

701—211.5(423) Bank and financial institution service charges.

211.5(1) *In general.* The service charges imposed by financial institutions relating to a depositor's checking account are subject to sales tax. If the same service is performed by a financial institution relating to an account that does not qualify as a checking account, the service charge imposed by the financial institution is not subject to sales tax.

211.5(2) *Definitions.* For purposes of this rule:

“*Bank*” means an institution empowered to do all banking business, including issue negotiable notes, discount notes, receive deposits payable on demand, and buy and sell bills of exchange. Savings and loan associations and other financial institutions not commonly considered to be banks do not fall within the meaning of a bank.

“*Checking account*” means an account on which withdrawals may be made from the account via a written instrument, including but not limited to a check, draft, or negotiable order of withdrawal (NOW). Whether or not an account pays interest does not determine whether an account qualifies as a checking account. The term “checking account” is characterized by its general meaning rather than a technical definition, and other types of accounts not described in this rule may qualify as checking accounts. Certificates of deposit do not qualify as checking accounts.

“*Financial institutions*” means the same as defined in Iowa Code section 423.2(6) “*f.*”

211.5(3) *Checking account charges.* All charges relating to a checking account are subject to sales tax, including but not limited to charges for the following:

- a. Withdrawals made by check or bank card.
- b. Nonproprietary automatic teller machine (ATM) transactions.
- c. Transferring funds from one account to another (if billed to a checking account).
- d. Stop payment.
- e. Debit card replacement.
- f. Copy and research.
- g. Bill payment.
- h. Returned deposit items.
- i. Issuance of a certified check, drawn from a particular account.

211.5(4) *Other service charges.* Service charges not usually subject to sales tax by virtue of having no relationship to checking accounts include but are not limited to:

- a. Safety deposit box rentals.
- b. Mortgages and loans.
- c. Trust department fees for probating estates, administering trusts, administering agency accounts, administering pension and profit-sharing plans, serving as stock transfer agents or registrars, serving as farm managers, and fees or commissions charged to customers for handling security transactions. Some of these services may qualify as investment counseling and may be subject to sales tax.
- d. Real estate appraisals.
- e. Servicing real estate loans.
- f. Contract collection and collection not related to the maintenance of a checking account.
- g. Special lockbox handling.
- h. Finance charges, including those for credit cards.
- i. Escrow agent.
- j. Safekeeping, handling and cashing coupons or certificates kept in a bank's possession.
- k. Penalties on early withdrawal for saving certificates.
- l. Purchasing or selling securities for customers, unless used as a disguise for investment counseling fees.
- m. Real estate collection exchange, including collecting and transferring mortgage payments.
- n. Traveler's or a similar type of check, bank cashier's checks, bank drafts, or money orders with no relation to a customer's checking account.
- o. Check exchanges.
- p. Noncustomer point-of-sale or ATM access fees or service charges.

211.5(5) *Exceptions.* Fees charged to a checking account depositor for a depositor's failure to adhere to contractual obligations with a bank or financial institution are not subject to sales tax. These charges, such as fees for overdrafts or returned checks, are penalties rather than service charges. Bank service charges that are never assessed against the expense of maintaining a checking account are not subject to sales tax.

This rule is intended to implement Iowa Code section 423.2(6) "*f.*"
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