

701—215.2(423) Carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services used in processing. An expanded definition of “processing” is allowed to manufacturers of food products for human consumption using carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and taxable services. For the purposes of this rule, the rental or leasing of tangible personal property is treated as the furnishing of a taxable service and not as the sale of tangible personal property.

215.2(1) “Marketable food products for human consumption” means products intended to be sold ultimately at retail as items which furnish energy, sustain growth, support vital processes in the human body, and are final products ready for and capable of consumption without the need for further processing after being sold to the purchaser. “Marketable food products for human consumption” includes food products traditionally accepted and sold as food products and products that have been enhanced or compounded with nutritional elements. “Marketable food products for human consumption” does not include medicines or dietary or food supplements. A product that may be consumed by a human but is sold for other purposes is not a marketable food product for human consumption.

a. Certain entities eligible. An entity that processes a product owned by another entity is eligible for this exemption, subject to satisfying the other requirements to properly claim the exemption.

EXAMPLE: Company A owns and operates a processing facility. Company B owns corn and contracts with Company A to process the corn. Company B maintains ownership of the corn the entire time it is processed and in possession of Company A. Company B sells the processed corn to Company C, who will make retail sales of the processed corn. Company A is eligible to claim this exemption for any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or other taxable service used to process the corn.

b. Determination. The burden is on the taxpayer seeking to claim this exemption to establish a product is a marketable food product for human consumption. The department’s determination shall be a fact-based determination based on the information provided by a manufacturer and the individual circumstances at issue.

EXAMPLE: A manufacturer produces products, such as glucosamine, that are used as ingredients in orange juice, which is produced by a different entity. The glucosamine is not a marketable food product for human consumption. The orange juice is a marketable food product for human consumption.

215.2(2) The following activities constitute processing when performed by a manufacturer to create food products for human consumption. Any carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, or other taxable services primarily used in the performance of these activities is exempt from tax.

a. Treatment of material that changes its form, context, or condition in order to produce a marketable food product for human consumption. “Special treatment” of the material to change its form, context, or condition is not necessary to lawfully claim the exemption. Examples of “treatment” which would not be “special” are the following: the washing, sorting and grading of fruits or vegetables; the washing, sorting, and grading of eggs; and the mixing or agitation of liquids. By way of contrast, sterilization would be “special treatment.”

b. Maintenance of the quality or integrity of the food product and the maintenance or the changing of temperature levels necessary to avoid spoilage or to hold the food in marketable condition. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or other taxable service used in freezers, heaters, coolers, refrigerators, or evaporators used in cooling or heating which holds the food product at a temperature necessary to maintain quality or integrity or to avoid spoilage of the food or to hold the food product in marketable condition is exempt from tax. It is not necessary that the taxable service be used to raise or lower the temperature of the food. Also, processing of food products for human consumption does not cease when the food product is in marketable form. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or taxable service used to maintain or to change a temperature necessary to keep the product marketable is exempt from tax.

c. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or other taxable service primarily used in the maintenance of environmental conditions necessary for the safe or efficient use of machinery or material used to produce the food product is exempt from tax. For example, electricity used to air-condition a room in which meat is stored is exempt from tax if the purpose of the air conditioning is

to maintain the meat in a condition in which it is easy to slice rather than for the comfort of the employees who work in the room.

d. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or taxable service primarily used in sanitation and quality control activities is exempt from tax. Nonexclusive examples exempt from tax include taxable services used in pH meters, microbiology counters and incubators used to test the purity or sanitary nature of a food product. For example, electricity used in egg-candling lights would be exempt from tax. Also, electricity, steam, or any taxable service used to power equipment which cleans and sterilizes food production equipment would be exempt from tax. Electricity used to power refrigerators used to store food samples for testing would be exempt from tax. Finally, electricity used to power “bug lights” or other insect-killing equipment used in areas where food products are manufactured or stored would be exempt from tax.

e. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or taxable service used in the formation of packaging for marketable food products for human consumption is exempt from tax. For example, electricity used in plastic bottle-forming machines by a food manufacturer is exempt from tax if the plastic bottles will be used to hold a marketable food product, such as milk. Any electricity, steam, or other taxable service used in the heating, compounding, liquefying and forming of plastic pellets into these plastic bottles is exempt.

f. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or taxable service used in placement of the food product into shipping containers is exempt from tax. For example, electricity used by a food manufacturer to place food products into packing cases, pallets, crates, shipping cases, or other similar receptacles is exempt.

g. Any carbon dioxide in liquid, solid, or gaseous form, electricity, steam, or taxable service used to move material which will become a marketable food product or used to move the marketable food product itself until shipment from the building of manufacture is exempt from tax. This includes, but is not limited to, taxable services used in pumps, conveyors, forklifts, and freight elevators moving the material or food product and taxable services used in door openers which open doors for forklifts or other devices moving the material or product. Any loading dock which is attached to a building of manufacture is a part of that building. Any electricity, steam, or taxable service used to move any food products to a loading dock is exempt from tax. If a food product is carried outside its building of manufacture by any conveyor belt system, electricity used by any portion of the system located outside the building is taxable.

This rule is intended to implement Iowa Code section 423.3(49).

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