

**Taxation and Exemption of Computers Task Force
Report of Recommendations to the General Assembly
January 9, 2020**

Background

The Iowa General Assembly first enacted a sales tax exemption for computers, along with “industrial machinery and equipment,” in 1985.¹ The Iowa Code did not define “computer” at that time, and would not for several years. The Department of Revenue (Department) adopted rule 701—18.34, effective May 14, 1986, to implement the exemption and defined “computer.”² Sometime later, the Department expanded the definition to its current form which includes “all devices fastened to” computers. The Department’s current rules related to the exemption are in Iowa Administrative Code rule 701—231.14.

When the legislature enacted the Streamlined Sales and Use Tax Act (SSUTA) in 2003, it adopted the SSUTA definition of “computer.” The SSUTA requires member states to adopt “substantially the same” definitions as those in the SSUTA.³ Noncompliance with the SSUTA can result in sanctions for member states, including Iowa. In conformity with the SSUTA definition, Iowa Code section 423.1(10) defines “computer” as “an electronic device that accepts information in digital or similar form and manipulates the information for a result based on a sequence of instructions.”

The Department did not amend its rule defining “computer” following the adoption of the SSUTA. Therefore, currently the Code definition does not match the Department’s rule definition. The rule and Code use differing terminology to describe what constitutes a computer, so depending on which definition is utilized, different items may be considered exempt when the definition is applied to Iowa Code section 423.3(47). As noted above, the rule definition includes not just a “computer” but also “...and all devices fastened to...” a computer. These “devices fastened to...” are commonly referred to by the Department and taxpayers as “computer peripherals.” Some examples of computer peripherals are mentioned in the nonexclusive list in rule 701—230.14. The inclusion of card readers and tape punchers illustrates the antiquated nature of the rule.

The Department recognizes the need to rescind the rule definition because it does not conform to the statutory definition required by the SSUTA. Recognizing the impact this rule change could have on taxpayers, the Department urged the creation of this Task Force to review the current situation and discuss potential changes. To avoid being found out of compliance with the SSUTA, the Department intends to amend its rules defining “computer” to conform to the Code definition, and notified the Task Force of this intention.

¹ See Appendix A.

² See Appendix B for all Department definitions of “computer.”

³ See Appendix C, SSUTA, page 52, section 327.

In addition to discussing the conflict between the rule definition and SSUTA-mandated Code definition, the Task Force discussed the ongoing uncertainty surrounding what constitutes a computer under both the statute and rule. Taxpayers claim a large variety of items are computers or computer peripherals including but not limited to desktops, laptops, tablets, smartphones, security systems, telephone systems, exterior LED signage, coin counting machines, televisions, and ATMs. Some of these items are the subject of dispute in compliance and case law on the breadth of the exemption is limited.

The Task Force met four times during the 2019 interim. In addition to thorough work to prepare for each meeting, all Task Force members participated in the extensive discussions at each meeting to try to work through the issues of defining a modern “computer” or “computer peripheral” and determining the best options to recommend to the legislature. Minutes from those meetings are attached as Appendices D through G for those interested in a more detailed review of the discussions.

Recommendation

As stated above, the Department must amend its rule. Under the statute, “computer peripherals” are only exempt to the extent they constitute computers under 423.1(10) on their own. To continue a similar exemption for peripherals moving forward, the Task Force recommends the following changes which are similar to current rule while providing additional clarity and ensuring compliance with the SSUTA:

1. Codify a newly defined term (suggested below) that encompasses the items included in the definition of “computer” in rule 701—230.14 and the “computer peripherals” referenced above.
2. Include the new term in the exemption found in Code section 423.3(47).
3. Rescind the following Department rules: 701—18.34(1)”b”(1); 701—18.45(1), definition of “computer”; 701—18.58(1), definition of “computer”; and 701—230.14(2)”a”.

The Task Force suggests adding the following to Code section 423.1:

“10A. ‘*Computer peripheral*’ means an ancillary device connected to a computer digitally, by cable, or by other medium, used to put information into or get information out of a computer.”

The Task Force also recommends that the legislature convene a group such as this Task Force meet on a regular basis, perhaps annually or semiannually, to discuss issues related to new developments in technology that cause uncertainty for taxpayers and make recommendations to the legislature as needed.

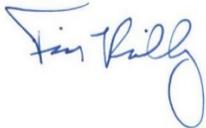
This new Code definition could be accompanied by a nonexclusive list of items to be exempt as “computer peripherals,” including but not limited to the following: mouse, keyboard, graphics tablet, scanner, barcode reader, microphone, webcam, monitor, projector, printer,

headphones, speaker, and external hard drive. By making this statutory change coupled with the rescission of the Department's rule definitions, eligible taxpayers could purchase these items exempt from sales tax and the state would not be in jeopardy of being deemed not in compliance by the Streamlined Sales Tax Governing Board.

Adoption of a statutory exemption for computer peripherals and a definition of that term would solve the SSUTA compliance issue, but substantial room for dispute between taxpayers and the Department would remain. If the legislature wishes to further resolve the uncertainty about what constitutes an exempt item under Code section 423.3(47), the legislature could eliminate its reliance on the term "computer" which is tied to the vague SSUTA definition. Alternatively, the legislature could articulate with more specificity the items that it wishes to exempt. For example, rather than "computer," the legislature could list laptops and desktops. It could specifically identify smartphones, tablets, or other items that have been the subject of debate either now or in the future. Adding specificity would provide transparency, reduce the need for interpretation, and put the legislature in charge of deciding the cost and scope of the exemption. This recommendation could be adopted whether or not the legislature decides to adopt a definition of computer peripherals and exempt such items.

The Department appreciates the General Assembly's willingness to convene this Task Force and we hope you find value in our recommendation. The Task Force includes many of the leading sales tax experts in the state, and we thank them for participating.

Sincerely,

A handwritten signature in blue ink that reads "Tim Reilly". The signature is written in a cursive style with a large, looped "y" at the end.

Tim Reilly
Chair

and other developmentally disabled persons and adult day care services approved for reimbursement by the state department of human services.

d. Community mental health centers accredited by the department of human services pursuant to chapter 225C.

23. The gross receipts from the sales of special fuel for diesel engines consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire on rivers bordering on the state if the fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such a river.

24. The gross receipts from the rental of motion picture films, video and audio tapes, video and audio discs, records, photos, copy, scripts or other media used for the purpose of transmitting that which can be seen, heard or read, if either of the following conditions are met:

a. The lessee imposes a charge for the viewing or the rental of such media and the charge for the viewing or the rental is subject to taxation under this division or chapter 423.

b. The lessee broadcasts the contents of such media for public viewing or listening.

The exemption provided for in this subsection applies to all payments on or after July 1, 1984.

25. The gross receipts from services rendered, furnished or performed by specialized flying implements of husbandry used for agricultural aerial spraying and aerial commercial and charter transportation services.

26. The gross receipts from the sale or rental, on or after July 1, 1987, of farm machinery and equipment, including replacement parts which are depreciable for state and federal income tax purposes, if the following conditions are met:

a. The farm machinery and equipment shall be directly and primarily used in production of agricultural products.

b. The farm machinery and equipment shall constitute self-propelled implements or implements customarily drawn or attached to self-propelled implements or the farm machinery or equipment is a grain dryer.

Vehicles subject to registration, as defined in section 423.1, or replacement parts for such vehicles, shall not be eligible for this exemption.

27. The gross receipts from the sale or rental, on or after July 1, 1987 or on or after July 1, 1985, in the case of an industry which has entered into an agreement under chapter 280B prior to the sale or lease, of industrial machinery, equipment and computers, including replacement parts which are depreciable for state and federal income tax purposes, if the following conditions are met:

a. The industrial machinery, equipment and computers shall be directly and primarily used in the manner described in section 428.20 in processing tangible personal property or in research and development of new products or processes of manufacturing, refining, purifying, combining of different materials or packing of meats to be used for the purpose of adding value to products, or in processing or storage of data or information by an insurance company, financial institution or commercial enterprise. As used in this paragraph:

(1) "Insurance company" means an insurer organized under chapters 508, 515, 518, 519, 520 or authorized to do business in Iowa as an insurer and having fifty or more persons employed in this state excluding licensed insurance agents.

(2) "Financial institutions" means as defined in section 527.2, subsection 4.

(3) "Commercial enterprise" includes businesses and manufacturers conducted for profit and includes centers for data processing services to insurance companies, financial institutions, businesses and manufacturers but excludes professions and occupations and nonprofit organizations.

b. The industrial machinery, equipment and computers must be real property within the scope of section 427A.1, subsection 1, paragraphs "e" or "j", and must be subject to taxation as real property.

However, the provisions of chapters 404 and 427B which result in the exemption from taxation of property for property tax purposes do not preclude the property from receiving this exemption if the property otherwise qualifies.

The gross receipts from the sale or rental of hand tools are not exempt. The gross receipts from the sale or rental of pollution control equipment qualifying under paragraph "a" shall be exempt.

The gross receipts from the sale or rental of industrial machinery, equipment, and computers, including pollution control equipment, within the scope of section 427A.1, subsection 1, paragraphs "h" and "i", shall not be exempt.

28. The gross receipts of all sales of goods, wares, or merchandise used, or from services rendered, furnished or performed in the construction and equipping of the Iowa world trade center for that portion of the project funded by the state of Iowa as authorized in chapter 18C. This subsection is repealed November 30, 1989.

29. The gross receipts from the rendering, furnishing or performing of the following service: design and installation of new industrial machinery or equipment, including electrical and electronic installation.

30. The gross receipts from the sale of wood chips or sawdust used in the production of agricultural livestock or fowl.

31. The gross receipts from the rendering, furnishing or performing of additional services taxed by 1985 Iowa Acts, chapter 32 pursuant to a written services contract in effect on April 1, 1985. This exemption is repealed June 30, 1986.

85 Acts, ch 32, §84-86 SF 395; 85 Acts, ch 33, §506 HF 225; 85 Acts, ch 195, §48 SF 329; 85 Acts, ch 231, §17 SF 565; 85 Acts, ch 245, §1 SF 580; 85 Acts, ch 247, §1 SF 564

Unpaid taxes on transactions occurring between July 1, 1980, and July 1, 1985, and exempt under subsection 22, are no longer due after July 1, 1985; 85 Acts, ch 247, §2

Subsections 2, 12 and 20 amended

NEW subsections 22-31

422.47A Refunds—industrial machinery, equipment and computers.

1. Sales, services, and use taxes paid on the purchase or rental of industrial machinery, equipment and computers, including replacement parts which are depreciable for state and federal income tax purposes, shall be refunded to the purchaser or renter provided all of the following conditions are met:

a. The purchase or rental was made during the period beginning July 1, 1985 and ending June 30, 1987.

b. The tax was paid to the retailer or timely paid to the department by the user if section 423.14 is applicable.

c. The claim is filed on forms provided by the department and is filed during the three months following the fiscal year in which the purchase or rental was made.

d. The industrial machinery and equipment and computers shall be directly and primarily used in the manner described in section 428.20 in processing tangible personal property or in research and development of new products or processes of manufacturing, refining, purifying, combining of different materials or packing of meats to be used for the purpose of adding value to products, or in processing or storage of data or information by an insurance company, financial institution or commercial enterprise. As used in this paragraph:

(1) "Insurance company" means an insurer organized under chapters 508, 515, 518, 519, 520 or authorized to do business in Iowa as an insurer and having fifty or more persons employed in this state excluding licensed insurance agents.

(2) "Financial institutions" means as defined in section 527.2, subsection 4.

(3) "Commercial enterprise" includes businesses and manufacturers conducted for profit and includes centers for data processing services to insurance companies, financial institutions, businesses and manufacturers but excludes professions and occupations and nonprofit organizations.

e. The industrial machinery, equipment or any computer must be real property within the scope of section 427A.1, subsection 1, paragraph "e" or "j", and must be subject to taxation as real property.

APPENDIX B

Department of Revenue Administrative Rule Definitions of “Computer”

701—18.34(1)”b”(1).

Initially adopted in 1986 to implement Code section 422.45(27).

“Computer” means a programmed or programmable machine or device having information processing capabilities and includes word processing equipment, testing equipment, and programmed or programmable microprocessors and any other integrated circuit embedded in manufactured machinery or equipment.

701—18.45(1).

For sales of “computers” prior to July 1, 1997.

Adopted to implement Code section 422.45(27) as amended in 1996.

“Computer” means stored program processing equipment and all devices fastened to it by means of signal cables or any communication medium that serves the function of a signal cable. Nonexclusive examples of devices fastened by a signal cable or other communication medium are: terminals, printers, display units, card readers, tape readers, document sorters, optical readers, and card or tape punchers. Excluded from the definition of “computer” is point-of-sale equipment. For a characterization of “point-of-sale equipment” see 701—subrule 71.1(7).

Also included within the meaning of the word “computer” is any software consisting of an operating system or executive program. Such software coordinates, supervises, or monitors the basic operating procedures of a computer. An operating system or executive program is exempt from sales tax only if purchased as part of the sale of the computer for which it operates. An operating system or executive program priced separately or sold at a later time is subject to the provisions of rule 18.34(422,423). Excluded from the meaning of the word “computer” is any software consisting of an application program. For purposes of this subrule, “operating system or executive program” means a computer program which is fundamental and necessary to the functioning of a computer. The operating system or executive program software controls the operation of a computer by managing the allocation of all system resources, including the central processing unit, main and secondary storage, input/output devices, and the processing of programs. This is in contrast to application software which is a collection of one or more programs used to develop and implement the specific applications which the computer is to perform, and which calls upon the services of the operating system or executive program.

701—18.58(1).

For sales of “computers” from July 1, 1997 until July 1, 2016.

Adopted to implement Code section 422.45(27) as amended in 1998.

“Computer” means stored program processing equipment and all devices fastened to it by means of signal cables or any communication medium that serves the function of a signal cable. Nonexclusive examples of devices fastened by a signal cable or other communication medium are terminals, printers, display units, card readers, tape readers, document sorters, optical readers, and card or tape punchers. Excluded from the definition of “computer” is point-

of-sale equipment. For a characterization of “point-of-sale equipment,” see 701—subrule 71.1(7). Also included within the meaning of the word “computer” is any software consisting of an operating system or executive program. Such software coordinates, supervises, or monitors the basic operating procedures of a computer. An operating system or executive program is exempt from sales tax only if purchased as part of the sale of the computer for which it operates. An operating system or executive program priced separately or sold at a later time is subject to the provisions of rule 18.34(422,423). Excluded from the meaning of the word “computer” is any software consisting of an application program. For purposes of this subrule, “operating system or executive program” means a computer program which is fundamental and necessary to the functioning of a computer. The operating system or executive program software controls the operation of a computer by managing the allocation of all system resources, including the central processing unit, main and secondary storage, input/output devices, and the processing of programs. This is in contrast to application software which is a collection of one or more programs used to develop and implement the specific applications which the computer is to perform, and which calls upon the services of the operating system or executive program.

701—230.14(2)“a”.

For sales of “computers” on or after July 1, 2016.

Adopted to implement Code section 423.3(47) as amended in 2016.

“Computer” means stored program processing equipment and all devices fastened to it by means of signal cables or any communication medium that serves the function of a signal cable. Nonexclusive examples of devices fastened by a signal cable or other communication medium are terminals, printers, display units, card readers, tape readers, document sorters, optical readers, and card or tape punchers. Excluded from the definition of “computer” is point-of-sale equipment. For a characterization of “point-of-sale equipment,” see subparagraph 230.14(2) “g”(4). Also included within the meaning of the word “computer” is any software consisting of an operating system or executive program. Such software coordinates, supervises, or monitors the basic operating procedure of a computer. An operating system or executive program is exempt from sales tax under rules 701—230.14(423) to 701—230.20(423) only if purchased as part of the sale of the computer for which it operates. An operating system or executive program priced separately or sold at a later time is subject to the provisions of rule 701—18.34(422,423). Excluded from the meaning of the word “computer” is any software consisting of an application program. For purposes of this paragraph, “operating system or executive program” means a computer program that is fundamental and necessary to the functioning of a computer. The operating system or executive program software controls the operation of a computer by managing the allocation of all system resources, including the central processing unit, main and secondary storage, input/output devices, and the processing of programs. This is in contrast to application software, which is a collection of one or more programs used to Ch 230, p.2 IAC develop and implement the specific applications that the computer is to perform and which calls upon the services of the operating system or executive program

shall advise member states when setting state direct pay limits and requirements, and shall consider use of the Model Direct Payment Permit Regulation as developed by the Task Force on EDI Audit and Legal Issues for Tax Administration.

Section 327: LIBRARY OF DEFINITIONS

Each member state shall utilize common definitions as provided in this section. The terms defined are set out in the Library of Definitions, in Appendix C of this Agreement. A member state shall adhere to the following principles:

- A. If a term defined in the Library of Definitions appears in a member state's sales and use tax statutes or administrative rules or regulations, the member state shall enact or adopt the Library definition of the term in its statutes or administrative rules or regulations in substantially the same language as the Library definition.
- B. A member state shall not use a Library definition in its sales or use tax statutes or administrative rules or regulations that is contrary to the meaning of the Library definition.
- C. Except as specifically provided in Sections 316 and 332 and the Library of Definitions, a member state shall impose a sales or use tax on all products or services included within each Part II or Part III (B) definition or exempt from sales or use tax all products or services within each such definition including all products and services listed in the rules, appendices and interpretive opinions adopted by the Governing Board. Provided, the requirements of this subsection shall only apply to Part III (B) definitions to the extent that such definitions are used in the administration of a sales tax holiday. A member state is not in compliance with the Agreement if the member state excludes any product or service that is included within a product definition or includes a product or service that is excluded from a product definition.

See Compiler's Notes for history.

Section 328: TAXABILITY MATRIX

A. Taxability Matrix

(1) Library of Definitions (Library): To ensure uniform application of terms defined in the Library adopted by the Governing Board pursuant to Section 327, each member state shall

APPENDIX D

July 18, 2019 Meeting Minutes

1:00, Room A7, Hoover State Office Building

The Taxation and Exemption of Computers Task Force met at 1:00 pm on July 18, 2019 in Room 7 on the A Level of the Hoover State Office Building, Des Moines, Iowa. The meeting concluded around 2:30 pm. A quorum was present.

The meeting was called to order by Amy Harris, the Administrator of the Research and Policy Division with the Department of Revenue serving as the Director's designee as the chairperson of the Task Force. She thanked members for attending to address this important tax administration issue.

Members and observers introduced themselves – those attending included:

Amy Rehder Harris, Research and Policy Division Administrator, Department of Revenue (Chair)

Alana Stamas, Legal Services and Appeals Division Administrator, Department of Revenue

Marsha Peterson, Compliance Services Bureau Chief, Tax Management Division, Department of Revenue

Matthew Gillespie, Assistant Attorney General, Revenue Division, Office of the Attorney General of Iowa

John Bartlett, Tax Manager, Precision Inc.

Nicole Crain, Senior Vice President, Public Policy, Association of Business and Industry

Todd Hendricks, Senior Director, RSM US LLP

Tom Sands, President/CEO, Iowa Taxpayers Association

Mike Rubino, Director State Tax – Tax Department, Deere & Company World Headquarters

Diane Hudson, Tax Manager at Rockwell Collins

Rich Pullen, Director Tax Compliance & Advocacy, Principal

Mary Mosiman, Deputy Director, Department of Revenue

Tim Reilly, Attorney & Legislative Liaison, Department of Revenue

Joe McEniry, Senior Legal Counsel, Legislative Services Agency

Amy reviewed the charge of the Task Force which is to review the definition of "computer" as used throughout the portions of the Iowa Code and the Iowa Administrative Code; possibly recommend modifications to the current definition of "computer" to the General Assembly by January 1, 2020. Members then provided thoughts on the current definitions of computer. Including a discussion of the need for the State to update the Iowa definitions to meet the national Streamlined Sales and Use Tax Agreement. That agreement includes the following definition of a computer: "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

Alana listed products that some taxpayers claim to be computers and thus exempt based on the current definitions where the Department is not in agreement, such as security cameras, VOIP telephone, smartphone, computer controlled signage, smart TV, DVR, tablet, GPS, power supply, bar code scanners. It is not the Department's intention that any recommendation by the Task Force include or exclude such devices, only that it clarifies the status for future compliance to provide clarity to the Department and taxpayers.

A suggestion was made that one proposal could be to attempt to address the future changes by proposing a process for the Legislature to update the definition of computer, such as adding a list that

could be modified on a regular basis, possibly through the establishment of a board similar to the Property Tax Replacement Task Force to suggest annual changes. Others suggested that was taking away the ability of the Department to write rules and administer the tax code.

Additional discussion was held among members about what might guide that clarity, with members noting that there will always be some gray because it is not possible to predict the future of what the market for computers will produce. One proposal for clarity was to add a list in the Code or rules of what items are considered exempt. Another was to alter the definition to be a functional definition. A third was to add a dollar threshold below which every item would be considered exempt. Another proposal was to add a definition of a computer peripheral in the Code as that seems to be what most items at issue are better defined as.

Members then reviewed the issues behind the creation of the Task Force, wanting Department rules in compliance with the Streamlined definition, where an update is required, and to provide clarity in the rules for ease of administration of the exemption. Members also expressed a desire to maintain broadness in the definition to ensure no increase in taxation on businesses.

The members agreed to complete the following tasks for the next meeting. Members representing businesses will come with a proposed definitions to clarify the difference between computers and peripherals. Department staff will pull together definitions used by other states or common definitions of computer that are identified.

Amy closed the meeting with the following proposal for future meetings:

- Second meeting (mid-September) – share additional industry input about computers definition and start discussing recommendations
- Third meeting – (October) continue discussing group recommendations for Legislature
- Fourth meeting – (November) finalize recommendations for Legislature

The meeting was adjourned.

APPENDIX E

September 17, 2019 Meeting Minutes

1:00, Room 430, Hoover State Office Building

The Taxation and Exemption of Computers Task Force met at 1:00 pm on September 17, 2019 in Room 430 of the Hoover State Office Building, Des Moines, Iowa. The meeting concluded around 2:45 pm. A quorum was present.

The meeting was called to order by Amy Harris, the Administrator of the Research and Policy Division with the Department of Revenue serving as the Director's designee as the chairperson of the Task Force. She thanked members for attending to address this important tax administration issue. She then introduced a change in membership of the Task Force with the addition of Tim Reilly in his new role of Policy Director for Sales and Excise Tax at the Department of Revenue.

Members and observers introduced themselves – those attending included:

Amy Rehder Harris, Research and Policy Division Administrator, Department of Revenue (Chair)

Tim Reilly, Policy Director for Sales and Excise Tax & Legislative Liaison, Department of Revenue

Alana Stamas, Legal Services and Appeals Division Administrator, Department of Revenue

Marsha Peterson, Compliance Services Bureau Chief, Tax Management Division, Department of Revenue

Matthew Gillespie, Assistant Attorney General, Revenue Division, Office of the Attorney General of Iowa

John Bartlett, Tax Manager, Precision Inc.

Nicole Crain, Senior Vice President, Public Policy, Association of Business and Industry

Todd Hendricks, Senior Director, RSM US LLP

Tom Sands, President/CEO, Iowa Taxpayers Association

Mike Rubino, Director State Tax – Tax Department, Deere & Company World Headquarters

Diane Hudson, Tax Manager at Collins Aerospace

Rich Pullen, Director Tax Compliance & Advocacy, Principal

Sharon Presnall, Senior Vice President Government Relations/Compliance, Iowa Bankers Association

Amy reviewed the charge of the Task Force which is to review the definition of "computer" as used throughout the portions of the Iowa Code and the Iowa Administrative Code; possibly recommend modifications to the current definition of "computer" to the General Assembly by January 1, 2020.

Tim shared Department information gathered regarding the definition of computer used by other states.

Tom and Nicole shared some thoughts on the discussions the business members had since the last meeting which included the pros and cons of creating a list of items that fit the exemption. During those discussions, a lot of issues that were discussed at the first meeting came up again. A discussion of creating a list of items that fit the exemption resulted in concerns that excluding an item from the list raises more questions.

With the current Code definition aligning with Streamlined, it appears that deviation in the definition as included in the rules might be creating the confusion for taxpayers and the Department, so is the best proposal to align the Code and rules? Any attempt to more tightly define a computer now could quickly become stale as the idea of what is a computer now might not match up with what we believe a computer is in a few years.

Alana noted it is the Department's goal to keep the rules updated; as such, can examples, if included in the rules, be expanded as technology changes thus keeping up with technology? Pointed to Rhode Island and Indiana lists as potential options for Iowa. Representative examples could be included, those items currently in "gray" areas, to serve as guideposts for understanding the state of the rules.

Even if we create lists – it is still imperative that definitions in rules must match Code.

The group then noted two extremes as paths forward:

1. Repeal conflicting rules without any lists and just rely on the basic language in the Code, then taxpayers and the Department argue over other items
2. OR attempt to create all-inclusive lists in rules

Discussion then turned to finding a solution somewhere between those extremes. Can we have a list of helpful examples to guide audits and taxpayers? A concern with was raised with having a partial list – if an item is not on the list, will the Department assumption be that the item is not exempt?

A list needs guiding principles to help create a better understanding of why things are on the list, need to address the gray areas with the items in the list. The goal of members is to create clarity.

Some guiding principles proposed were:

1. The item is a business input, i.e., who is the end user of the product (customer or business)
2. Does the item accept information?
3. Does the item manipulate information?

Discussion then turned to peripherals, where it was pointed out that the exemption for a peripheral is not in Code, only in rule. Maybe one proposal of the Task Force would be to add that item to the Code, assuming the goal is to maintain the level of exemption in place today.

If there are items that Department and business members cannot agree on, those can be part of the report for the Legislature to decide about their exemption status. The group had a lengthy discussion of whether certain items are more properly considered a "computer" or "computerized" without being a computer on its own.

One key goal is to get Iowa back in compliance with Streamlined – update the rules that currently differ from stated definition in the Code.

The Task Force agreed it would send a strong signal to the Legislature if the group agrees on a proposed change to the Code.

Amy closed the meeting with the following proposal for future meetings:

Third meeting – (October) continue discussing group recommendations for Legislature, dates were discussed with an agreement the last week of the month was likely the best for all members.

Fourth meeting – (November) finalize recommendations for Legislature

The meeting was adjourned.

APPENDIX F

October 30, 2019 Meeting Minutes

1:00, Room 430, Hoover State Office Building

Task Force chair Amy Harris was unable to attend, so Tim Reilly led the third meeting of the Task Force. All other members were present, including three on the phone: Mike Rubino, Diane Hudson, and John Bartlett. Also in attendance was new Department of Revenue attorney, Elizabeth Burnett, and Sharon Presnall on behalf of the Iowa Taxpayers Association.

Prior to October 30, Tim shared with all members drafts of suggested definitions of “computer peripheral,” and Tom Sands shared a completed table of taxable or exempt items under the existing definition of “computer.” After introductions and a reminder of the charge of the Task Force, a discussion of the Department’s suggested definitions. The first option was taken nearly verbatim from existing Department rule which includes “devices attached to a computer” in the definition of “computer.” The second option describes a peripheral as “an ancillary device used to get information into or get information out of a computer” and includes a non-exclusive list of specific devices included in the definition.

The first comment indicated preference for the second option. Another person noted he liked the list of devices. Another noted that the first option mentions “signal cables,” which is an outdated term. The conversation quickly settled on the second option as preferable, with an added reference to language about connection to a computer. Tim agreed to modify the second option as discussed and share a new draft ahead of the fourth Task Force meeting.

Discussion of the list of items quickly concluded that many of the items would come down to fact-based determinations regarding how the items are used, so the members did not spend much time discussing the specific items.

One person noted that another approach could be to specify in the Iowa Code what specific items are exempt rather than to include a general, catch-all term like “computer peripheral” or redefine “computer.” Another person noted that the apparent intent behind exempting computers was to encourage investment in new technology, and that limiting the Code to specific items may not be optimal long-term.

The members agreed it would be preferable to have a draft of the Task Force report to be submitted to the General Assembly to review and discuss at the fourth and final meeting. Tim agreed to prepare that document and circulate it with members in advance of the meeting, tentatively set for December 6. One person noted it might be helpful to discuss the origin of the exemption in the report and the impact of Streamlined. Another noted the Task Force should tread lightly on discussing history in the report.

The meeting was adjourned.

APPENDIX G

December 6, 2019 Meeting Minutes

9:00, Room 430, Hoover State Office Building

Task Force chair Tim Reilly called the fourth meeting to order. All members were in attendance except Marsha Peterson; Nicole Crain and Diane Hudson joined by phone. Also present were Department of Revenue attorneys Nick Behlke, Amy Stohlmeyer, and Elizabeth Burnett, as well as Sharon Presnall on behalf of the Iowa Taxpayers Association.

Prior to the meeting, Tim had distributed meeting minutes for the first three meetings for the group to review prior to approval and publication on the Department's website and inclusion in the Task Force's submission to the General Assembly. Members suggested a few edits to the minutes for the first two meetings. Tim promised to make appropriate changes and share the revised minutes with members before publishing the final version.

Members then reviewed the draft report prepared by the Department. The members made edits together as a group, with the report displayed for all to see on a projector. Changes to the recommendation included suggesting the legislature rescind Department rules as needed by legislation rather than waiting for the Department to engage in the rule making process, thus avoiding any unwanted gap in the desired outcome of the Task Force. The group also added to its recommendation that this group, or something similar, be convened annually to discuss changes in technology and whether the tax code should be updated to reflect those changes.

Tim promised to finalize the report and share it with all members, along with the meeting minutes, within a week. The meeting was adjourned.