.
- d. Radio and television sets and antennas, including radio, television, and cable television station equipment, but not broadcasting or telecommunications towers.
- e. Certain equipment used by restaurants and in institutional kitchens; for instance, dishwashers, stainless steel wall cabinets, stainless steel natural gas stoves, stainless steel natural gas convection ovens, and combination ovens and steamers with stands. This paragraph is not applicable to similar items used in residential kitchens.

Therefore, sales of items that remain tangible personal property after installation are subject to sales tax. If the installation of such items involves the performance of one or more enumerated services, the labor charges are also subject to sales tax, unless an exemption applies.

**219.11(2)** *Examples of tangible personal property that becomes realty after installation.*

- a. Under normal conditions, the following nonexhaustive list becomes a part of realty.
  - (1) Boilers and furnaces.
  - (2) Built-in household items such as kitchen cabinets, dishwashers, sinks (including faucets), fans, garbage disposals and incinerators.
  - (3) Buildings, and structural and other improvements to buildings, including awnings; canopies; foundations for machinery; floors (including computer room floors); walls; general wiring and lighting facilities; roofs; stairways; stair lifts; sprinkler systems; storm doors and windows; door controls; air curtains; loading platforms; central air-conditioning units; building elevators; sanitation and plumbing systems; decks; and heating, cooling and ventilation systems.
  - (4) Fixed (year-round) wharves and docks.
  - (5) Improvements to land including patios; retaining walls; roads; walks; bridges; fencing; railway switch tracks; ponds; dams; ditches; wells; underground irrigation systems; drainage; storm and sanitary sewers; and water supply lines for drinking water, sanitary purposes and fire protection. Rule 701—214.10(423) provides more information on drainage tile.
  - (6) Mobile and modular homes installed on foundations.
  - (7) Planted nursery stock.
  - (8) Residential water heaters, water softeners, intercoms, garage door opening equipment, pneumatic tube systems and music and sound equipment (except portable equipment).
  - (9) Safe deposit boxes, drive-up and walk-up windows, night depository equipment, remote TV auto teller systems, vault doors, and camera security equipment (except portable equipment).
  - (10) Seating in auditoriums and theaters and theater stage lights (except portable seating and lighting).
  - (11) Silos and grain storage bins.
  - (12) Storage tanks constructed on the site.
  - (13) Swimming pools (wholly or partially underground (except portable pools)).
  - (14) Truck platform scale foundations.

(15) Walk-in cold storage units that become a component part of a building.

*b.* Exception for installation of new or replacement items. Sales of items that become a part of a structure to contractors, subcontractors, or builders for use in the performance of a construction contract or a contract for reconstruction, alteration, expansion, or remodeling of a structure are retail sales subject to sales tax to be paid by the contractor, subcontractor, or builder. However, a contract for installation of new or replacement items in an existing structure is not necessarily a construction contract or a contract for reconstruction, alteration, expansion, or remodeling of that structure.

EXAMPLE: A homeowner hires a contractor to replace the existing garbage disposal in the homeowner's house. This is not a construction contract or a contract for reconstruction, alteration, expansion, or remodeling of the house. Therefore, the contractor must charge the homeowner sales tax on the full sales price of the garbage disposal. Additionally, because the installation of the garbage disposal involves the performance of enumerated services, the installation labor charges are also subject to sales tax.

This rule is intended to implement Iowa Code sections 423.2(6) and 423.3(37).

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