

**701—31.5(423) Motor vehicle use tax on long-term leases.** On or after January 1, 1997, a tax shall be imposed on the lease price of certain vehicles subject to registration under Iowa Code chapter 321 which are leased under long-term lease agreement.

**31.5(1) Vehicles subject to long-term lease defined.** Effective January 1, 1997, motor vehicles subject to registration with gross vehicle weight rating of less than 16,000 pounds, excluding motorcycles and motorized bicycles, which are actually leased for a period of 12 months or more, will be subject to a motor vehicle lease tax based upon the lease price as set forth in subrule 31.5(2). Such vehicles must be leased by a lessor licensed pursuant to Iowa Code chapter 321F. A registration receipt for a vehicle subject to registration or issuance of a certificate of title will not be issued until the tax is paid in the initial instance. If the lease is terminated prior to the expiration of the lease period, no refund will be allowed for tax previously paid on the monthly lease payments. Effective July 1, 1997, if a lease is terminated prior to the expiration of the lease period, a refund of tax previously paid under this rule will be allowed under Iowa Code section 322G.4. This definition of vehicles subject to long-term lease and subject to the tax under this rule includes vehicles leased under fixed-term or variable-term leases. Fixed-term lease means a lease contract in which the lease term is for a certain designated period of time. A payment amount charged under a fixed-term lease can be fixed or variable. Variable-term lease means a lease contract in which the lease term may contain an initial stated lease period with additional extension options that may be exercised at the discretion of the lessee. A payment amount charged under a variable-term lease may be fixed or variable. Exercise of an extension results in an extension of the original lease period for the purpose of this rule. A fixed- or variable-term lease may also contain a provision for adjustments which may be made by the lessor at the conclusion of the lease.

Vehicles entering this state under a lease entered into on or after January 1, 1997, will be subject to tax on the date the vehicle enters Iowa for the remaining lease period. Vehicles entering this state under an optional lease period exercised under a lease entered into on or after January 1, 1997, will be subject to tax on the date the vehicle enters Iowa for the remaining option period. A credit for tax paid on the lease for the lease period at issue where incidence of the tax was on the lessor and the tax was paid by the lessor to another state will be applied to the motor vehicle lease tax due on the lease from the lessor in Iowa.

When motor vehicle lease tax has been paid on a qualifying lease under this rule, and prior to the expiration of the lease the vehicle subject to the lease is destroyed by means such as fire, accident, or vandalism, to the extent that it constitutes a total loss of the vehicle, a credit for motor vehicle lease tax paid for the period remaining on the previous lease will be allowed when another vehicle is substituted under the original lease or a new lease is executed with the intent to replace the vehicle subject to the previous lease. To initially qualify for the credit, there must be a total loss of the vehicle subject to the previous lease, a new lease must be executed or a vehicle must be substituted under the original lease. To qualify for the credit, the new lease or substituted vehicle under the original lease must meet the following: The new lease must be executed by the same lessor and lessee, for lease of a vehicle of the same or similar make, model, year and options as the vehicle subject to the previous lease, for the remaining lease period as the previous lease, for the same lease price and the lease must contain the same lease terms as the previous lease.

When a vehicle subject to a taxable lease under this rule is returned to the lessor and the lessor replaces the vehicle with a different vehicle, but a new lease is not executed, the replacement is not subject to tax. Often this type of return occurs when an original leased vehicle has numerous mechanical problems, but has not been declared a “lemon” under Iowa Code chapter 322G. Instead of requiring the lessee to go through the “lemon law” process, the lessor replaces the vehicle under the same lease contract. In this type of situation, tax would not be due because there has not been a new lease transaction subject to tax.

A fixed- or variable-term lease that is subject to the motor vehicle lease tax under this rule may contain a provision allowing adjustments to be made by the lessor at the conclusion of the lease which may affect the rental receipts for the term of that lease. Such adjustments may result in a debit, credit, or no change in the rental receipts. Such adjustments may include, but are not limited to, the condition of the vehicle, value of the vehicle, sale price of the vehicle, mileage incurred, and variable payment

amount during the initial qualifying lease period. Such an adjustment may result in a corresponding debit or credit of tax due from the lessor.

If a lease is a variable-term lease with a variable payment amount, the lease payment for the initial minimum 12-month period shall be computed using the payment amount in effect on the date the lease is executed between the parties. If the payment amount then varies during that initial minimum 12-month period resulting in a debit or credit of tax previously paid for that period, such amount will be computed as an adjustment made at the conclusion of the lease. If the total of the adjusted lease payments is greater than the originally calculated lease payments, the incremental increase is subject to lease tax and the tax is to be remitted by the lessor directly to the department.

Vehicles entering this state under a lease or lease option extending from a lease executed before January 1, 1997, will not be subject to the motor vehicle lease tax imposed under this rule. However, such vehicles will be subject to tax on the use of the vehicle in Iowa based upon the fair market value of the vehicle, payable by the lessor to the county treasurer at the time of registration or titling of the vehicle.

**31.5(2) *Collection and computation of tax on long-term leases.*** For leases entered into on or after January 1, 1997, a motor vehicle lease tax is imposed on certain vehicles subject to registration which are leased under terms as defined in subrule 31.5(1). Motor vehicle lease tax shall be paid by the owner of the vehicle to the county treasurer, Iowa department of transportation, or Iowa department of revenue. A registration receipt or certificate of title for the vehicle shall not be issued until the tax is paid in the initial instance. The amount subject to tax must be computed on each lease transaction based on the lease price. The lease price shall be computed by multiplying the number of months of the lease by the monthly lease payments, plus down payment, which shall include trade-ins and any additional costs or fees paid by the lessee. Capitalized costs paid by the lessee are generally included as part of the monthly lease payments. Capitalized costs may include, but are not limited to, rustproofing, floor mats, pin striping, management fees, reserved charges, air conditioning, stereo, mud flaps, lease acquisition fee, and finance charges. Down payment is defined for the purpose of this rule as any payment or trade-in made by the lessee for the purpose of reducing the lease price. In certain instances, there are costs associated with the lease and entering into the lease, which are not refundable, that are negotiated by the lessor and lessee, resulting in an agreement that these costs will be paid by the lessee separately and in addition to the monthly lease payments. Costs for such items, whether normally capitalized or not, which are paid separately by the lessee in order to reduce the lease price, shall be treated as a down payment and shall be added in the computation of the lease price. Trade-in is treated as a down payment and is defined for the purpose of this rule as tangible personal property which is traded by the lessee to the lessor in order to reduce the lease price. The value of the trade-in shall be added in the computation of the lease price. The lease price shall not include any manufacturer's rebate or refundable deposit.

Effective for leases entered into on or after July 1, 1997, the lease price shall not include manufacturer's rebate, refundable deposit, title fee, registration fee, vehicle lease tax imposed under this rule, federal excise taxes attributable to the sale of the vehicle to the owner or to the lease of the vehicle by the owner, optional service or warranty contracts subject to tax under Iowa Code section 422.43(6), insurance, or any finance charge imposed on these excluded items. Any item excluded from the taxable lease price shall be documented by the owner by maintaining an adequate record of the amount of each item excluded. If a lessor and lessee enter into an agreement that the tax imposed under this rule shall be paid by the lessee, either in a lump sum payment or as part of the monthly lease payments, the total cost of the tax shall not be included in the computation of the lease price for the purpose of imposing the tax under this rule. Deposit is defined for the purpose of this rule as a security which is refundable based upon the terms of the lease. The lease price shall not include a roll-over deficiency from a previously purchased or leased vehicle to the extent it can be shown that tax had been paid on the amount to be rolled over from the previously purchased or leased vehicle. For instance, lessee A has a previously purchased vehicle with an outstanding loan balance of \$4,000. Lessee B has a previously leased vehicle with a total of outstanding payments of \$4,000. As part of the previous transactions that resulted in these outstanding balances, use tax was previously paid on the \$4,000 balances by lessees A and B. Each lessee now wishes to lease a new vehicle and pay the outstanding balance owed by each

as part of the monthly lease payments for the new vehicles. The balances for each lessee may be rolled over in the lease costs to be paid by the lessees. However, the amount of the balances that are rolled over are excluded from each of the computations of the lease price under this rule.

EXAMPLE 1. Iowa lessor leases a vehicle on January 20, 1997, for use in Iowa for a period of 36 months. The total lease price is \$18,814.00 which includes all capitalized costs that were negotiated as part of the lease. Incidence of the tax is upon the lessor. The lessor and lessee did not negotiate nor did they agree to include the cost of the motor vehicle lease tax as part of the lease price. The total lease price to be reported by the lessor for computation of the tax at the time of registration or titling of the vehicle is \$18,814.00. The motor vehicle lease tax due on this lease would be \$940.70 ( $\$18,814.00 \times 5\%$ ) payable by the lessor to the county treasurer at the time of registration or titling of the vehicle. The monthly lease payment to be paid by the lessee is \$522.61 ( $\$18,814.00$  divided by 36 months).

EXAMPLE 2. Iowa lessor enters into a lease with Dave Jones on January 8, 1997, for the lease of a vehicle for use in Iowa for a period of 36 months. The monthly lease payments for the vehicle are computed to include rustproofing, floor mats, and various other capitalized costs. However, based on an agreement between Dave Jones and the lessor, costs of the mud flaps and a stereo system are not included in the monthly lease payments. Instead, the lessor and Dave Jones negotiate and agree to allow Dave Jones to pay the total for the mud flaps and stereo separately. Dave Jones executes a check payable to the lessor for the total sum of such fees. The total sum paid in the separate check issued by Dave Jones for the mud flaps and stereo is considered a down payment and must be included in the computation of motor vehicle lease tax as a cost that is part of the total lease price.

Tax due under this rule for a fixed-term lease will be due on the entire lease term contracted for between the parties. Tax on a variable-term lease shall be based on the entire initial term stated in the lease.

Tax on a qualifying lease under this rule will be due at the time the vehicle subject to the lease is required to be registered or titled. Tax on any optional lease periods will be considered due at the time the optional lease period is exercised under the lease. Tax on transactions requiring registration or titling of a vehicle in this state will be remitted to the county treasurer or department of transportation at the time of registration or titling. Tax on transactions not involving a vehicle or vehicles having to be registered or titled in this state will be remitted to the department of revenue. Such transactions include the re-lease of the same vehicle or vehicles involving the same lessor and lessee or exercise of an option under a lease by a lessee.

Incidence of motor vehicle lease tax falls upon the owner/lessor of the vehicle. Therefore, the lessee cannot invoke any exemptions from the motor vehicle lease tax.

Reporting and remittance of tax due to the Iowa department of revenue will be remitted on or before 15 days from the last day of the month that the tax becomes due. Failure to timely report or remit any of the tax when due under this rule will result in penalty and interest being imposed on the tax due pursuant to Iowa Code sections 423.18 and 423.23.

The county treasurer or the state department of transportation shall require every applicant to have a registration receipt for a vehicle subject to this tax and to submit the total lease price computed in the manner indicated in subrule 31.5(2) to be reported on a form designated by the director of revenue. Also see 701—34.9(423).

On or before the tenth day of each month, the county treasurer or the state department of transportation will remit to the department of revenue the amount of tax collected during the preceding month.

EXAMPLE 3. Licensed lessor located in Iowa contracts with Joe Smith to lease a new automobile for use in Iowa for a contract period of 12 months. Motor vehicle lease tax would be due by the lessor payable to the county treasurer at the time of registration based on the lease price for the 12-month lease period.

EXAMPLE 4. Licensed lessor located in Iowa contracts with Joe Smith to lease a used automobile for use in Iowa for a contract period of 12 months. Motor vehicle lease tax was due and paid to the county treasurer at the time of registration based on the lease price for the 12-month period. Prior to the expiration of the 12-month lease period, the lease is terminated. Upon return of the vehicle the lessor

uses the vehicle for a company car. The lessor cannot receive a refund of the motor vehicle lease tax that was paid for the portion of the remaining lease period because, under the statute, refunds of motor vehicle lease tax are not allowed. In addition, the lessor would be required to pay use tax on the fair market value of the vehicle for use of that vehicle for a purpose other than for lease. See Iowa Code section 423.4(16) and 701—31.4(422,423) and 32.11(423).

EXAMPLE 5. Licensed lessor located in Iowa leases a vehicle for a 24-month period. Motor vehicle lease tax is paid on the lease price for the 24-month period. After 18 months, the lease is terminated. The lessor cannot receive a refund of the tax paid on the remaining lease period.

EXAMPLE 6. On January 20, 1997, a licensed lessor located in Iowa leases an automobile to Sally Jones for use in Iowa for a contract period of 12 months with additional 30-day lease options which can be exercised after the 12-month lease has been fulfilled. The lessor must pay motor vehicle lease tax on the lease price for the 12-month period payable to the county treasurer at the time of registration. In addition, the 30-day option periods are considered to be extensions of the original lease. As a result, the lessor must pay motor vehicle lease tax to the Iowa department of revenue on each 30-day lease option, due at the time exercised by Sally Jones. Tax must be remitted to the Iowa department of revenue on or before 15 days from the last day of the month in which the tax became due.

EXAMPLE 7. On March 17, 1997, a licensed lessor located in Iowa leases a fleet of ten automobiles to XYZ insurance company for use in Iowa for a lease period of 12 months. Motor vehicle lease tax is due on the lease price for each of the ten vehicles for the 12-month lease period payable to the county treasurer.

EXAMPLE 8. Licensed lessor located in Illinois enters into a lease with Sally Smith on January 8, 1997, to lease an automobile for a lease period of 12 months. With 4 months remaining on the lease, Sally moves to Iowa and the vehicle is titled in Iowa. Motor vehicle lease tax would be due on the date of use in Iowa based on the lease price for the remaining 4 months under the lease. The tax due would be payable by the lessor to the county treasurer at the time the vehicle is registered or titled in Iowa. However, credit would be allowed for a similar tax previously paid on the lease for the lease period at issue, paid by the lessor to another state to be applied against the Iowa lease tax due, if incidence of the tax paid to the other state also fell upon the lessor. This credit against Iowa lease tax would be allowed regardless of the tax base used by the other state for the computation of the tax previously paid. If the tax qualifies for the credit by meeting the previously mentioned criteria, credit against the Iowa tax owed may be computed by completing the following steps:

Step 1. Compute the Iowa lease tax based on the remaining lease period from the date the vehicle enters Iowa through the expiration date of the lease. See subrule 31.5(2).

Step 2. Determine the amount of tax paid to the other state for the remaining lease period. To determine this, do the following:

1. Divide the total amount of tax paid to the other state by the entire term of the lease. This will result in the amount of monthly tax paid on the lease.
2. Multiply the monthly tax paid by the months remaining on the lease term from the date the vehicle entered Iowa through the expiration date of the lease.

Step 3. Compare the amount of tax paid to the other state for the remaining period (result in Step 2) to the amount of tax due to the state of Iowa for the remaining lease period (result in Step 1). The amount of Iowa vehicle lease tax due, if any, will depend upon whether the other state will allow for a refund of the tax previously paid.

1. If the other state will refund the tax previously paid for the remaining lease period, then the amount of Iowa vehicle lease tax computed in Step 1 is due.

2. If the tax paid to the other state for the remaining lease period is greater and the other state will not refund the tax previously paid for the remaining lease period, then no additional Iowa lease tax is due.

3. If the amount of tax due to the state of Iowa for the remaining lease period is greater and the other state will not allow a refund of the tax previously paid, then the difference between the amount of tax due to the state of Iowa for the remaining lease period and the tax paid to the other state for the remaining lease period is the amount owed (result in Step 1 - result in Step 2).

EXAMPLE 9. Licensed lessor located in Minnesota enters into a lease with Joe Smith on November 21, 1997, to lease an automobile for a lease period of 12 months with 30-day option periods to be exercised at Joe Smith's discretion at the conclusion of the initial 12-month lease period. After one year and 10 days under the lease, Joe moves to Iowa. The vehicle is titled in Iowa. Motor vehicle lease tax is due and payable by the lessor to the county treasurer on a prorated basis for the days remaining on the exercised option period. If incidence of the tax previously paid to the other state was on the lessor, credit would be allowed for a similar tax previously paid by the lessor to the other state for the lease period at issue to be applied against the Iowa lease tax due (see Example 8). If additional option periods are exercised by Joe under the lease, motor vehicle lease tax will be due at the time the option is exercised, payable by the lessor to the Iowa department of revenue. Tax must be remitted to the Iowa department of revenue on or before 15 days from the last day of the month in which the tax became due.

EXAMPLE 10. Iowa lessor enters into a lease with Sally Jones on August 11, 1996, for use of a vehicle in Iowa. The lease is for a period of 12 months. Motor vehicle lease tax is not due on this because the lease was entered into prior to January 1, 1997, the effective date of the motor vehicle lease tax.

EXAMPLE 11. Iowa lessor enters into a lease with Joe Smith on January 1, 1996, for use of a vehicle in Iowa. The lease is for a period of 12 months and contains 30-day options that may be exercised by Joe Smith at the conclusion of the initial 12-month period. On January 1, 1997, Joe Smith exercises a 30-day option. Motor vehicle lease tax is not due on the exercised option period because the option is an extension of the original lease which was entered into prior to January 1, 1997, the effective date of the motor vehicle lease tax.

Examples 12 and 13 offer guidance for computing the tax imposed in this rule for leases entered into prior to July 1, 1997.

EXAMPLE 12. Lessor and lessee located in Iowa enter into a qualifying lease agreement on March 9, 1997. The price negotiated by the parties for the lease is \$9,120, which will be paid by the lessee in 36 monthly installments. The lessor and lessee also agreed that the lessee will separately pay by personal check the total cost of each of the following items: tax, \$456; title, \$35; license, \$164; and tinted windows, \$225. The total lease price of the leased vehicle, including the items separately paid by personal check by the lessee is \$10,000. The amount to be reported to the county treasurer at the time of registration or titling of the vehicle is \$10,000. The amount of tax due from the owner/lessor of the vehicle at the time of registration or titling to the county treasurer is \$500 ( $\$10,000 \times 5\% = \$500$ ).

EXAMPLE 13. Lessor and lessee located in Iowa enter into a qualifying lease agreement on June 24, 1997. The lessor and lessee agree that the lessee will provide a down payment, trade-in, and pay the tax, title, and license as a capitalized cost over the term of the lease agreement. The total lease price, including the down payment, trade-in, and capitalized costs, is \$10,000. To compute the total lease price to be reported to the county treasurer when the lease price includes tax as a negotiated capitalized cost of the lease to be paid by the lessee, the owner/lessor may multiply the total lease price of \$10,000 by the factor of 1.0526316 which results in the sum of \$10,526.32. The total of \$10,526.32 is the total lease price to be reported by the owner/lessor to the county treasurer or department of transportation at the time of registering or titling of the vehicle. The amount of tax due from the owner/lessor of the vehicle at the time of registration or titling to the county treasurer or department of transportation is \$526.32 ( $\$10,526.32 \times 5\% = \$526.32$ ).

Effective July 1, 1997, the following examples may be used for guidance in computing the lease price and motor vehicle lease tax imposed under this rule.

EXAMPLE 14. Lessor and lessee located in Iowa enter into a qualifying lease agreement on July 12, 1997. The price negotiated by the parties for the lease is \$9,120, which will be paid by the lessee in 36 monthly installments. The lessor and lessee also agreed that the lessee will separately pay by personal check the total cost of each of the following items: tax, \$467.25; title, \$35; license, \$164; and tinted windows, \$225. However, effective July 1, 1997, tax, title fees, and license fees are not to be included in the computation of the lease price. As a result, the amount to be reported to the county treasurer at time of registration or titling of the vehicle is \$9,345 ( $\$9,120$  - the total monthly payments + \$225 - cost of the tinted windows = \$9,345). The amount of tax due from the owner/lessor of the vehicle at the time of registration or titling to the county treasurer is \$467.25 ( $\$9,345 \times 5\% = \$467.25$ ).

EXAMPLE 15. Lessor and lessee located in Iowa enter into a qualifying lease agreement on August 11, 1997. The lessor and lessee agree that the lessee will provide a down payment, trade-in, and pay the tax, title, license, pin striping, and cost of an upgraded stereo system as capitalized costs over the term of the lease agreement. The total lease price, including the down payment, trade-in, and capitalized costs, but excluding the tax, title, and license to be paid by the lessee in the monthly lease payments, is \$10,000. The total of \$10,000 is the total lease price to be reported by the owner/lessor to the county treasurer or department of transportation at the time of registering or titling of the vehicle. The amount of tax due from the owner/lessor of the vehicle at the time of registration or titling to the county treasurer or department of transportation is \$500 ( $\$10,000 \times 5\% = \$500$ ).