

CHAPTER 201
SALES AND USE TAX PERMITS
[Prior to 7/13/22, see 701—Chapter 13]

701—201.1(423) Permit required.

201.1(1) Sales subject to sales tax. A person shall not make taxable sales of tangible personal property, specified digital products, or services until the person has received a permit from the department. There is no charge for a sales and use tax permit. If a person makes retail sales from more than one location, each location from which taxable sales of tangible personal property, specified digital products, or services will occur shall be required to hold a permit.

201.1(2) Purchases subject to use tax. A person purchasing tangible personal property, specified digital products, or taxable services from an out-of-state source for use in Iowa subject to the use tax law shall be liable for the payment of use tax. The person shall be required to file a sales and use tax return with the department, reporting and remitting use tax on all property or taxable service purchased for use in Iowa during the tax period covered by the return, unless the seller from whom the purchase is made is registered with the department and has collected sales or use tax on the purchase.

201.1(3) Sales subject to use tax. An out-of-state person making sales into Iowa or sales of tangible personal property, specified digital products, or taxable services without meeting or exceeding the sales threshold as defined in rule 701—207.1(423) may register for a sales and use tax permit to collect use tax on such sales. The person collecting use tax on these sales shall report these sales as sales subject to use tax on the sales and use tax return. Rule 701—207.6(423) contains additional information about sales tax collection obligations for out-of-state persons.

201.1(4) Infrequent purchases. A person who does not regularly make purchases subject to use tax but needs to remit tax may use the Iowa nonpermit use tax return. If a person owes less than \$1,200 per year in use tax, the person does not need to obtain a permit and may file the Iowa nonpermit use tax return.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22; Editorial change: IAC Supplement 10/18/23]

701—201.2(423) Application for permit.

201.2(1) Permit application. An application for a sales and use tax permit shall be made upon a form provided by the department, and the applicant shall furnish all information requested on such form. An application for a permit for a business operating under a trade name shall state the trade name, as well as the individual owner's name, in the case of a sole ownership by an individual, or the trade name and the name of all partners in the case of a partnership. The application shall state the date when the applicant will begin selling tangible personal property, specified digital products, or taxable services at retail in Iowa from the location for which the application is made.

201.2(2) Signatures required.

a. Paper applications. The application shall be signed by the owner, in the case of an individual business; by a partner, in the case of a partnership, although all partners' names shall appear on the application; and by the president, vice president, treasurer or other principal officer, in the case of a corporation or association, unless written authorization is given by the officers for another person to sign the application.

b. Electronic applications. For electronically transmitted applications, the application form shall state that in lieu of a person's handwritten signature, an email address will constitute a valid signature.

201.2(3) Retroactive permits and returns for prior periods. A person may indicate on a permit application that the effective date of the permit is in a prior tax period. Returns must be filed for all prior tax periods dating back to the effective date of the permit. Penalty and interest may apply and be imposed by the department for returns filed for those prior tax periods. 701—Chapter 10 contains more information about penalties and interest. Submission of a retroactive permit application makes a person ineligible for a voluntary disclosure agreement for those prior tax periods. 701—Chapter 3 contains more information about the voluntary disclosure program.

201.2(4) Address only required for retail sales locations. If a person is subject to sales tax and has physical presence or economic presence and is not making sales exclusively through a marketplace facilitator, the person shall provide a location for its sales and use tax permit.

201.2(5) Seasonal filers. A seasonal business retailer with sales in up to four months during the calendar year may register to file a return and remit tax as a seasonal filer. The retailer will be expected to only file returns for the specific months in which the retailer conducts business as indicated by the retailer upon registration. The retailer will not be expected to file a return or remit tax for the other months of the year. Like any other retailer, the seasonal retailer must still notify the department when it ceases operation permanently; if it does not, it will receive a nonfiler notice from the department.

EXAMPLE: Retailer A plans to start selling Christmas trees annually starting in 2022. Retailer A only plans to sell trees in November and December each year. Retailer A may request to be designated as a seasonal filer such that it only is required to file returns for November and December each year. Retailer A fails to file a sales and use tax return for November 2029. Retailer A will receive a notice from the department even if Retailer A stopped selling trees after 2028.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.3(423) Retailers selling nontaxable goods and services. Persons regularly engaged in selling tangible personal property or a specified digital product which is exempt from tax, making nontaxable transactions, or performing a service which is not enumerated in Iowa Code section 423.2 shall not be required to obtain a sales tax permit. However, if the retailer makes taxable sales or provides taxable services, the retailer will be required to hold a permit under the provisions of this chapter and Iowa Code section 423.36.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.4(423) Reinstatement of canceled permit. A person who previously held and canceled a permit who wishes to reengage in business shall apply to the department for a new permit and file any previously unfiled tax returns. Upon receipt of the proper clearance for previous tax returns, a new permit shall be issued.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.5(423) Permit not transferable—sale of business. Permits shall not be transferable. The owner of a business holding a permit that sells the business shall cancel the permit, and the purchaser of the business shall apply for a new permit in the purchaser's own name.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.6(423) Change of location. A business changing its location shall cancel its original permit and apply for a new permit.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.7(423) Change of ownership. A retailer changing its business entity shall apply for a new permit under the name of the new entity. This includes but is not limited to such entity changes as proprietorship to partnership, partnership to corporation, or any combination thereof.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.8(423) Change of legal or operating name of a business.

201.8(1) Change to legal name. A retailer changing its legal name but maintaining its ownership may continue to use its existing sales and use tax permit. The retailer shall notify the department of

the change in legal name and shall provide legal documentation proving the change in name before the department will change the legal name for the permit.

201.8(2) *Change to operating name.* A retailer changing its operating, or “doing business as,” name may continue using its existing sales and use tax permit. The retailer shall notify the department of the change in operating name. No documentation is required for the department to update the operating name associated with the permit.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.9(423) Trustees, receivers, executors and administrators. By virtue of their appointment, trustees, receivers, executors and administrators who continue to operate, manage or control a business involving the sale of tangible personal property, specified digital products, or taxable services or engage in liquidating the assets of a business by means of sales made in the usual course of trade shall collect and remit tax on inventory and noninventory items. A permit of a ward, decedent, cestui que trust, bankrupt, assignor or debtor for whom a receiver has been appointed, which is valid at the time a fiduciary relation is created, shall continue to be a valid permit for the fiduciary to continue the business for a reasonable time or to close out the business for the purpose of settling an estate or terminating or liquidating a trust.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.10(423) Substantially delinquent tax—denial of permit.

201.10(1) *Substantial delinquency of tax.*

a. Applicant identity. The department may deny a permit to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a permit is a corporation, the department may deny the applicant a permit if any officer with a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must initially owe the delinquent tax, penalty, or interest and the officer must be personally and secondarily liable for the tax. This is in contrast to the situation regarding a partnership.

b. Tax administered by the department. The local option sales tax is a tax administered by the department. Local vehicle; property, whether imposed on centrally assessed property or not; beer and liquor; and insurance premium taxes are nonexclusive examples of taxes which are not administered by the department.

201.10(2) *Substantial delinquency factors.* The amount of tax delinquent, the number of filing periods for which a tax remains due and unpaid, and the length of time a tax has been unpaid are the principal, but nonexclusive circumstances, that the department will use to determine whether an applicant is substantially or insubstantially delinquent in paying a tax. The department may deny a permit for substantial delinquency. Nonexclusive factors that the department will consider in determining whether substantial delinquency will or will not result in the denial of an application for a permit are the following: whether the delinquency was inadvertent, negligent, or intentional; the amount of tax, interest, or penalty owed in relation to the applicant’s total financial resources; and whether the applicant’s business is likely to survive over the long term if a license or permit is granted.

201.10(3) *Child support noncompliance.* The department will deny a permit to any applicant, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.11(423) Substantially delinquent tax—revocation of permit.

201.11(1) Substantial delinquency of tax. The department may revoke a permit if the permit holder has become substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax. If the person holding a permit is a corporation, the department may revoke the permit if any officer with a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest of the permit-holding corporation. In this latter instance, the corporation must initially owe the delinquent tax, penalty, or interest and the officer must be personally and secondarily liable for the tax. If the permit holder is a partnership, a permit cannot be revoked for a partner's failure to pay a tax which is not a liability of the partnership. This is in contrast to the situation regarding an application for a permit. Rule 701—201.10(423) contains characterizations of the terms “tax administered by the department” and “substantially delinquent” and a description of some of the factors that the department will use in determining whether substantial delinquency will or will not result in the revocation of a permit.

201.11(2) Child support noncompliance. A revoked permit will not be reinstated if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code section 423.36.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.12(423) Reinstatement of revoked permit.

201.12(1) A revoked permit shall be reinstated only on such terms and conditions as the case may warrant. Terms and conditions include payment of any tax liability that may be due to the department. Rule 701—201.11(423) includes a description of the circumstances under which nonpayment of taxes may lead to revocation of a permit.

201.12(2) Pursuant to the director's statutory authority in Iowa Code section 423.36(6) to restore licenses after a revocation, the director has determined that upon the initial revocation of a sales and use tax permit, the permit holder will be required to pay all delinquent sales tax liabilities, to file returns, and to post a bond and to refrain from taxable occurrences under Iowa Code section 423.2 as required by the director prior to the reinstatement or issuance of a new sales tax permit.

201.12(3) As set forth above, the director may impose a waiting period during which the permit holder must refrain from taxable occurrences pursuant to the penalties of Iowa Code section 423.40, not to exceed 90 days, to restore a permit or issue a new permit after a revocation. The department may require a sworn affidavit, subject to the penalties of perjury, stating that the permit holder has fulfilled all requirements of said order of revocation, and stating the dates on which the permit holder refrained from taxable occurrences.

201.12(4) Each of the following situations will be considered one offense, for the purpose of determining the waiting period to reinstate a revoked permit or issue a new permit after a revocation unless otherwise noted.

- a. Failure to post a bond as required.
- b. Failure to file a return timely.
- c. Failure to pay tax timely (including dishonored checks, failure to pay, and late payments).
- d. Failure to file a return and pay tax shown on the return timely (counts as two offenses).

201.12(5) The administrative law judge or director of revenue may order a waiting period after the revocation not to exceed:

- a. Five days for one through five offenses.
- b. Seven days for six through seven offenses.
- c. Ten days for eight through nine offenses.
- d. Thirty days for ten offenses or more.

201.12(6) The administrative law judge or director of revenue may order a waiting period not to exceed:

- a. Forty-five days if the second revocation occurs within 24 months of the first revocation.
- b. Sixty days if the second revocation occurs within 18 months of the first revocation.

- c. Ninety days if the second revocation occurs within 12 months of the first revocation.
- d. Ninety days if the third revocation occurs within 36 months of the second revocation.

201.12(7) A revoked permit will not be reinstated if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder, who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code sections 423.2, 423.36, and 423.40.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

701—201.13(423) Withdrawal of permit. After investigation, the department will withdraw a permit under the following conditions:

201.13(1) Upon a determination that the permit holder cannot be located in the state of Iowa and upon failure to obtain service of an order to appear and show cause, after sending the notice by registered certified mail or an attempt to personally serve the notice of the order.

201.13(2) Upon a determination that the permit holder cannot be located in the state of Iowa and upon a determination by the department that a business has been terminated or abandoned by the permit holder, without a request for cancellation signed by the permit holder.

201.13(3) The permit holder has become incapacitated or unable to respond or is deceased and has no duly appointed trustee, guardian or individual holding a power of attorney, executor or administrator. The withdrawal shall not constitute a revocation of said license, nor shall any penalties imposed for revocation be applicable. A permit so withdrawn shall be reissued in its prior status at such time as any affected permit holder so requests. The proceedings for withdrawal will be in conformity with Iowa Code section 17A.18.

This rule is intended to implement Iowa Code section 17A.18.
[ARC 6398C, IAB 7/13/22, effective 7/1/22]

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