

Note: The appeal period has expired, pursuant to Iowa Admin. Code rule 701-7.19(8)(d) the Administrative Law Judge's proposed decision is final and the case is closed

IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
CENTRAL PANEL BUREAU

<p>IN THE MATTER OF: JOEL GASWAY 2831 29TH AVE MARION, IA 52302,</p> <p>SALES/USE/EXCISE TAX APPLICATION FOR REINSTATEMENT</p>	<p>DIAL Case No. 25IDRSCUTO001 IDR Docket No. 339345</p> <p>PROPOSED DECISION GRANTING MOTION FOR SUMMARY JUDGMENT</p>
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The above-captioned matter is currently set for a telephone hearing to be held on October 28, 2024. On July 29, 2024, the Iowa Department of Revenue (“IDR”) filed a Motion for Summary Judgment, Brief in Support of the Motion, and a Statement of Undisputed Material Facts. Joel Gasway (“Gasway”) did not file a Resistance. The matter is now fully submitted.

I. Undisputed Material Facts

On August 9, 2023, Gasway purchased a one-ounce rhodium bullion bar and paid \$546.02 in sales tax in connection with the purchase. On August 11, 2023, Gasway filed a refund claim seeking a refund of the sales tax paid. He claimed that precious metal bullions, including rhodium bullion bars, are not subject to Iowa sales tax.

The Department denied the refund claim on September 26, 2023, noting that only certain bullion bars are exempt based on the specific type of metal and that rhodium was not included in the exemption. On October 3, 2023, Gasway appealed the Department’s refund denial. The parties attempted to resolve the appeal informally but were unsuccessful. On July 17, 2024, Gasway requested an appeal. The Department does not dispute Gasway’s assertion that rhodium is a member of the platinum group of metals. The Department also does not dispute that the online retailer where Gasway purchased the rhodium bullion bar, Moneymetals.com, does not charge sales tax on the sales price of the rhodium bullion bars it sells.

II. Summary Judgment Standard

Summary judgment is available in revenue proceedings under similar circumstances to that allowed in traditional civil litigation. 701 Iowa Administrative Code (“I.A.C.”) § 7.19(5)(g). Summary judgment is properly granted “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Id.* § 7.19(5)(g)(2). It may be obtained “upon all or any part of a party’s claim or defense.” *Id.* § 7.19(5)(g)(1). The purpose of summary judgment is to avoid useless

trials or hearings when the case can be decided as a legal matter. Sorenson v. Shaklee Corp., 461 N.W.2d 324, 326 (Iowa 1990).

“When a motion for summary judgment is made and supported . . . an adverse party may not rest upon the mere allegations or denials of the party’s pleading, but the party’s response must set forth specific facts, by affidavits or as otherwise provided in this rule, showing that there is a genuine issue for hearing.” 441 I.A.C. § 7.19(5)(g)(4). Evidence is viewed in the light most favorable to the nonmoving party, and any legitimate inference the evidence bears in favor of the non-moving party can establish a genuine issue of material fact. Banwart v. 50th St. Sports, L.L.C., 910 N.W.2d 540, 545 (Iowa 2018). A factual issue is material if “the dispute is over facts that might affect the outcome of the suit.” Phillips v. Covenant Clinic, 625 N.W.2d 714, 717 (Iowa 2001) (internal quotation marks omitted).

III. Analysis

Under Iowa Code § 423.2(1), retail sales of tangible personal property to users or consumers in Iowa are subject to sales tax, unless covered by a specific exemption. The rhodium bullion bar is an item of tangible personal property. Therefore, the sales price of the rhodium bullion bar purchased by Gasway is subject to sales tax, unless an exemption to sales tax applies.

Gasway claims that he is entitled to a refund because Iowa does not impose a sales tax on the purchase of rhodium bullion bars. Gasway relies on the exemption provision in Iowa Code section 423.3(91), which states in relevant part:

91. a. The sales price from the sale of coins, currency, or bullion.
- b. For purposes of this subsection:
 - (1) “Bullion” means bars, ingots, or commemorative medallions of gold, silver, platinum, palladium, or a combination of these where the value of the metal depends on its content and not the form.

Gasway asserts that rhodium is “even more rare and more precious” than gold, silver, platinum, and palladium, and therefore the exemption applies.

In this case, IDR is entitled to summary judgment. The plain language of provision 423.3(91)(b)(1) makes clear that the exemption does not apply to sales of all kinds of bullion bars. Instead, the exemption is based on the type of metal molded into the bullion bar. In particular, only bullion bars made of gold, silver, platinum, palladium, or a combination of these metals are exempt from Iowa sales tax.

The undersigned relies on the established rules of statutory construction. “Ordinarily, the interpretation of a statute is a pure question of law,” and the Iowa Supreme court has articulated a very specific methodology for interpreting statutes. Andover Volunteer Fire Dep’t v. Grinnell Mut. Reinsurance Co., 787 N.W.2d 75, 79 (Iowa 2010) (internal quotation marks omitted). The overarching purpose behind any statutory interpretation is to effectuate the legislature’s intent, and the “first step when interpreting a statute is to determine whether it is ambiguous.” State v. Iowa Dist. Court for Scott Cty., 889 N.W.2d 467, 471 (Iowa 2017).

“A statute is ambiguous if reasonable minds could differ or be uncertain as to the meaning of the statute.” The Sherwin-Williams Co. v. Iowa Dep’t of Revenue, 789 N.W.2d 417, 424 (Iowa 2010) (internal quotation marks omitted). “Ambiguity arises in two ways—either from the meaning of specific words or from the general scope and meaning of the statute when all of its provisions are examined.” State v. McCullah, 787 N.W.2d 90, 94 (Iowa 2010) (internal quotation marks omitted). A term or phrase is given its “common and ordinary meaning” often from a common usage dictionary, unless the legislature chose to define it or it had “a well-settled legal meaning” at the time the legislature passed the law. Miller v. Marshall Cty., 641 N.W.2d 742, 748 (Iowa 2002). “If no ambiguity exists, [a] statute is rationally applied as written.” Andover Volunteer Fire Dep’t, 787 N.W.2d at 81.

Here, the legislature has defined which bullion bars are exempt from sales tax. Rhodium is plainly not included in the definition. Even if rhodium is a member of the platinum group of metals and even if rhodium is equally or more expensive than gold, silver, palladium, or platinum, as Gasway asserts, the exemption does not apply to Gasway’s purchase under the plain meaning of the statute. As such, IDR is entitled to summary judgment as requested in its Motion.

ORDER

Based on the foregoing, IDR’s Motion for Summary Judgment is GRANTED. The hearing scheduled for October 28, 2024, is hereby cancelled. IDR shall take all necessary action to enforce this decision.

Dated this the 3rd day of September, 2024.



Jasmina Sarajlija
Administrative Law Judge

cc: Joel Gasway, Appellant, 2831 29th Ave., Marion, IA 52302,
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(By AEDMS)
Lisa Krom, Staci Nelson, Kelsie Royster, IDR (By AEDMS)

NOTICE

Any aggrieved party has 30 days, including Saturdays, Sundays and legal holidays, of the date of this Proposed Decision to file an appeal to the Director of the Department of Revenue. 701 I.A.C. § 7.19(8)(d). The appeal must be made in writing. The appeal shall be directed to:

Office of the Director
Iowa Department of Revenue
Hoover State Office Building
Des Moines, Iowa 50319

Case Title: IN THE MATTER OF JOEL GASWAY

Case Number: 25IDRSCUT0001

Type: Order - Summary Judgment

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Sarajlija". The signature is written in a cursive style with a large, looped initial "J".

Jasmina Sarajlija, Administrative Law Judge