

701—26.68 (422) Motor vehicle, recreational vehicle and recreational boat rental. On and after July 1, 1985, the gross receipts from the rental of certain motor vehicles subject to registration, which are registered for a gross weight of 13 tons or less, recreational vehicles and recreational boats are subject to tax.

26.68(1) Use of vehicles and boats with drivers or operators. For the purposes of this rule, if the services of a driver or operator are provided as part of the fee for the use of any vehicle or boat, no rental of the vehicle or boat has occurred. Even though the person using the vehicle or boat has the right to control the driver's or operator's movements, the gross receipts from use of the vehicle are not subject to tax as vehicle or boat rental. If the vehicle or boat is rented from one person and the services of the driver or operator rented from another, tax will apply.

26.68(2) Rental of vehicles subject to registration.

a. "Certain long-term" leases not subject to tax. The gross receipts from the leasing of any vehicle subject to registration for a gross weight of 13 tons or less are not subject to tax if the lease is a written agreement providing for the lease of the vehicle for more than 60 days and if the lessor, at the time of the signing of the lease, is licensed under Iowa Code chapter 321F. On or after January 1, 1997, a use tax shall be imposed on the lease price of certain motor vehicles leased for a period of 12 months or more. See rule 701—31.5(423).

b. Transactions subject to Iowa sales tax. A "rental" of tangible personal property, such as a vehicle subject to registration, occurs when one person transfers possession of tangible personal property to another person for temporary possession and use, pursuant to contract, *A.C. Nelsen Auto Sales v. Turner*, 44 N.W.2d 36 (Iowa 1950) and *Ballstadt v. Iowa Department of Revenue*, 368 N.W.2d 147 (Iowa 1985). Therefore, a "rental" of a vehicle has occurred in Iowa when, pursuant to a rental contract, possession of a vehicle is transferred to a customer in this state unless paragraph "a" of this subrule is applicable. The tax is collectible when any lump-sum or periodic payment is due under the rental agreement and paid in Iowa. Transfer of possession of the vehicle must have occurred in Iowa; the contract for rental of the vehicle need not have been executed here. Sales tax is payable on transfer to a customer upon possession of a rented vehicle in Iowa regardless of whether the vehicle is subsequently used exclusively in interstate commerce or not if payment by the customer is made in Iowa.

EXAMPLE 1. Customer A signs a rental contract with and takes possession of a rental car from an office of a rental agency located in Des Moines. Thereafter, A drives the car from Des Moines to Dubuque, Iowa, and back. In Des Moines, the rental agency collects gross receipts from the rental of \$100. Such gross receipts would be subject to tax. If the customer had driven the rental car from Des Moines to Madison, Wisconsin, and back to Des Moines, the gross receipts would also be subject to tax.

EXAMPLE 2. Customer B enters into a contract to rent an automobile with a rental agency's office located in Omaha, Nebraska. B takes possession of the car rented under the contract at the rental agency's office in Council Bluffs, Iowa. B then drives the car from Council Bluffs to Dubuque and back. All gross receipts from the rental are subject to Iowa sales tax since delivery and payment occurred in Iowa.

EXAMPLE 3. Customer C enters into a contract to rent and takes possession of a rented automobile in Des Moines. Thereafter, C drives the vehicle to California and returns the vehicle to the rental agency's office in Los Angeles, and there pays a total charge for the rental of \$300. No Iowa sales tax is due. Transfer of possession occurred here, but payment under the lease did not.

EXAMPLE 4. Customer D rents and takes possession of a truck in Des Moines. Before taking possession, D pays the rental agency a \$500 deposit. Rental of the truck is on a mileage and per-day basis. Customer D drives the truck to Phoenix, Arizona. There it is discovered that the mileage and per-day charges add up to \$600. Customer D pays the rental agency an additional \$100 in Phoenix. Iowa sales tax is due upon the \$500 deposit paid in Des Moines but not on the \$100 paid in Phoenix. Only the payment made under the lease in Iowa is subject to tax.

EXAMPLE 5. Customer E rents a car in Chicago, Illinois, and drives it to Des Moines. In Des Moines E pays \$200 for the use of the car. Although payment under the lease occurred in Iowa, transfer of possession of the vehicle did not take place here. This transaction is not subject to sales tax but may be subject to use tax; see rule 701—33.8(423).

26.68(3) *Tax collected from customer.* The person renting any vehicle subject to registration must collect from the customer and remit to the state of Iowa sales tax on each and every rental payment made in Iowa, no matter how calculated. Tax must be remitted for the period in which each rental payment is due and owing. Rental payments whether calculated in one lump sum, or on a mileage basis, or periodically are subject to tax. Also subject to tax are any charges, such as those for compulsory insurance, which are characterized as something other than rent payments but which are required to be paid as a condition of the rental. Specifically, but not exclusively excluded from the meaning of gross receipts from rental of a vehicle subject to registration are items such as optional collision damage waiver fees, optional personal accident insurance fees, and fuel. If these charges are not to be included as part of rentals, a charge must be separately stated, separately itemized, and the charge cannot be required as a condition of the rental.

Effective July 1, 2002, all airport-imposed fees charged to a customer for the rental of a vehicle are not subject to Iowa sales or use tax, if separately itemized.

26.68(4) *Recreational boats.* The term “recreational boats” includes, but is not limited to, sailboats, rowboats, motorboats, paddleboats, and canoes. The gross receipts from the sale of tickets on river steamboats carrying passengers for pleasure rides are not taxable as the gross receipts of “recreational boat” rental but are taxable as the gross receipts from an “amusement enterprise.” See rule 701—16.32(422).

26.68(5) *Recreational vehicles.* The term “recreational vehicles” includes, but is not limited to, bicycles, go-carts, golf carts and horse-drawn wagons or carriages, if rented without a driver. Rental of a recreational vehicle that is a vehicle subject to registration is also subject to tax.

This rule is intended to implement Iowa Code sections 422.45 and 423.7A and section 516D.3(6) as amended by 2002 Iowa Acts, House File 2622, section 29.