

701—26.42 (422) Storage warehousing, storage locker, and storage warehousing of raw agricultural products and household goods.**26.42(1) Definitions.**

a. For the purpose of this rule, raw agricultural products include, but are not limited to, corn, beans, oats, milo, fruits, vegetables, animal semen, and like items that have not been subjected to any type of processing. Grain drying is not processing.

b. A “warehouse” is defined as an enclosure not readily accessible to the public, which would normally require a roof of some sort or some type of structure designed to afford protection to the products. Placing the products on the ground, even though surrounded by a fence, would not constitute a warehouse. *Lynch v. State*, 1889, 89 Ala. 7 So. 829.

c. “Household goods” means tangible personal property located in a person’s residence, and is not inventory.

d. For the purpose of this rule, the term “principal” shall refer to the person who ships raw agricultural products or household goods to the warehouse, or the person who is billed by the warehouse for service performed. The term “purchaser” shall refer to the person who purchases the goods from the principal.

26.42(2) Taxation of household goods. Beginning April 1, 1992, the gross receipts on the storage of household goods in a warehouse are subject to tax.

a. For the purposes of this rule, storage in transit (S.I.T. storage), consists of household goods stored for less than 180 days. Permanent storage consists of household goods stored for 180 days or more.

b. Storage in transit with an origin in Iowa and a destination outside Iowa is exempt from tax.

c. Storage in transit with an origin outside the state of Iowa and a destination in Iowa is subject to tax.

d. Storage in transit with an origin and destination within Iowa is subject to tax.

26.42(3) Storage and delivery.

a. *Raw agricultural products or household goods originating inside the state and delivered inside the state.* Assuming the raw agricultural products or household goods originate in Iowa, are stored in an Iowa warehouse and, after storage, are delivered to a destination in Iowa, the tax is imposed on storage pursuant to Iowa Code section 422.43. The interstate commerce exemption in Iowa Code section 422.42, subsections 13 and 16, is not applicable.

b. *Raw agricultural products or household goods originating outside the state and delivered inside the state.* Assuming the raw agricultural products or household goods originate from a principal outside the state of Iowa, are sent to an Iowa warehouse and, after storage, are delivered to a destination in Iowa; tax on these warehouse services has been imposed since October 1, 1967, and there is no interstate commerce exemption, either under the United States Constitution, or under the statutory exemption for services performed on tangible personal property delivered into interstate commerce. The delivery, in this example, is clearly intrastate and the storage is subject to tax. *Iowa Movers and Warehousemen’s Association v. Briggs*, 237 N.W.2d 759 (Iowa 1976).

c. *Raw agricultural products or household goods originating inside or outside of the state and shipped by the warehouse out of Iowa.* Assuming the raw agricultural products or household goods originated either in Iowa or outside of Iowa, are shipped to an Iowa warehouse and, after storage, are sent by the warehouse directly out of Iowa or are given to a common carrier to be shipped out of Iowa, with destination being out of Iowa; the storage of the raw agricultural products or household goods is exempt.

d. *Raw agricultural products or household goods originating either inside the state or outside the state and the principal or purchaser of the raw agricultural products picks them up at the Iowa warehouse.* Assuming the raw agricultural products or household goods originated either in Iowa or out of Iowa, and are sent to an Iowa warehouse for storage and, upon the completion of the storage, the principal directs the warehouse to allow the purchaser of the raw agricultural products or household goods to pick them up at the Iowa warehouse; the warehouse service would be subject to Iowa sales tax.

This example involves a situation similar to the one found in *Dodgen Industries, Inc. v. Iowa State Tax Commission*, 160 N.W.2d 289 (Iowa 1968).

In that case, the court held that where the sale of goods is made by an Iowa principal, delivery of the goods physically made to the purchaser in Iowa constitutes an intrastate delivery, and the Iowa sales tax applies. Therefore, where physical delivery of goods in the form of transfer of possession is made from the Iowa warehouse directly to the principal or the purchaser, such direct delivery constitutes a delivery into intrastate commerce and the warehouse services performed on these goods would be subject to Iowa sales tax.

26.42(4) Other charges invoiced separately.

a. Transportation. The gross receipts from the sale, furnishing, or service of transportation services are exempt from the Iowa sales and use taxes under Iowa Code subsection 422.45(2). This would include delivery charges which are itemized or shown separately on the customer's invoice.

b. Handling. A charge assessed for labor and equipment used to unload rail cars, trucks, or other vehicles, place the raw agricultural products or household goods in storage and remove from storage and load rail cars, trucks, or other vehicles. Handling charges billed after October 1, 1967, are exempt as transportation charges if they are itemized or shown separately on the customer's invoice. If handling charges are not ascertainable on the invoice, the total amount thereon is deemed to be storage and, therefore, taxable.

c. Clerical. A charge assessed for special services such as, but not limited to, compiling stock reports and statements, reporting serial numbers, physical checking of raw agricultural products, and reporting by special report of receipt transactions and shipments. If such charges are predominantly related to storage, they are subject to tax. If clerical charges are predominantly related to transportation activities, they are exempt from tax.

d. Communications. A charge assessed for postage, telephone, teletype, or telegram, and for other than normal communication at the request of the customer. If such charges are predominantly related to storage, they are subject to tax. If communication charges are predominantly related to transportation activities, they are exempt from tax.

e. Car cleaning. A charge assessed for cleaning rail cars of bracing and debris as required by the Interstate Commerce Commission. This is related to transportation activities and not subject to tax.

f. Recouping. A charge assessed for handling merchandise damaged in transit so as to prevent further loss due to transit damage. This is predominantly a charge for storage and is subject to tax unless it can be shown that it is predominantly related to transportation.

g. Dunnage and bracing. A charge assessed for labor and material used in blocking and bracing in rail cars and trucks; blocking and bracing are necessary to protect or prevent movement of raw agricultural products or household goods while in transit. This charge is separate from the storage charge and is related to transportation. Therefore, it is not subject to tax.

h. Extra labor. A charge assessed for other-than-normal handling, such as shipping or receiving, during other-than-usual business hours. This charge is predominantly related to transportation and, when separately listed from storage, is not subject to tax.

i. Bonded custom charges. A charge assessed in addition to regular rates for merchandise being held under United States Custom Bond. This is considered a tariff on foreign goods entering the country and is not subject to tax.

j. Trash disposal. See rule 701—26.71(422,423).

k. Cartage. A charge assessed for transporting raw agricultural products or household goods from the storage facility to the customer's place of business or residence, or from the customer's place of business or residence to the storage facility, or from one place of business to another, or from one residence to another. This is a transportation charge and is not subject to tax.

l. Crating. This is a charge for packing and wrapping. If predominantly related to storage, it is taxable; if it is predominantly related to transportation, it is exempt.

m. Canning and bagging. A charge assessed for receiving raw agricultural products or household goods in bulk, unloading, and placing in containers, such as bottles, bags, cans, or drums. If this

service is predominantly related to storage, it is subject to tax. If this service is predominantly related to transportation, it is exempt from tax.

n. Unpacking. This would be predominantly related to storage and subject to tax, unless it can be shown to be predominantly related to transportation.

26.42(5) *Wrapping and packaging.*

a. Wrapping and packaging services performed on raw agricultural products or household goods are taxable or exempt, depending upon whether the predominant service is storage or transportation. *Iowa Movers and Warehousemen's Association supra.*

b. Wrapping, packing and packaging predominantly for storage of merchandise is subject to tax unless the interstate commerce exemption is applicable.

c. Warehouses which sell packing materials to their customers are considered retailers of these materials and should collect sales tax. When the packaging materials are not billed separately to the customer, the warehouse will be subject to the standards set forth in rule 701—18.31(422,423) regarding tangible personal property purchased for use in performing services.

26.42(6) *Transit warehouses.* The department recognizes that the operations of transit warehouses present some administrative difficulties in the collection of sales taxes. Raw agricultural products or household goods are shipped to transit warehouses in bulk quantities and shipped to different locations at different times. Storage of raw agricultural products or household goods delivered in Iowa would be subject to tax, while storage of raw agricultural products or household goods placed into interstate commerce would be exempt from tax. Since it is extremely difficult under these circumstances to determine the cost of storage on raw agricultural products or household goods delivered in Iowa, the department will allow transit warehouses to compute tax on storage fees on the basis of a formula, the numerator of which is the quantity of raw agricultural products or household goods stored in the warehouse with intrastate delivery in Iowa, and the denominator of which is the total quantity of goods stored in the warehouse. This information, in most cases, must be supplied by principals storing goods in the warehouse. However, it is the responsibility of the warehouse to acquire the information needed to compute the Iowa sales tax under the formula. This information should be verified with the principal at least once every 90 days. Included in the numerator of the formula will be raw agricultural products or household goods picked up at an Iowa warehouse by a principal or purchaser, or raw agricultural products or household goods delivered to a principal or purchaser in Iowa even though the principal or purchaser may subsequently deliver the raw agricultural products or household goods to a common carrier for shipment outside Iowa.

26.42(7) *Government storage.* Storage of raw agricultural products or household goods is exempt from tax if the storage contract is with a tax-certifying or tax-levying body of the state of Iowa or to any instrumentality of the state, county, or municipal government, or with the federal government or its instrumentalities. Storage fees relating to raw agricultural products or household goods placed in storage by the producer and later consigned to the federal government under a loan agreement are not exempt from tax. In order for the storage to be exempt from tax, the federal government must actually own the raw agricultural products or household goods during the period the goods are stored and make payment to the warehouse for the storage.

Also refer to *Iowa Movers and Warehousemen's Association v. Briggs*, Equity No. 75910, Polk County District Court, May 8, 1974, and 237 N.W.2d 759.

This rule is intended to implement Iowa Code sections 422.43 and 423.2.