

701—26.2(422) Enumerated services exempt. Tax shall not apply on any of the following services.

26.2(1) Services on or connected with new construction, reconstruction, alteration, expansion or remodeling of a building or structure, or the services of a general building contractor, architect or engineer. *Iowa Movers and Warehousemen's Association v. Briggs*, Equity No. 75910, Polk County District Court, May 8, 1974.

26.2(2) A taxable service which is utilized in the processing of tangible personal property for use in taxable retail sales or services.

26.2(3) A service which is performed in interstate commerce in such a manner that imposition of tax would violate the commerce clause of the United States Constitution. Services performed on tangible personal property on or after May 20, 1999, are exempt from tax if those services are performed on property which the retailer of the property transfers to a carrier for shipment to a point outside Iowa, places in the United States mail or parcel post directed to a point outside Iowa, or transports to a point outside Iowa by means of the retailer's own vehicles and which is not thereafter returned to a point within Iowa, except solely in the course of interstate commerce or transportation. This exemption does not apply to services performed on property if the purchaser, consumer, or the agent of either a purchaser or consumer, other than a carrier, takes physical possession of the property in Iowa.

26.2(4) Services rendered, furnished or performed for an "employer" as defined in Iowa Code subsection 422.4(15).

26.2(5) Those exemptions in 701—Chapter 17 applicable to both sale of services and sale of tangible personal property, excluding those exemptions pertaining only to the sale of tangible personal property.

26.2(6) A service which is purchased for resale. A service is purchased for resale when it is subcontracted by the person who is contracted to perform the service. For example:

a. X is a printer and enters into a contract with Y to print 500 bulletins. X subcontracts the job to Z. Z prints the 500 bulletins for X. There is no tax on the contracts between X and Z since X is purchasing the printing service from Z for resale to Y.

b. B owns a used car lot. E purchases an automobile from B. As a condition of such sale, B agrees to make repairs to the automobile. However, B subcontracts such repair work to C. E has agreed to pay B for the repair services and for the sale price of the automobile. Under these circumstances, the repair services furnished by C to B constitute a sale of such services to B for resale to E who is the consumer of these services.

c. B owns an auto repair shop and C brings an automobile in to have the air conditioner fixed. B is unable to fix the unit so the car is sent to G who is an air conditioning specialist. The sale of G's service to B is a sale for resale by B to C.

26.2(7) Services purchased which are not for resale. For periods beginning July 1, 1978, the tax on services is collectible at the time the service is complete even if not purchased by the ultimate beneficiary. For example:

a. B, a used car dealer, owns a used car lot and contracts an automobile repair job to C. B cannot purchase the repair service for resale merely because at some later date the automobile may be sold. Tax is due when the service is completed for the used car dealer. See *Iowa Auto Dealers v. Iowa Department of Revenue*, 301 N.W.2d 760 (Iowa 1981). This particular example does not apply to denote tax due after June 30, 1981. See subrule 26.2(8).

b. A operates a test laboratory business. A agrees to provide testing services to B. In the course of conducting the tests, A rents equipment from C. In computing the fee which B has agreed to pay A for testing services, A will include A's costs, including the rental A paid to C in rendering the testing services. Under these circumstances, A furnished B with testing services, and not with the equipment rental services which C furnished to A. A is the consumer of the equipment rental services which are not resold to B and B is the consumer of the testing services. See rule 701—15.3(423) regarding resale certificates.

26.2(8) Services are exempt from tax when used in the reconditioning or repairing of tangible personal property of the type which is normally sold in the regular course of the retailer's business and which is held for sale by the retailer. For example:

a. A owns a retail appliance store and contracts with B to repair a refrigerator that A is going to resell. A can purchase the repair service from B tax-free because A is regularly engaged in selling refrigerators and will offer the refrigerator for sale when it is repaired.

b. B, a used car dealer, owns a used car lot and contracts with C to repair a used car that B is going to sell. B can purchase the repair service from C tax-free because B is regularly engaged in selling used cars and will sell the used car after it is repaired.

c. C operates a retail farm implement dealership. C accepts a motorboat as part consideration for a piece of farm equipment. C then contracts with D to repair the motor on the boat. C does not normally sell motorboats in the regular course of C's business. Therefore, the service performed by D for C is subject to tax.

d. XYZ owns a retail radio and television store in Iowa and contracts with W to repair a television set that XYZ is going to sell. XYZ can purchase television repair service tax-free from W because XYZ is regularly engaged in selling television sets subject to sales tax. However, in this instance XYZ sells the used television and delivers it into interstate commerce with the result that the Iowa sales tax is not collectible. Regardless of this fact, the exemption is applicable, and no Iowa tax is due for the television repair services performed.

This rule is intended to implement Iowa Code sections 422.42(3), 422.42(13) and 422.43.
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