

701—34.17(321,423) Repossession of a vehicle. A vehicle may be taken from a purchaser by the holder of the security interest in the vehicle or someone acting on the holder's interest, if the purchaser defaults on the terms of the purchase agreement. To be recognized as valid for use tax purposes, the repossession must be regulated under the terms of the Uniform Commercial Code and there must be a valid lien on the title of the vehicle. To be recognized as valid for use tax purposes, repossession of a vehicle can be made by dealers, by financial institutions, and by individuals. The taxable result of repossession depends on the identity of the person doing the repossessing and the manner in which the person doing the repossessing conducts the transaction.

34.17(1) *Licensed vehicle dealer.* If a licensed vehicle dealer repossesses a vehicle and anticipates reselling the vehicle, then the dealer can use the dealer's resale exemption, and no use tax is due at the time of the registration of the vehicle by the dealer.

34.17(2) *Financial institution or private individual.* A financial institution or a private individual may be a licensed dealer entitled to receive an exemption from use tax based on the dealer's license when registering a repossessed vehicle. Repossessions of vehicles that will be resold by a financial institution or an individual that does not have a dealer's license can be effectuated using a foreclosure affidavit. Use tax liabilities which arise as a result of such affidavits are as follows:

a. If the financial institution or individual uses the foreclosure affidavit to take title to the vehicle and register the vehicle, use tax is due based on the outstanding loan amount on the vehicle.

b. If the foreclosure affidavit is used merely to retain possession of the vehicle until a buyer is found, no tax is due on the repossession. No tax is due because a transfer of title does not occur.

Use tax liabilities which arise as a result of repossessions of mobile homes are handled in the same manner as vehicles.

This rule is intended to implement Iowa Code sections 321.48 and 423.2.