

701—285.5(423) Sales to federal, state, county, municipal, or tribal government or the government's agencies or instrumentalities.**285.5(1) Sales to government or agencies or instrumentalities.**

a. A sale to a government or an agency or instrumentality of government occurs only if a government or an agency or instrumentality of government pursuant to a contract for sale, takes title or ownership to tangible personal property or a specified digital product, or receives an enumerated taxable service as a buyer from a seller.

b. No sale to a government or an agency or instrumentality of government occurs if a government or an agency or instrumentality of government pays some portion of the sales price of the sale of tangible personal property, a specified digital product, or a taxable service but title to and ownership of the tangible personal property or specified digital product are transferred to or a taxable service is received by another person as a result of the sale.

c. Independent contractors who deal with agencies, instrumentalities, or other entities of government do not, by virtue of their contracting with those entities, acquire immunity or exemption from taxation for themselves. Sales to these contractors are still subject to tax. See rule 701—19.12(422,423) for rules concerning construction contracts with designated exempt entities.

285.5(2) Sales by or to the federal government or its agencies or instrumentalities.

a. The sales price of the sale of tangible personal property, specified digital products, or enumerated taxable services made directly by or to the United States government or to recognized agencies, departments, or instrumentalities of the United States government shall not be subject to sales tax.

b. The sales price of retail sales made directly to patients, inmates, or employees of an institution or department of the United States government are taxable, as the sales are not made directly to the government. However, sales similarly made by post exchanges and other establishments organized and controlled by federal authority shall not be subject to sales tax.

EXAMPLE 1: Patient B purchases a hospital bed from a drugstore. A percentage of Patient B's bill is paid by federal funds from Medicaid. Because Patient B, not the federal government, purchased the hospital bed, Iowa sales tax is due.

EXAMPLE 2: Employee C is a federal government employee who eats at a restaurant while on government business. Employee C pays for the meal with a credit card. The credit card was issued in Employee C's name, and the cost of the meal is billed to Employee C, who pays it. The federal government later reimburses Employee C the entire cost of the meal. Because Employee C, not the federal government, purchased the meal, Iowa sales tax is due.

EXAMPLE 3: Similar to Example 2, Employee D is a federal government employee who eats at a restaurant while on government business. Employee D uses a credit card to pay for the meal. However, the credit card is issued in Employee D's name, but the cost of the meal is billed to the federal government, which pays that cost. Here, the federal government is the purchaser of the meal on Employee D's behalf, and the sale is exempt from tax.

285.5(3) Sales to the state of Iowa or its agencies or instrumentalities. The sales price of sales to the state of Iowa or agencies, departments, or instrumentalities of the state of Iowa are not taxable when used for public purposes.

EXAMPLE 1: City X, an exempt instrumentality, issues a bond to finance the construction of a school. Corporation Y purchases the bond but is not involved in the project in any other way. Since City X does not enjoy the benefits of earnings of the school, the exemption provided to the city is applicable.

EXAMPLE 2: Corporation Z, an instrumentality of the federal government which Congress has allowed by statute to be subject to state sales and use taxes, purchases tangible personal property. These purchases are subject to tax because the profits of the corporation are distributed to the corporation's stockholders.

285.5(4) Sales to a tribal government and its agencies or instrumentalities. The sales price of tangible personal property, specified digital products, or enumerated taxable services furnished to a tribal government as defined in Iowa Code section 216A.161, or an agency or instrumentality of tribal government, shall not be subject to tax when used for public purposes.

285.5(5) *Sales by a municipal utility.*

a. The sales price of tangible personal property, specified digital products, or services used by or in connection with the operation of any municipally owned public utility engaged in selling gas, electricity, pay television service, or heat to the general public shall be subject to tax.

b. Sewage service or solid waste collection and disposal service provided to a county or municipality on behalf of nonresidential commercial operations located within the county or municipality shall also be subject to tax. See rules 701—26.71(423) and 701—26.72(423) for more information.

This rule is intended to implement Iowa Code section 423.3(31).

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