

701—219.7(423) Prefabricated structures.

219.7(1) Basic concepts. Prefabricated structures include modular homes, mobile homes, manufactured housing, sectionalized housing, precut housing packages, and panelized construction.

219.7(2) Taxability.

a. Sales or use tax on the full purchase price is due when prefabricated structures are sold to or used by owners, contractors, subcontractors, or builders, or delivered under a contract for sale or sold for use in Iowa.

b. Sales of prefabricated structures that have not been erected on a foundation are considered sales of tangible personal property and thus are taxable on the purchase price charged to a consumer or user by the seller at the time of retail sale.

219.7(3) Exceptions. The following are exceptions to the general taxability rule described above, applicable to modular and mobile homes and manufactured housing:

a. Modular homes. Modular homes, as defined in Iowa Code section 435.1, cannot be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles. Only 60 percent of the sales price from the sale of a modular home is subject to Iowa tax. This 60 percent rule is applicable only to structures that meet the definition of “modular home” and not to other types of prefabricated structures that do not meet the definition of the term “modular home” such as sectionalized housing or panelized construction. Also, the 60 percent rule is not applicable to the sale of materials used in the assembly of a modular home, only to the sale of the finished product.

b. Mobile homes and manufactured housing.

(1) Use tax. Mobile homes and manufactured housing, as defined in Iowa Code section 321.1, are subject to use tax at the rate of 20 percent of the purchase price. All mobile homes sold in Iowa or sold outside Iowa for use in this state are sold subject to Iowa use tax, whether sold for placement within or outside a mobile home park. See Iowa Code section 423.26A on the collection of use tax and certificates of title for manufactured housing.

(2) Exemption. To be eligible for the use tax exemption provided in Iowa Code section 423.6(9), the purchaser of a mobile home or manufactured housing must provide sufficient documentation to the county treasurer that verifies the Iowa use tax under Iowa Code section 423.5 has been previously imposed and paid.

(3) Trade-in allowance. A trade-in allowance will result in a reduction in the price of mobile homes and manufactured housing subject to tax if all the conditions found in Iowa Code section 423.3(59) are met.

1. The property traded for the mobile home or manufactured housing is a type of property normally sold in the regular course of business of the retailer selling the home or housing, and

2. The retailer intends ultimately to sell the traded property at retail or to use the traded property in the manufacture of a like item.

EXAMPLE 1: A manufactured housing dealer receives from the factory a new manufactured home that has a sales price of \$20,000. The dealer sells it and takes the purchaser’s old manufactured home worth \$5,000 in trade. The dealer keeps the traded-in manufactured home as an office. The Iowa use tax is computed as follows:

Sales price	\$20,000
Trade-in value	\$5,000
Buyer’s price (Sales price minus trade-in)	\$15,000
Amount subject to tax (Full sales price multiplied by 20%)	\$4,000
Use tax due (5%)	\$200

Because the manufactured home will not be ultimately sold at retail or used to manufacture a like item, the trade-in value does not result in a reduction of the price subject to tax.

EXAMPLE 2: Same facts as Example 1; however, instead of keeping the traded-in manufactured housing, the dealer intends to and lists the trade-in for sale.

Sales price	\$20,000
Trade-in value	\$5,000

Buyer's price (Sales price minus trade-in)	\$15,000
Amount subject to tax (Full sales price multiplied by 20%)	\$3,000
Use tax due (5%)	\$150

In this example, the trade-in value does result in a reduction of the price subject to tax because the dealer intends to sell the traded-in manufactured housing at retail.

219.7(4) *Tax consequences of sales of modular homes by various parties, some operating in a dual capacity.*

a. A retailer (dealer) that is not additionally a contractor or manufacturer of modular homes purchases those homes tax-free from a wholesaler or manufacturer for subsequent resale to contractors or owners. Tax must be collected when the dealer sells the modular home to an owner or contractor.

b. A contractor that is not a dealer must pay tax when purchasing a modular home for use in a construction contract or for some other purpose. A contractor's sale of a modular home to an owner or another contractor is treated as explained in Examples 2 and 4 of subrule 219.4(5).

c. A dealer that is also a contractor will purchase homes tax-free for inclusion in its inventory. Tax is imposed when the dealer withdraws a home from inventory for sale or use in the performance of a construction contract as explained in rule 701—219.4(423).

d. A manufacturer that acts as its own dealer and sells its own modular homes at retail to contractors or owners will collect tax on the sales price from its sales of those modular homes to its customers. This situation is in contrast to that described in subrule 219.7(5) in which a manufacturer uses its own modular homes in the performance of construction contracts and the tax due is computed on a sum other than the sales price from the sale of a home.

What is stated in this subrule concerning sales of modular homes is generally applicable to the use tax on mobile homes and manufactured housing. However, one distinct difference is that mobile homes and manufactured housing are seldom, if ever, purchased by a dealer for any subsequent use in the performance of construction contracts. A dealer will often purchase a mobile home or manufactured housing for subsequent resale to a customer as tangible personal property and then will place or install the mobile home or manufactured housing on a site prepared by the customer. This is not the performance of a construction contract, and the dealer is a retailer who installs tangible personal property and is not a construction contractor.

219.7(5) *Manufacturers who perform construction contracts.* When companies whose principal business is the manufacture of prefabricated structures use those structures in the performance of construction contracts, this use is treated as a retail sale of the structures on the manufacturer's part. Rule 701—219.6(423) provides a description of the sales tax treatment of this sort of transaction. The 60 percent rule, as described in subrule 219.7(3), is not applicable when calculating the amount of tax owed by a manufacturer.

219.7(6) *Examples.* The following examples are intended to illustrate who must collect or remit sales or use tax when a manufacturer sells a modular home to a contractor or owner or acts as a contractor in erecting the home. The incidence of tax depends on several factors, such as the nature of the manufacturer's business, the point of delivery, the contractual agreement, and whether or not a sale for resale has occurred.

EXAMPLE 1: The manufacturer is located outside Iowa. The manufacturer contracts with an Iowa customer to build a home in the manufacturer's factory. The manufacturer also contracts to completely erect the home, install the furnace, and do electrical and other necessary work to make the home ready for occupancy. The main source of the manufacturer's income relates to on-site construction. The manufacturer has paid a sales tax equal to Iowa tax in its state of residency. The manufacturer would be considered to be performing a construction contract in Iowa and would owe use tax in Iowa; however, a sales tax credit would be allowed for tax paid to the other state.

EXAMPLE 2: The manufacturer is located outside Iowa. An Iowa unrelated builder/dealer contracts with the customer for the home and then contracts with the manufacturer for construction, delivery, and installation on the customer's foundation. The manufacturer delivers the home into Iowa on the manufacturer's own truck. The customer, by contractual agreement, is obligated to pay for the home on delivery of the property, so the sale takes place in Iowa. In this situation, the manufacturer is involved in

the sale of tangible personal property rather than the sale of real estate and must collect Iowa sales tax on 60 percent of the sales price to the Iowa builder/dealer.

EXAMPLE 3: The manufacturer is located outside Iowa. The manufacturer contracts to sell a home to a customer (owner) in Iowa. The manufacturer hires a common carrier to deliver the home to the Iowa customer. The manufacturer has no activity in Iowa that would create a “nexus” requiring the manufacturer to collect Iowa tax. In this situation, the Iowa customer is required to remit use tax on 60 percent of the purchase price of the home.

EXAMPLE 4: The manufacturer may be located in Iowa or outside Iowa. The manufacturer sells a home to a dealer in Iowa that will resell the home to the final customer. The manufacturer may deliver the home, or delivery may be made by a common carrier. The manufacturer has no contractual obligation for erection. In this situation, the manufacturer is making a sale for resale and is not required to collect tax. The manufacturer must have a valid resale certificate on file from the dealer. The dealer, if in Iowa, would be required to collect tax when the home is sold.

EXAMPLE 5: The manufacturer is located in Iowa. The manufacturer contracts to furnish, deliver, and perform the setup on a home in a state other than Iowa. The manufacturer withdraws the home from inventory and transports the home to the other state for setup. In this situation, the Iowa manufacturer does not owe any Iowa tax because Iowa Code section 423.2(1) “b” exempts building materials and supplies that manufacturers withdraw from inventory for construction outside Iowa.

EXAMPLE 6: The manufacturer is located in Iowa. The manufacturer sells a home to an Iowa customer and agrees, under separate contract, to transport the home to the job site and perform the setup. The manufacturer should collect tax on 60 percent of the sales price of the home. The customer also wants a garage. The manufacturer agrees to sell the lumber, nails, and shingles to the customer who would build the garage. This sale would be considered a sale at retail, and the manufacturer should collect tax on the entire sales price of these materials. The same would be true if the manufacturer sold appliances separate from the sale of the home; sales tax would be due on the entire sales price of the appliances.

EXAMPLE 7: The manufacturer may be located inside or outside Iowa. The manufacturer sells a modular home to a dealer that is a general contractor. The dealer subcontracts the work of placing the home on a foundation to various third parties, which transport the home to its site, excavate for and pour the concrete slab, and perform plumbing, electrical hookup, and all other services that are part of the construction contract for placing the modular home at its location. Since the sale of the modular home is to a dealer that is a contractor, the manufacturer will collect and the dealer will pay tax on 60 percent of the modular home’s invoice price.

This rule is intended to implement Iowa Code sections 423.2(1) “b,” 423.3(64), 423.5(1) “b,” 423.6(9), and 423.6(10).

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