

BEFORE THE IOWA DEPARTMENT OF REVENUE
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA

IN THE MATTER OF

STERICYCLE, INC.
28161 N. Keith Dr.
Lake Forest, IL 60045

SALES AND USE TAX

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DECLARATORY ORDER

DOCKET NO. 2018-310-2-0559

Pursuant to a Petition for Declaratory Order (hereinafter referred to as “Petition”) filed with the Iowa Department of Revenue (hereinafter referred to as “Department”) by Stericycle, Inc. (hereinafter referred to as “Stericycle” or “Petitioner”) on December 14, 2018, and in accordance with Iowa Code section 17A.9 and Iowa Administrative Code rule 701—7.24(17A), “Declaratory order-in general,” the Director issues the following order.

I. FACTS

The findings of fact are based on the Petition and on further communications with Stericycle.

Stericycle provides various waste management services in many sectors. The services at issue in Stericycle’s Petition involve collecting, destroying, and recycling customer paper documents, referred to as Customer Confidential Material (“CCM”). Because CMM contains sensitive information, CCM must remain protected and isolated from general solid waste and disposed of securely. Stericycle does not separate CMM from other waste; rather, Stericycle’s customers are responsible for pre-sorting CCM from general solid waste and placing the CMM into secure and locked containers provided by Stericycle.

Stericycle's shredding services are flexible, providing customers with choices on when and where CMM will be collected and destroyed. Stericycle offers a scheduled recurring collection service as well as on-demand collection and drop-off services. Customers may (1) have the shredding services performed on-site through a specialty truck equipped with shredding equipment, (2) have Stericycle pick up CCM and perform the shredding process at its facility, or (3) customers may drop off CCM at Stericycle's facility. After shredding the CCM, Stericycle sorts the shredded remains by paper classification, bales it, and sends the bales to third party recyclers. Regardless of how the service is provided, customers do not retain any portion of the final shredded product.

II. ISSUE PRESENTED

Stericycle raises one issue for consideration: Whether its paper shredding services are exempt from the sales tax imposed by Iowa Code section 423.2(7)(a).

II. ANALYSIS AND CONCLUSIONS

A. Applicable Law and Rules

i. Declaratory Orders under the Iowa Administrative Procedure Act

The function of a declaratory order is to provide "reliable advice from an agency as to the applicability of unclear law." Arthur Earl Bonfield, *The Iowa Administrative Procedure Act: Background, Construction, Applicability, Public Access to Agency Law, The Rulemaking Process*, 60 Iowa L. Rev. 731, 805 (1975). Iowa Code section 17A.9 contemplates declaratory orders by administrative agencies on a disclosed set of facts. *City of Des Moines v. P.E.R.B.*, 275 N.W.2d 753, 758 (Iowa 1979). A declaratory order enables the public to secure definitive binding advice as to the applicability of agency-enforced law to a particular set of facts. Bonfield, *supra*, at 822–23.

It is not the function of a declaratory order to resolve issues involving factual analysis “too complicated to handle outside of an actual adjudication.” *Id.* at 807. A declaratory order is not a “contested case” as defined in Iowa Code section 17A.2(5); namely, it is not an evidentiary hearing, which is a separate administrative remedy set forth in Iowa Code chapter 17A and in the Department’s rules. *See* Iowa Admin. Code r. 701—7.41(17A). Consequently, for the purposes of any declaratory order, the Director views the issues raised in the petition as questions of law applicable to future factual situations as disclosed in the petition. This view is consistent with Iowa Administrative Code rule 701—7.41(17A) concerning the issuance of declaratory orders.

ii. *Statutory Construction and Interpretation of Tax Statutes*

“When engaging in statutory interpretation,” the Department “first examine[s] the language of the statute and determine[s] whether it is ambiguous.” *Kay-Decker v. Iowa State Bd. of Tax Review*, 857 N.W.2d 216, 223 (Iowa 2014) (citing *Rolfe State Bank v. Gunderson*, 794 N.W.2d 561, 564 (Iowa 2011)). “Generally, we presume words used in a statute have their ordinary and commonly understood meaning.” *Kay-Decker*, 857 N.W.2d at 223 (quoting *McGill v. Fish*, 790 N.W.2d 113, 119 (Iowa 2010)). “Legislative intent is expressed by what the legislature has said, not what it could or might have said. When a statute’s language is clear, we look no further for meaning than its express terms. Intent may be expressed by the omission, as well as the inclusion of statutory terms” *Hawkeye Land Co. v. Iowa Utilities Bd.*, 847 N.W.2d 199, 210 (Iowa 2014) (quoting *State v. Beach*, 630 N.W.2d 598, 600 (Iowa 2001) (internal citations omitted)).

In addition to applying the general principles of statutory construction, “[s]tatutes which impose taxes are construed liberally in favor of the taxpayer and strictly against the taxing body. It must appear from the language of a statute that the tax assessed against the taxpayer was

clearly intended.” *Iowa Auto Dealers Ass’n v. Iowa Dep’t of Revenue*, 301 N.W.2d 760, 762 (Iowa 1981). However, the Department construes tax exemption statutes narrowly in favor of taxation. *See Dial Corp. v. Iowa Dep’t of Revenue*, 634 N.W.2d 643, 646 (Iowa 2001) (“Tax exemption statutes are construed strictly, with all doubts resolved in favor of taxation.”); *see also Sherwin-Williams Co. v. Iowa Dep’t of Revenue*, 789 N.W.2d 417, 424 (Iowa 2010).

iii. *Solid Waste Collection and Relevant Exemption*

Iowa Code section 423.2(7)(a) imposes a tax of six percent on “the sales price from the sales, furnishing, or service of solid waste collection and disposal service.” “Solid waste” generally includes “garbage, refuse” and “other discarded waste materials and sludges in solid, semisolid, liquid, or contained gaseous form, resulting from nonresidential commercial operations.” Iowa Code section 423.2(7)(a).

Iowa Code section 423.2(7)(b) states, in relevant part, “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.” Iowa Administrative Code rule 701—26.71(5) defines “recyclable materials” to mean “materials such as paper, glass, metals (e.g. copper, aluminum and iron), and batteries, *so long as* these materials are separated from other solid waste for the purpose of recycling.” (emphasis added).

B. Discussion

Stericycle raises two arguments in support of the Petition. First, Stericycle argues that it operates a recycling facility and that the paper shredding services as described in the Petition are exempt from sales tax pursuant to Iowa Code section 423.2(7)(a)(2) as the processing of recyclable materials for disposal. In the alternative, Stericycle argues that its services are exempt

undersection 423.2(7)(b) as services for the collection and management of pre-sorted recyclable materials.

The Director considers Stericycle's second argument first—whether its paper shredding service meets the exemption in Iowa Code section 423.2(7)(b). Stericycle collects CMM from its customers, either through a pick-up or drop-off service. Stericycle then manages the CMM by shredding the paper—either at its facility or on-site with later transport to its facility—to create shredded paper waste. This shredded paper material derived from CCM meets the definition of recyclable material in Iowa Administrative Code rule 701—26.71(5); the CCM consists of paper refuse that is separated from other solid waste for the purpose of recycling. After shredding the CCM, Stericycle bales and sends it to third party recyclers for recycling purposes, constituting further management and eventual sale of the shredded CMM.

Therefore, Stericycle's secure document shredding services as described herein constitute the collection and management of recyclable materials separated from solid waste by waste generators for recycling purposes. Importantly, one determining factor in this decision is that the CMM is collected “for the purpose of recycling” as required by Iowa Administrative Code rule 701—26.71(5). Waste collected and managed for a purpose other than eventual recycling is not exempt under Iowa Code section 423.2(7)(b).

Because the Order on Stericycle's second argument is dispositive of the issue raised in the Petition, the Director declines to address whether Stericycle meets the exemption in Iowa Code section 423.2(7)(a)(2).

ORDER

THEREFORE, based on the facts presented, foregoing reasoning, and applicable provisions of the law, the Director finds that Stericycle's paper shredding services are exempt from sales tax pursuant to Iowa Code section 423.2(7)(b).

Issued at Des Moines, Iowa this 21st day of February, 2019.

IOWA DEPARTMENT OF REVENUE

By 
Adam Humes, Director

CERTIFICATE OF SERVICE

I certify that on this 21st day of February, 2019, I caused a true and correct copy of the Declaratory Order of the Director of Revenue to be forwarded by U.S. Mail to the following person:

John Argiris, Vice President
Stericycle, Inc.
28161 N. Keith Dr.
Lake Forest, IL 60045



Hollie Welch, Executive Secretary