

701—16.50(422,423) Various special problems relating to public utilities. The amount of any charge, commonly called a “late payment charge,” imposed by a public utility on its customers, shall not be subject to tax if the charge is in addition to any charge for the utility’s sale of its commodity or service and is imposed solely for the privilege of deferring payment of the purchase price of the commodity or service and furthermore is separately stated and reasonable in amount.

The date of the billing of charges for a public utility’s sales shall be used to determine the period in which the utility shall remit tax upon the amount charged. The utility shall remit tax upon the gross receipts of any bill during the period which includes the billing date. Thus, if the date of a billing is March 31 and the due date for payment of the bill without penalty is April 20, tax upon the gross receipts contained in the bill shall be included in the return for the first quarter of the year. The same principle shall be used to determine when tax will be included in payment of a deposit.

In general, the amount of any “franchise fee” which a public utility pays to a city for the privilege of operating and which is directly or indirectly passed on to the utility’s customers shall be included in gross receipts subject to tax. This will be true even if the amount of the franchise fee is computed as a percentage of other gross receipts subject to tax and is separately stated and separately charged to the immediate consumer of the commodity or service. However, if, in the future, it becomes lawful for a city to impose a sales or use tax and such tax is imposed upon the customers of public utilities in the guise of a franchise fee, the amount of this city excise tax shall not be subject to Iowa tax if the tax imposed by the city is separately stated and separately billed. See *Chartair, Inc. v. State Tax Commission*, 411 N.Y.2d 41, 44 (N.Y. App. Div. 1978), *Ferrara v. Director, Division of Taxation*, 317 A.2d 80, 84-85 (N.J. Super. Ct. App. Div. 1974) and 730—subrule 15.12(2).

This rule is intended to implement Iowa Code sections 422.42(6), 422.43, 422.45, 423.1(3), and 423.2.