

701—219.1(423) General information and definitions.

219.1(1) Definitions. For purposes of this chapter, terms mean the same as defined in Iowa Code section 423.1 and as defined in this rule.

“Building equipment” means any vehicle, machine, tool, implement, or other device used by a contractor in erecting structures for others, or reconstructing, altering, expanding, or remodeling property of others, which does not become a physical component part of the property upon which work is performed, and which is not necessarily consumed in the performance of such work.

“Building materials” means materials used in construction work and is not limited to materials used in a construction contract. The term may also include any type of materials used for reconstruction, alteration, expansion, or remodeling of the premises or anything essential to the completion of a building or other structure for the use intended. Building materials generally consist of items that are incorporated into real property, lose their identity as tangible personal property, and cannot be removed without altering the realty, or that are consumed by the contractor during the performance of the construction contract.

“Building supplies” means anything that is furnished for and used directly in the carrying on of the work of an owner, contractor, subcontractor, or builder and which is used or consumed in the course of completing the project. Such items do not have to enter into and become a physical part of the structure like building materials, but they do become as much a part of the structure as the labor that is performed on it.

“Construction contract” means an agreement between a contractor and a sponsor under the terms of which the contractor agrees to provide labor, materials, supplies, and equipment to build a structure for the sponsor.

“Fabricated cost” means and includes the cost of all materials as well as the cost of labor, power, transportation to the plant, and other plant expenses but not installation on the job site.

“Prefabricated structure” means any structure assembled in a factory and capable of transport to the location where it will be used in the performance of a construction contract by placement on a foundation either by the buyer or a designated contractor.

“Repair” means the same as mend, restore, maintain, replace and service. A repair contemplates an existing structure or tangible personal property that has become imperfect and constitutes the restoration to a good and sound condition.

“Structure” means that which is artificially built up or composed of parts joined together in some definite manner and which also has some obvious or apparent functional use or purpose. Nonexclusive examples of structures include buildings; roads, whether paved or otherwise; dikes; drainage ditches; and ponds.

219.1(2) Classification and obligations. The classification of persons and business determines their obligations to pay or collect sales or use tax or claim an exemption on the sales price from sales of building materials, supplies, equipment, other tangible personal property, and labor.

a. *Classification types.* Persons and businesses can be classified as an owner, contractor, contractor-retailer, retailer, or repairperson.

b. *Classification.* A specific classification must be chosen and once chosen should not be changed unless it has become clear from an extended course of dealing that the business has become something other than what it was established to be.

c. *Assessment for new businesses.* It can be difficult for a person starting a business to determine whether that business will be engaged in contracting, retailing, a combination of the two, or providing repair; however, any reasonable assessment of a new business’s status will be honored by the department.

d. *Prohibited.* Changing the status of a business from job to job to avoid the obligation to pay or collect tax is not a lawful activity.

e. *Example.* A business is founded to engage in contracting and purchases construction materials based on the fact that it is a contractor, but the founder must sell construction materials at retail if the business is to survive. If, after two years’ operation, half the revenue is from construction contracts and half from retail sales, then the business has become a contractor-retailer and henceforth should purchase construction materials based on that status.

This rule is intended to implement Iowa Code chapter 423.

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