

701—220.14(423) Exclusion from tax for property delivered by certain media. A taxable “sale” of tangible personal property does not occur if the substance of the transaction is delivered to the purchaser digitally, electronically, or by utilizing cable, radio waves, microwaves, satellites, or fiber optics. This exclusion from tax is also applicable to the leasing of tangible personal property, since a lease is classified as a “sale” of tangible personal property for the purposes of Iowa sales and use tax law. The exclusion is not applicable to property delivered by any medium other than those listed above. Sales of items such as artwork, drawings, photographs, music, electronic greeting cards, “canned” software (reference 701—subrule 18.34(1)), entertainment properties (e.g., films, concerts, books, and television and radio programs), and all other digitized products delivered as described above are not taxable, except the exclusion does not repeal by implication the tax on the service of providing pay television. Reference rule 701—26.56(422,423). If an order for a product is placed by way of any of the media described above but the product ordered is delivered by conventional, physical means, e.g., the U.S. Postal Service or common carrier, sale of the product is not excluded from tax under this rule.

The department considers delivery of tangible personal property to a purchaser by way of a “load and leave” transaction to be delivery by the use of conventional physical means. The sales price from the purchase of property delivered through a load and leave transaction is not exempt from tax under this rule. “Load and leave” means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

This rule is intended to implement 2005 Iowa Code subsection 423.3(66) and Iowa Code chapter 423, subchapter IV.

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