

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

<p>IN THE MATTER OF</p> <p>WMK, LLC DBA MOBILITY WORKS</p> <p>3450 SE MIEHE DR GRIMES IA 50111-662</p> <p>SALES/USE/EXCISE</p>	<p>DECLARATORY ORDER</p> <p>DOCKET NO. 527019</p>
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Pursuant to a Petition for Declaratory Order (“Petition”) filed with the Iowa Department of Revenue (“Department”) by WMK, LLC dba Mobility Works] (hereinafter referred to as “WMK” or “Petitioner”) on April 10, 2024, and in accordance with Iowa Code section 17A.9 (2024) and Iowa Administrative Code rule 701—7.24(17A), “Declaratory order-in general,” the Director issues the following order.

FACTS

The findings of fact are based on the Petition. Petitioner is “an Ohio limited liability company qualified to do business in the state of Iowa and licensed to sell motor vehicles in the State of Iowa.” Pet. for Declaratory Order at 1, No. 527019 (Apr. 10, 2024). “Petitioner purchases motor vehicles from remanufacturers that modify and equip an OEM [(original equipment manufacturer)] chassis to permit access to and use of the vehicle by persons confined to a wheelchair.” *Id.* Petitioner then sells wheelchair accessible vehicles (“WAV”) to purchasers. According to the Petition, other WAV dealers in the state of Iowa issue separate bills of sale and report sales of WAV to purchasers as “two separate transactions consisting of a sale of an OEM chassis...and a sale of labor and equipment necessary to make the OEM chassis wheelchair accessible” *Id.*

ISSUES PRESENTED

The Petition presents the following issues for discussion:

1. Whether the fee for new registration of an assembled WAV may be calculated based on the cost of the OEM chassis, exclusive of the cost of labor and equipment utilized to create the assembled WAV sold by Petitioner, and
2. Whether Petitioner may provide the purchaser of an assembled WAV separate bills of sale reflecting the price of the OEM chassis on one and the price for the previously installed modifications on the other or must reflect the aggregate price of both the OEM and the previously installed modifications and equipment on a single bill of sale.

STANDARD OF REVIEW

Declaratory Orders under the Iowa Administrative Procedure 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). 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(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 (Iowa 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.

DISCUSSION

When the Department receives a petition, it is required to issue a declaratory order unless the Department “determines that issuance of the order under the circumstances would be contrary to a rule adopted in accordance with subsection 2.” Iowa Code § 17A.9(1)(b)(1). Iowa Administrative Code rule 701—7.24 sets forth requirements for a petition. A petition must contain “a clear and concise statement of all relevant facts on which the order is requested.” Iowa Admin. Code r. 701—7.24(1)“d”(2)(1). After a review of the Petition, the Department determined that the facts presented were not sufficient to answer the issues presented, and issued a request for additional information on May 23, 2024. The Department requested additional facts on the equipment and modifications installed to make a vehicle a WAV and examples of sales receipts or invoices between WMK, remanufacturers, and purchasers. The Department requested a response from the Petitioner by June 30, 2024; however, Petitioner has failed to respond to the request for additional information.

The Department may refuse to issue a declaratory order on the grounds that “the facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis on which to issue an order.” Iowa Admin. Code r. 701—7.24(9)“a”(6). In the present

matter, the Department has determined that the facts contained in the Petition are insufficient to provide proper legal analysis on the issues presented. Since the Petitioner failed to respond to the request for additional information, the Director therefore refuses to issue a declaratory order on the facts as presented. However, this refusal does not preclude the Petitioner from filing a new petition that contains sufficient facts. Iowa Admin. Code r. 701—7.24(9)“c”.

ORDER

THEREFORE, based on the facts presented, foregoing reasoning, and applicable provisions of the law, the Director refuses to issue a Declaratory Order in this matter.

Issued at Des Moines, Iowa this 1st day of August, 2024.

IOWA DEPARTMENT OF REVENUE

By Mary Mosiman
Mary Mosiman, Director