

**701—270.7(423B,423E) Sales not subject to local option tax, including transactions subject to Iowa use tax.** The local option sales and services tax is imposed upon the same basis as the Iowa state sales and services tax, with the following exceptions:

1. The sales price from the sale of or service of providing motor fuel or special fuel as defined under Iowa Code chapter 452A is subject to local option tax. However, the sales price from the sale or service of these types of fuels is exempt from local option tax if all of the following criteria are met:

- The motor or special fuel must be consumed by a motor vehicle for highway use, or used in watercraft or aircraft;

- Fuel tax must have been paid on the transaction; and
- A refund has not been or will not be allowed.

2. The sales price from the sale of natural gas or electricity in a city or county is exempt from tax if the sales price is subject to a franchise or user fee during the period the franchise or user fee is imposed.

3. A local taxing jurisdiction is prohibited from taxing the sales price from a pay television service consisting of a direct-to-home satellite service. Section 602 of the federal government's Telecommunications Act of 1996 defines a "direct-to-home satellite service" as "only programming transmitted or broadcast by satellite directly to the subscribers' premises or in the uplink process to the satellite." A "local taxing jurisdiction" is "any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local jurisdiction in the territorial jurisdiction of the United States, with the authority to impose a tax or fee, but does not include a state."

4. The sales price from sales of equipment by the Iowa state department of transportation is exempt from local option sales tax.

5. Sales subject to Iowa use tax. Since the local option tax is imposed only on the same basis and not on any greater basis than the Iowa sales and services tax, local option tax is not imposed on any transactions subject to Iowa use tax, including the one-time registration fee applicable to vehicles subject to registration or subject only to the issuance of a certificate of title. Also, exemptions which are applicable only to Iowa use tax cannot be claimed to exempt any transaction subject to local option sales tax.

6. Local excise on gas and electricity. If a transaction involves the use of natural gas, natural gas service, electricity, or electric service, a local excise tax is imposed on the same basis as Iowa use tax under Iowa Code chapter 423. This local excise tax is to be collected and administered in the same manner as local option sales and services tax. Except as otherwise provided in this chapter, all rules governing local option sales and services tax also apply to local excise tax.

This rule is intended to implement Iowa Code section 423B.5.

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