

Policy Letter; Sales Tax Dispute; July 14, 2016

Topic Code: R132 Recycling

Document Reference: 16300039

Sent via email

July 14, 2016

[REDACTED]

Re: Sales tax dispute

[REDACTED]

Recently, the Iowa Department of Revenue (“Department”) received your email regarding potential conflicting advice from the Department. You state that you received advice from the Department previously stating that trash service for businesses in Iowa is subject to sales tax, but recycling services for business is not subject to sales tax. Recently, you had an Iowa-based trash/recycling vendor that notified you that the Department stated that commercial recycling service for businesses in Iowa is subject to sales tax.

You would like the following information:

1. Verify if commercial recycling service in Iowa is subject to sales tax or is not subject to sales tax.
2. If commercial recycling service in Iowa is now subject to sales tax, provide documentation of what Iowa statute changed recycling service from not being subject to sales tax (per the attached letter dated 10/8/2009 from Darwin Clupper) to now being subject to sales tax.

Response:

In the previous letter referenced above, you asked the following question:

An Iowa restaurant hires a retailer who provides the service of solid waste disposal. The retailer provides a six cubic yard trash compactor (small by commercial standards) to contain all trash except for cardboard. The retailer provides the restaurant with an eight cubic yard dumpster to contain the cardboard.

The questions relevant to this situation are as follows:

- 4) Cost to empty the cardboard recycling dumpster=\$80.00 a month. The cardboard is taken to a recycling center not to a landfill.
- 5) Fuel/environmental surcharge=10% of the cardboard recycling charge=\$8.00. This surcharge also varies each month and is based on the fluctuating piece of diesel fuel not on the distance the retailer travels to service a particular restaurant.

The answers provided are as follows:

Concerning charges four and five, quite clearly they are excluded from tax by the last sentence of § 423.2(7)“b,” so no sales tax need be collected on either the \$80.00 or the \$8.00 amount.

As a follow-up to Mr. Clupper’s letter, you stated that the letter previously provided clarifies that recycling services are not subject to Iowa sales tax and asked a follow-up question about exemption certificates. Mr. Clupper answered the question regarding exemption certificates, but did not address any of your other statements.

Iowa Code § 423.2(7)(b) does not provide a blanket exemption for any recycling done by an entity. Iowa Code § 423.2(7)(2)(b) provides:

A person who transports solid waste generated by that person or another person without compensation shall pay the tax imposed by this subsection at the collection or disposal facility based on the disposal charge or tipping fee. However, the costs of a service or portion of a service to collect and manage recyclable materials separated from solid waste by the waste generator are exempt from the tax imposed by this subsection.

Therefore, based on Iowa Code § 423.2(7)(2)(b), the service of collecting and managing recyclable materials separated from solid waste by the waste generator are exempt from tax. It is important to note that it is not just the cost of collecting and managing recyclable materials in general that is exempt, but the costs for the service of collecting and managing recyclable materials separated from the solid waste by the waste generator that is exempt.

I hope this information has been helpful to you. Please remember that this letter is an informal opinion based only on the facts you provided, and on the current law. In the future the Department could take a position contrary to that stated in this letter. Any written advice or opinion rendered to members of the public by Department personnel that is not pursuant to a Petition for Declaratory Order under 701 IAC 7.24 is not binding upon the Department. If you have any additional questions regarding this matter please do not hesitate to contact me.

Sincerely,

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