

**701—34.5(423) Exemptions.** An affidavit of exemption may be required if there is reason to believe that the exemption being requested is not within the provisions of one of the exemptions set forth by law or it is believed that the person requesting the exemption will not use the vehicle for one of the exempt purposes. The burden of proof whether an exemption applies shall be upon the person claiming the exemption.

An original registration in Iowa may be issued for a vehicle subject to registration without the collection of use tax only in the following situations, unless exceptions are noted:

**34.5(1)** When the applicant for an Iowa registration for a vehicle subject to registration has paid to another state a state sales, use or occupational tax on that unit, credit shall be allowed against the Iowa tax due in the amount paid. Credit shall not be allowed when such tax is paid upon equipment rental receipts. If tax paid is equal to or greater than the Iowa tax due, no further tax shall be collected. If tax paid is less than the Iowa tax due, the difference shall be collected by Iowa.

**34.5(2)** When the consumer applies for registration of a “homemade vehicle subject to registration” built from parts purchased at retail, upon which the consumer paid a tax to the seller, and never before registered. The term “homemade vehicle subject to registration” shall include such things as homemade automobiles, trucks, trailers, motorcycles and motorbikes, but shall not include those vehicles subject to registration which are made by a manufacturer engaged in the business for the purpose of sales or rental.

**34.5(3)** When a nonresident of Iowa applies for a “nonresident-in-transit” registration for a motor vehicle purchased in Iowa but which the person intends to permanently register in a state other than Iowa.

**34.5(4)** When vehicles are purchased by any federal or state governmental agency or tax-certifying or tax-levying body of Iowa or governmental subdivision thereof. The exemption shall not apply to vehicles purchased and used in connection with the operation of or by a municipally owned public utility engaged in selling gas, electricity or heat to the general public and, therefore, shall be subject to use tax.

**34.5(5)** When the purchaser of a vehicle subject to registration in Iowa remits use tax on the taxable price, then moves the vehicle to a foreign state where it is registered in that state and subsequently returns the same vehicle to Iowa where it is again registered. The same purchaser shall have maintained ownership of the vehicle throughout the respective moves from and back to Iowa.

**34.5(6)** When a vehicle subject to registration is inherited, the county treasurer may require the registrant to set forth the facts before such exemption is granted.

**34.5(7)** When an applicant for an Iowa registration has moved from another state with intent of changing residency to Iowa and if the vehicle subject to registration was purchased for use in the state from which the applicant moved and was not, at or near the time of such purchase, purchased for use in Iowa.

**34.5(8)** Vehicles purchased for lease and used outside the state of Iowa. When certain vehicles defined as “motor trucks, truck tractors, road tractors, trailers, or semitrailers” in Iowa Code section 321.1, except vehicles designed primarily for carrying persons, are purchased for the purpose of leasing to a lessee for use outside the state of Iowa, and actually leased to a lessee for use outside Iowa, such vehicles shall be exempt from use tax provided the subsequent sole use in Iowa is in interstate transportation or interstate commerce.

Should a “use,” as defined in Iowa Code subsection 423.1(1) occur in Iowa, subsequent to the leasing to a lessee outside the flow of interstate transportation or interstate commerce, use tax would be owing. The tax, if found to be due, shall be computed on the purchase price.

The tax, if due, shall be paid on or before the last day of the month following the close of the quarter in which a “use” in Iowa, outside the flow of interstate transportation or interstate commerce, did occur. The tax should be paid directly to the Iowa department of revenue.

**34.5(9)** Vehicles which are transferred from a business which was a sole proprietorship or partnership to a corporation for the purpose of continuing the business if all of the stock of the corporation is owned by the sole proprietor and the sole proprietor’s spouse or by all the partners if the business was a partnership are exempt from tax. This exemption is also applicable if vehicles are transferred from a corporation to a sole proprietorship or partnership formed for the purpose of continuing the business when carried on by the same person or persons who were stockholders of the corporation.

*a.* This exemption contains the following provisions:

(1) If the business transferring the vehicle is a sole proprietorship or partnership, the vehicle must be transferred to a new corporation. For the purposes of this subrule, a corporation is a “new” corporation if, at the time of transfer, the corporation has been incorporated for one calendar year or less.

(2) The new corporation must have been formed for the purpose of continuing the business of the sole proprietorship or partnership. The activities of the new corporation must, therefore, be the same as the sole proprietorship or the partnership.

(3) The new corporation must be owned 100 percent by the sole proprietor, the sole proprietor’s spouse or all the partners, in the case of a partnership, which is transferring the vehicle.

(4) The exemption is equally available when vehicles are transferred from a corporation to a sole proprietorship or to a partnership.

(5) In such cases, the newly formed sole proprietorship or partnership must have been formed to continue the business of the corporation. Therefore, the activities of the new entity must be the same as the corporation.

(6) The new sole proprietorship or partnership must have owned all the stock in the transferring corporation when the corporation existed.

*b.* Effective July 1, 2001, this exemption is also applicable to transfers to and from limited liability companies. The rules regarding transfers to a “new” corporation are also applicable to a transfer to a limited liability company. In addition, for a limited liability company to claim the exemption, the creation of the limited liability company must be by the same person or persons who owned the transferor entity.

*c.* Effective May 30, 2003, the gross receipts from the transfer of a vehicle subject to registration from one corporation to another corporation are exempt if the following two criteria are met:

(1) The corporations involved in the transfer must be primarily engaged in the business of leasing vehicles subject to registration; and

(2) The corporations are part of the same controlled group for federal income tax purposes.

**34.5(10)** Purchases of vehicles subject to registration by persons who will rebuild those vehicles into ambulances, rescue, or fire vehicles (as defined in Iowa Code chapter 321) are exempt from tax. These purchases are exempt only if the person purchasing the vehicle for rebuilding into an ambulance, rescue, or fire vehicle is a licensed wholesaler of new motor vehicles. This exemption is applicable only to purchases of vehicles which will be rebuilt into ambulances, rescue, or fire vehicles.

**34.5(11)** Purchases of vehicles by a licensed vehicle recycler under Iowa Code chapter 321H are exempt from tax. These purchases are exempt as long as the recycler sells only those parts or vehicles for which the recycler is licensed.

**34.5(12)** Purchase of vehicles by a person regularly engaged in the business of renting vehicles or a vehicle that is registered and titled for rental use by a motor vehicle dealer licensed under Iowa Code chapter 322 for the purpose of short-term automobile rental (see Iowa Code chapter 27) or, effective January 1, 1997, vehicles subject to registration purchased for a long-term vehicle lease of 12 months or more and titled by a lessor licensed pursuant to Iowa Code chapter 321 (see 701—rules 31.5(423) and 32.11(423)).

This rule is intended to implement Iowa Code sections 422.45(5), 423.4(4), 423.4(9) and 423.4(16) and 2003 Iowa Acts, chapter 179, section 127.