

701—225.4(423) Tangible personal property purchased by a person engaged in the performance of a service.**225.4(1) In general.**

a. Tangible personal property purchased by a person engaged in the performance of a service is purchased for resale and not subject to tax if (1) the provider and user of the service intend that a sale of the property will occur, and (2) the property is transferred to the user of the service in connection with the performance of the service in a form or quantity capable of a fixed or definite price value, and (3) the sale is evidenced by a separate charge for the identifiable piece or quantity of property.

b. Tangible personal property which is not sold in the manner set forth in “*a*” above is not purchased for resale and thus is subject to tax at the time of purchase by a person engaged in the performance of a service. Such tangible personal property is considered to be consumed by the purchaser who is engaged in the performance of a service, and the person performing the service shall pay tax upon the sale at the time of purchase.

EXAMPLE 1. An investment counselor purchases envelopes. These envelopes are used to send out monthly reports to the investment counselor’s clients regarding their accounts. Tax is due at the time the investment counselor purchases the envelopes if the clients are not billed for these items. Each envelope is transferred to a client in a form or quantity which is capable of a fixed or definite price value. However, there must also be an actual sale to the client (customer) of an item of personal property in order that there be a “resale” of the item.

EXAMPLE 2. An automobile repair shop purchases solvents which are used in cleaning automobile parts and thus in performing its automobile repair service. Tax is due at the time the automobile repair shop purchases the solvents since the solvents are not sold to the customer and, in this case, the items are not transferred to a customer in a form or quantity which is capable of a fixed or definite price value. Thus, the solvents are deemed consumed by the purchaser engaged in the performance of the service.

EXAMPLE 3. A retailer purchases television picture tubes tax-free and makes a separate charge for the picture tube to the customer. Since the tube is transferred to the customer in a form or quantity capable of a fixed or definite price value, the retailer may purchase the picture tube exempt from tax for subsequent resale.

EXAMPLE 4. A beauty shop or barber shop purchases shampoo and other items to be used in the performance of its service. Tax is due at the time the beauty shop or barber shop purchases such items from its supplier because the customers of the beauty shop or barber shop are not separately billed for the items and because the items are not transferred to the customer in a form or quantity capable of a fixed or definite price value. The items are consumed by the beauty shop or barber shop.

EXAMPLE 5. A car wash purchases water, electricity, or gas used in the washing of a car. The car wash would be the consumer of the water, electricity, or gas, and tax is due at the time of purchase. The items purchased by the car wash are not transferred to the customer in a form or quantity capable of a fixed or definite price value, and the customer is not billed for the items.

EXAMPLE 6. An accounting firm purchases plastic binders which are used to cover the reports issued to its customers. These binders would be subject to tax at the time of purchase by the firm where the customer of the firm is not billed for the item, because there is no sale to the customer.

EXAMPLE 7. A meat locker purchases materials such as wrapping paper and tape which it uses to wrap meat for customers who provide the locker with the meat. These materials would be subject to tax at the time of purchase by the meat locker because they are not sold to the customer in a form or quantity capable of a fixed or definite price value.

EXAMPLE 8. A jeweler purchases materials such as main springs and crystals to be used in the performance of a service. These items are purchased by the jeweler for resale when they are transferred to the customer in a form or quantity capable of a fixed or definite price value, and each item is actually sold to the customer as evidenced by a separate charge therefor.

EXAMPLE 9. A lawn care service applies fertilizer, herbicides, and pesticides to its customers’ lawns. The following are examples of invoices to customers which are suitable to indicate a lawn care service’s purchase of the fertilizer, herbicides, and pesticides for resale to those customers: “Chemicals...31 Gal....\$60”; “Fertilizer...50 lbs....\$100”; and “Materials applied to lawn...4 bushel...\$40”. The following

are examples of information placed upon an invoice which would not indicate a purchase for resale to the customers invoiced: “Fifty percent of the charge for this service is for materials placed on a lawn,” or “Lawn chemicals...\$30” or “Fifty pounds of fertilizer was applied to this lawn.”

225.4(2) Purchases made by automobile body shops or garages with body shops. Tangible personal property purchased by body shops can be purchased for resale provided both of the following conditions are met:

a. The property purchased for resale is actually transferred to the body shop’s customer by becoming an ingredient or component part of the repair work. See Iowa Code section 423.3(2).

b. The property purchased for resale is itemized as a separate item on the invoice to the body shop’s customer and is transferred to the customer in a form or quantity capable of a fixed or definite price value.

If either of the above two conditions is not met, there is no purchase for resale and the body shop is deemed the consumer of the item purchased.

When body shops purchase items which will be resold (see list of items in this rule) in the course of the repair activity, the vendors selling to the body shops are encouraged to accept a valid resale certificate at the time of purchase. Reference rule 701—15.3(422,423). Failure of the vendor to accept a valid resale certificate may subject that vendor to sales tax liability since the burden of proof would be on the vendor that a sale was made for resale. If the vendor cannot meet that burden, the vendor will be liable for the sales tax. Such burden is not met merely by a showing that the purchaser had obtained from the department an Iowa retail sales tax permit or retail use tax permit.

For insurance purposes, body shops are reimbursed by insurance companies for “materials” which such shops consume in rendering repair services. Some of the materials are transferred to the recipients of the repair services and some are not. Of those so transferred, such transfer is in irregular quantities and is not in a form or quantity capable of a fixed or definite price value. Therefore, body shops are generally deemed to be the consumers of materials and must pay tax on these items at the time of purchase. Nonexclusive examples of items most likely to be included in this category of “materials,” whether actually transferred to customers of body shops or not, are as follows:

- Abrasives
- Battery water
- Body filler or putty
- Body lead
- Bolts, nuts and washers
- Brake fluid
- Buffing pads
- Chamois
- Cleaning compounds
- Degreasing compounds
- Floor dry
- Hydraulic jack oil
- Lubricants
- Masking tape
- Paint
- Polishes
- Rags
- Rivets and cotter pins
- Sanding discs
- Sandpaper
- Scuff pads
- Sealer and primer
- Sheet metal
- Solder
- Solvents

Spark plug sand
Striping tape
Thinner
Upholstery tacks
Waxes
White sidewall cleaner

The following are nonexclusive examples of parts which can be purchased for resale since they are generally transferred to the body shop's customer during the course of the repair in a form or quantity capable of a fixed or definite price value and are generally itemized separately as parts.

Accessories
Batteries
Brackets
Bulbs
Bumpers
Cab corners
Chassis parts
Door guards
Door handles
Doors
Engine parts
Fenders
Floor mats
Grilles
Headlamps
Hoods
Hubcaps
Radiators
Rocker panels
Shock absorbers
Side molding
Spark plugs
Tires
Trim
Trunk lids
Wheels
Window glass
Windshield ribbon
Windshields

The following are nonexclusive examples of tools and supplies which are generally not transferred to the body shop's customer during the course of the repair and, therefore, could not be purchased for resale. The body shop is deemed the consumer of these items since they are not transferred to a customer. Therefore, the body shop must pay tax to the vendor at the time of purchase.

Air compressors and parts
Body frame straightening equipment
Brooms and mops
Buffers
Chisels
Drill bits
Drop cords
Equipment parts
Fire extinguisher fluids
Floor jacks

Hand soap
Hand tools
Office supplies
Paint brushes
Paint sprayers
Sanders
Signs
Spreaders for putty
Washing equipment and parts
Welding equipment and parts

Because of the nature of the body shop business and the formulas devised by the insurance industry to reimburse body shops for cost of “materials,” it is possible for body shops, in their invoices to their customers, to separately set forth labor, resold parts, and materials. While the materials can be separately invoiced as one general item, there is no way to ascertain a definite and fixed price for each item of the materials listed in this rule and consumed by the body shops, and some of such individual materials are not even transferred by body shops to their customers. Therefore, the body shops are generally the “consumers” of “materials” and do not purchase them for resale. See *W. J. Sandberg Co. v. Iowa State Board of Assessments and Review*, 225 Iowa 103, 278 N.W. 643 (1938). Thus, body shops should pay tax to their suppliers on all materials purchased and consumed by body shops. If materials are purchased from non-Iowa suppliers that do not collect Iowa tax from body shops, such body shops should remit consumer use tax to the department of revenue on such materials.

Body shops must collect sales tax on the taxable service of repairing motor vehicles. See rule 701—221.62(423). However, due to the nature of the insurance formulas, it is possible for body shops to itemize that portion of their billing which would be for repair services and that portion relating to consumed “materials.” It is also possible for body shops to itemize that portion of their charges for parts which they purchase for resale to their customers. Body shops do not and cannot resell the tools and supplies previously listed in this rule; their purchases of such items are taxable.

Therefore, as long as body shops separately itemize on their invoices to their customers the amounts for labor, parts, and for “materials,” body shops should collect sales tax on the labor and the parts, but not on the materials as enumerated in this rule.

EXAMPLE. A body shop repairs a motor vehicle by replacing a fender and painting the vehicle. In doing the repair work, the body shop uses rags, sealer and primer, paint, solder, thinner, bolts, nuts and washers, masking tape, sandpaper, waxes, buffing pads, chamois, and polishes. In its invoice to the customer, the labor is separately listed at \$600, the part (fender) is separately listed at \$600, and the category of “materials” is separately listed for a lump sum of \$200, for a total billing of \$1,400. The Iowa sales tax computed by the body shop should be on \$1,200, which is the amount attributable to the labor and the parts. The materials consumed by the body shop were separately listed and would not be included in the tax base for the taxable “sales price,” as defined in Iowa Code section 423.1(47), which is taxable under Iowa Code section 423.2.

In this example, if the “materials” were not separately listed on the invoice, but had been included in either or both of the labor or parts charges by marking up such charges, the body shop would have to collect sales tax on the full charges for parts or labor even though tax was paid on materials by the body shop to its supplier at the time of purchase.

This rule is intended to implement Iowa Code sections 423.1(35) and 423.3(2).