

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

IN THE MATTER OF

City of Farmington
203 Elm St, PO Box 477
Farmington, Iowa, 52626

SALES AND USE TAX
HOTEL AND MOTEL TAX

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DECLARATORY ORDER

DOCKET NO. 255048

Pursuant to a Petition for Declaratory Order ("Petition") filed with the Iowa Department of Revenue ("Department") by the City of Farmington ("Petitioner" or "City"), and in accordance with Iowa Code section 17A.9 and Iowa Administrative Code rule 701—7.24, the Director issues the following order.

I. FACTS

The findings of fact are based on the Petition submitted to the Department and further communications with Petitioner. Petitioner owns Indian Lake Park, a city park located about a mile outside of the city limits. City employees work as caretakers of the park. The park has several campsites for RVs and campers that are rented on a nightly basis. Campsites have a range of amenity options, from full hookups, water and electric, to tent-only sites. The park also has several cabins that are rented on a nightly basis. Campers can make reservations by phone, in person, or online.

II. ISSUES PRESENTED

The Petition presents the following two issues:

1. Is Petitioner required to charge sales tax on the rental of campsites located in the park?
2. Is Petitioner required to charge hotel and motel tax on the rental of cabins located in the park?

III. **STANDARD OF REVIEW**

Declaratory Orders and the Iowa Administrative Procedures Act

Iowa's Administrative Procedure Act ("IAPA") was enacted "to provide a minimum procedural code for the operation of all state agencies when they take action affecting the rights and duties of the public." Iowa Code § 17A.1(2) (2021). Under the IAPA, "[a]ny person may petition an agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency." *Id.* at § 17A.9(1)(a). The IAPA also describes agency rights and responsibilities with respect to declaratory order proceedings. *Id.* at § 17A.9(1)(b)–(8). Pursuant to Iowa Code section 17A.9(2), the Department adopted Iowa Administrative Code rule 701—7.24, which outlines department-specific rules governing declaratory orders.

The purpose of a declaratory order is to provide a "generally available means for persons to obtain reliable information about agency administered law as it applies to their particular circumstances." *Sierra Club Iowa Chapter v. Iowa Dep't of Transp.*, 832 N.W.2d 636, 647 (2013) (citing Arthur Earl Bonfield, *Amendments to Iowa Administrative Procedure Act, Report on Selected Provisions to Iowa State Bar Association and Iowa State Government*, 1–8 (1998)). Declaratory orders are not contested cases that "entitle[] parties affected by the agency action to an adversarial

hearing” in order to “adjudicate disputed facts pertaining to particular individuals in specific circumstances.” *Greenwood Manor v. Iowa Dep’t of Pub. Health, State Health Facilities Council*, 641 N.W.2d 823, 834 (Iowa 2002); see also Iowa Code § 17A.12. Instead, the IAPA “contemplates declaratory rulings by administrative agencies on purely hypothetical sets of facts.” *City of Des Moines v. Pub. Emp’t Relations Bd.*, 275 N.W.2d 753, 758 (1979). As such, “[t]he procedure established by section 17A.9 allows persons to seek formal opinions on the effect of future transactions and arrange their affairs accordingly.” *Bennett v. Iowa Dep’t of Nat. Res.*, 573 N.W.2d 25, 26 (Iowa 1997). Declaratory orders issued by an administrative agency do, however, have “the same status and binding effect as any final order issued in a contested case proceeding.” Iowa Code § 17A.9(7). The Department’s rules governing declaratory orders are consistent with this understanding of the role of declaratory orders in administrative procedure. See Iowa Admin Code r. 701—7.24(1)“b”, (9)“a”(2), (9)“a”(6), (9) “a”(8), (12) (2021).

IV. ANALYSIS AND CONCLUSIONS

A. Sales Tax on Campsites

Iowa Code section 423.2(6) lists services that are subject to sales tax. Campgrounds are one item on this list. Iowa Code § 423.2(6)(j). This section is expanded upon in the Department’s administrative rules. See Iowa Admin. Code r. 701—26.58.¹ Under rule 701—26.58, a campground is defined as any location at which sites are provided for persons to place their own temporary shelter, such as a tent,

¹ Effective January 4, 2023, this rule will be replaced by Department rule 701—216.14. The content of the rule remains the same; it is only moving to a new location in the Iowa Administrative Code.

travel trailer, or motor home. Any type of camp at which accommodations are provided in cabins or other permanent structures are excluded from this definition. See *id.* r.

701—26.58. The park owned by Petitioner contains campsites for persons to place their own tents, which meets the definition of campground under the rule. Additionally, the sales price of the campground includes any mandatory or optional charges imposed on persons using a site on the campground. *Id.* Examples include campground entry fees, electric, and water and sewer fees. *Id.*

Iowa Code section 423.3 contains a list of exemptions to the general sales tax provisions. Included on this list is the sale of personal property or of services furnished by a county or city. Iowa Code § 423.3(32). This provision goes on to list certain services that are not exempt even when sold by cities or counties. See *id.* § 423.3(32)(a)–(d). Campgrounds are not included on this list, meaning that under this provision the service of campgrounds sold by a county or a city is exempt from sales tax. The campgrounds at issue here are owned by Petitioner. In those cases where the City sells the campsites directly to the public and the City is the only retailer involved in the sale, the sales price is exempt from sales tax. The taxability of campground sales consummated through means other than direct sales by Petitioner to the public, or sales involving retailers other than the City, is beyond the scope of this order.

B. Hotel and Motel Tax on Cabins

As stated above, camps at which accommodations are provided in cabins or other permanent structures are not included in the definition of campgrounds under Iowa Administrative Code rule 701—26.58, and the sales of such accommodations are, therefore, not subject to sales tax. However, a tax of five percent is imposed on the

sales price for the rental of any lodging located in the state. See Iowa Code § 423A.3; see also Iowa Admin. Code r. 701—253.3. Local jurisdictions have the option of imposing an additional local hotel and motel tax of up to seven percent. “Lodging” means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, cabin, apartment, residential property, or manufactured or mobile home which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent. Iowa Code § 423A.2. Petitioner rents out cabins on a nightly basis. These cabins are the sort of accommodations specifically contemplated under the statute, so the nightly rental price is subject to the hotel and motel tax. There is no exemption from hotel and motel tax for sales made by city or county governments. See Iowa Code § 423A.5 & Iowa Admin. Code r. 701—253.3(2). Accordingly, the sales price of cabin rentals is subject to hotel and motel tax, regardless of how such sales are consummated.

ORDER

THEREFORE, based on the facts presented, the foregoing reasoning, and the applicable provisions of law, the Director finds that the sales price of Petitioner’s rental of campsites directly to the public, without the involvement of other retailers, is exempt from sales tax. The rental of cabins by Petitioner is, however, subject to the imposition of Iowa’s hotel and motel tax.

Done at Des Moines, Iowa on this 19 day of December 2022.

IOWA DEPARTMENT OF REVENUE

BY 

Kraig Paulsen, Director