

701—26.38(422) Private employment agency, executive search agency. Private employment agencies engaged in the business of providing listings of available employment, counseling others with respect to future employment or aiding another in any way to procure employment are rendering, furnishing or performing a service, the gross receipts from which are subject to tax. The aforementioned services are subject to tax, regardless of whether they are rendered for the prospective employee or prospective employer.

For periods commencing after June 30, 1982, the gross receipts of private employment agencies from services rendered for placing a person in employment where the person's principal place of employment is to be located outside the state of Iowa are not taxable. Principal place of employment ordinarily means the work location of the employee.

EXAMPLE: ABC Company contracts with XYZ, an Iowa employment agency, to secure an employee to work at a production plant in Illinois. XYZ Employment Agency finds a suitable employee that is hired by ABC Company. Since the employee's principal place of employment is outside the state, there is no tax due on the gross receipts of XYZ Employment Agency for securing that employment.

EXAMPLE: Hometown Sales Company contracts with ABC Employment Agency to secure a salesperson to travel Iowa, Missouri and Nebraska. Both Hometown Sales Company and ABC Employment Agency are located in Iowa. ABC Employment Agency is successful in finding a salesperson for Hometown Sales Company. Since this salesperson will be traveling in three states the gross receipts of ABC Employment Agency from placing the employment of this salesperson are taxable as the principal place of the salesperson's employment is not outside the state of Iowa.

Executive search agencies are engaged in the business of securing employment for top-level management positions. Effective July 1, 1984, the gross receipts from services provided by executive search agencies are subject to tax. For any period prior to that date, their gross receipts are not taxable. Prior to July 1, 2002, it was necessary for an executive search agency to be "licensed" for its services to be taxable. On and after that date, the services of an unlicensed executive search agency are taxable. The exclusion from taxation for the service of placing a person in employment if that person's principal place of employment is to be located outside of Iowa which is applicable to private employment agencies is not applicable to executive search agencies. The gross receipts from the services of executive search agencies performed in Iowa are subject to tax.

The following nonexclusive elements distinguish the difference between executive search agencies and private employment agencies. These elements should be used to distinguish between taxable and nontaxable services for any period prior to July 1, 1984.

Executive Search Firm	Employment Agency
1. Top level management positions—Salaries over \$30,000.	All levels of jobs in an organization. All salary levels.
2. Serve only a few clients (5 or 6) at one time. Employers only.	Large number of clients at all times. Both possible employers and employees.
3. Send information regarding one individual to one possible employer only. Résumés never circulated to other possible employers.	Individual's résumé circulated to many possible employers.
4. Extensive analysis of the position to be filled. Extensive analysis of the individuals who are candidates. Prepare detailed professional assessment of strengths and weaknesses of individuals.	No extensive analysis of the position or the individual.
5. Make travel arrangements for interviews; conduct salary negotiations; perform follow-up studies.	Normally does not make travel arrangements for interviews; does not conduct salary negotiations; does not perform detailed follow-up studies.
6. Only paid by the company seeking the employee.	Paid by either the company or the job seeker.

Executive Search Firm	Employment Agency
7. Paid on retainer or by an hourly charge or by contract. Paid whether or not individual is hired.	Paid on a contingent-fee basis. Paid only if a referred person is hired.
8. Does not advertise available positions.	Does engage in general advertising of available positions.
9. Overall placement of individual requires extensive and sophisticated analysis of position and individual.	Overall placement of individual is not as extensive or sophisticated.

This rule is intended to implement Iowa Code section 422.43 as amended by 2002 Iowa Acts, Senate File 2305, section 6.