

701—220.5(423) Prescription drugs. The sales price from the sale of prescription drugs dispensed for human use or consumption in accordance with subrules 220.5(3) and 220.5(4) shall be exempt from tax. The sales price from the sale of oxygen or insulin purchased for human use or consumption (whether or not the oxygen or insulin is prescribed) is exempt from tax as a prescription drug.

220.5(1) *Ultimate user.* The term “ultimate user” means an individual who has lawfully obtained and possesses a prescription drug or medical device for the individual’s own use or for the use of a member of the individual’s household, or an individual to whom a prescription drug or medical device has been lawfully supplied, administered, dispensed or prescribed. The term is limited to natural persons, and does not include any legal persons such as corporations.

220.5(2) *Tax exemption.* The sale of a prescription drug is exempt from tax only if the drug is intended to be prescribed or dispensed to an ultimate user. A drug is intended to be prescribed or dispensed to an ultimate user only if the drug is obtained by or supplied or administered to an ultimate user for placement on or in the ultimate user’s body.

EXAMPLE A: A physician prescribes a tranquilizer for a patient who is chronically nervous. The patient uses the prescription to purchase the tranquilizer at a pharmacy. The purchase is exempt from tax.

For purposes of this subrule, any drug prescribed in writing by a licensed physician, surgeon, osteopath, osteopathic physician or surgeon, or other person authorized by law to an ultimate user for human use or consumption shall be deemed a drug exempt from tax if a prescription is required or permitted under Iowa state or federal law.

EXAMPLE B: A common painkiller is sold over the counter in doses of 200 milligrams per tablet. In doses of 600 milligrams per tablet, federal law requires a prescription before the drug can be dispensed. Sales of 600 milligram tablets by prescription are exempt from tax.

EXAMPLE C: A federal law permits but does not require the painkiller mentioned in Example B to be prescribed by a practitioner in dosages of 200 milligrams per tablet. A practitioner might prescribe the painkiller in the over-the-counter dosage, for example, to impress upon a patient the importance of taking the drug. Sales of 200 milligram tablets by prescription are exempt from tax.

220.5(3) *Persons authorized to dispense prescription drugs.* In order for a prescription drug or device to qualify for an exemption, it must be dispensed by anyone authorized under Iowa law to dispense prescription drugs or devices in this state or by anyone licensed in another state in a health field in which, under Iowa law, licensees in this state may legally prescribe drugs or devices.

220.5(4) *Disposition of prescription drugs.* Prescription drugs may be dispensed either directly from one of the persons licensed in subrule 220.5(3) who may also prescribe drugs or by a pharmacist upon receipt of a prescription from one of the persons licensed to prescribe. A prescription received by a licensed pharmacist from one of the persons licensed in subrule 220.5(3) who may also prescribe drugs shall be sufficient evidence that a drug is exempt from tax. When a person who prescribes a drug is also the dispenser, the drug will not require a prescription by such person, but the drug must be recorded as if a prescription would have been issued or required. If this condition is met, the sales price from the sale of the drug is exempt from tax.

220.5(5) *Others required to collect sales tax.* Any person other than those who are allowed to dispense drugs or devices under subrule 220.5(3) is required to collect sales tax on any prescription drugs.

220.5(6) *Prescription drugs purchased by hospitals for resale.* This subrule applies to for-profit hospitals only. Hospitals have purchased prescription drugs for resale to patients and not for use or consumption in providing hospital services only if the following circumstances exist: (1) the drug is actually transferred to the patient; (2) the drug is transferred in a form or quantity capable of a fixed or definite price value; (3) the hospital and the patient intend the transfer to be a sale; and (4) the sale is evidenced in the patient’s bill by a separate charge for the identifiable drug.

A hospital’s purchase of a prescription drug for purposes other than resale will still be exempt from tax if a drug is intended to be prescribed to an ultimate user and the hospital’s use of the drug is otherwise exempt under subrule 220.5(1).

This rule is intended to implement Iowa Code section 423.3(60).

[ARC 8162C, IAB 7/24/24, effective 8/28/24]