

701—225.7(423) Exemption for certain purchases by commercial enterprises.

225.7(1) Exemption. The sales price from the sale of specified digital products and of prewritten computer software sold, and of enumerated services described in Iowa Code section 423.2(1)“a”(5) or 423.2(6)“bq,”“br,”“bs,” and “bu” furnished to a commercial enterprise for use exclusively by a commercial enterprise is exempt from tax.

225.7(2) Commercial enterprise as purchaser. A purchaser seeking this exemption must be a commercial enterprise as defined in Iowa Code section 423.3(104)“b”(1). For purposes of Iowa Code section 423.3(104)“b”(1). For purposes of Iowa Code section 423.3(104)“b”(1), the following definitions apply:

a. Insurance company. “Insurance company” means the same as defined in Iowa Code section 423.3(47)“d.” Excluded from the definition of “insurance company” is the following nonexhaustive list of entities: benevolent associations governed by Iowa Code chapter 512A, fraternal benefit societies governed by Iowa Code chapter 512B, and health maintenance organizations governed by Iowa Code chapter 514B.

b. Occupation. “Occupation” means the principal business of an individual, such as the business of farming.

c. Profession. “Profession” means a vocation or employment requiring specialized knowledge and often long and intensive academic preparation.

225.7(3) Exclusive use by a commercial enterprise. A commercial enterprise must be the exclusive user of the product. Use in the ordinary course of a commercial enterprise’s business constitutes exclusive use by a commercial enterprise. Uses by all other users, including entities other than commercial enterprises, do not constitute uses by a commercial enterprise.

a. Examples of exclusive uses. The following are examples of exclusive uses by a commercial enterprise in the normal course of business:

- (1) Word processing software loaded onto employees’ work computers.
- (2) Software that displays a menu on a tablet used by customers at a restaurant.
- (3) Information services used by temporary employees of a commercial enterprise in the ordinary course of business.

b. Examples of disqualifying nonexclusive uses. The following are examples of uses that are not exclusive uses by a commercial enterprise or uses in the ordinary course of business:

- (1) Software shared by a commercial enterprise with an entity that is not a commercial enterprise.
- (2) Video games that customers may purchase on a tablet that is provided at a restaurant for customers to use while waiting for service.

225.7(4) Noncommercial purposes. “Noncommercial purposes” means purposes that are outside of carrying out the business purpose of a commercial enterprise or purposes outside of the ordinary course of business of a commercial enterprise. The following are examples of uses for noncommercial purposes:

- a.* Personal and recreational use.
- b.* Holding a product for future use for a noncommercial purpose.

225.7(5) De minimis. “De minimis” means an amount of use of a product for noncommercial purposes that, when considering the product’s value and the frequency with which the use for noncommercial purposes occurs during the product’s total use time, is so small as to make accounting for that use unreasonable or impractical. Whether a use is de minimis is a fact-based determination that shall be made on a case-by-case basis.

This rule is intended to implement Iowa Code section 423.3(104).

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