

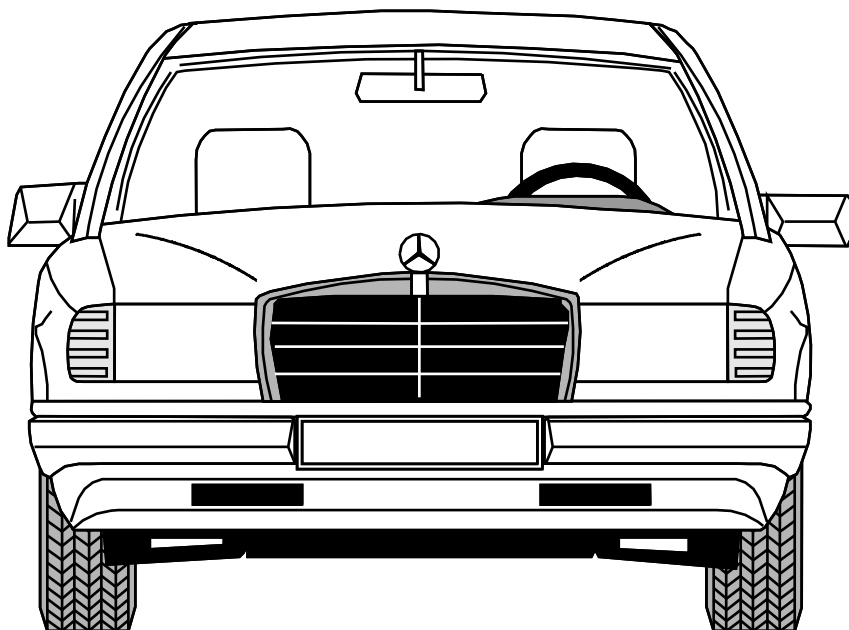
UT510

Iowa Motor Vehicle Taxes

Use Tax Manual for Vehicles Subject to Registration

A 5% motor vehicle use tax is imposed on the purchase price of a vehicle subject to registration. This tax is payable to the appropriate Iowa county treasurer or Iowa Department of Transportation.

A 5% motor vehicle lease tax is imposed on the lease of a qualified vehicle and is based on the "lease price" of the vehicle. To qualify, a vehicle must be available to be leased for 12 months or longer and have a gross registered weight rating of less than 16,000 pounds. This tax is paid to the appropriate county treasurer, Iowa Department of Transportation, or directly to the Iowa Department of Revenue.



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DEFINITIONS

“Consideration” — Not only a gain to one contracting party, but also a detriment, forbearance, inconvenience or liability assumed by the other. See Homesteader’s Life Association v Solinger, 235 N.W. 485, (Iowa 1931).

“Gift” — A voluntary transfer of personal property without consideration. A gift takes effect at once and is not dependent upon any agreement or contingency occurring. See Black’s Law Dictionary, page 817.

“Manufactured housing” — Housing which is factory built to specifications required by 42 U.S.C. section 5403, and displays a seal from the United States Department of Housing and Urban Development.

“Mobile home” — Any vehicle without motive power used or manufactured or constructed to use as conveyance on the public streets and highways and designed, constructed, or reconstructed to permit the vehicle to be used as a place for human habitation by one or more persons. See Iowa Code section 321.1(39)(a).

“Motor vehicle” — A vehicle which is self-propelled, but not including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires and are not operated upon rails. See Iowa Code section 321.1(42)(a),

“Person” — Any individual, firm, partnership, joint adventure, association, corporation, municipal corporation, estate, trust, business trust, receiver, or any other group or combination acting as a unit in the plural as well as the singular number. See Iowa Code sections 422.42(8) and 423.4(14).

“Purchase” — Any transfer, exchange, conditional or otherwise, in any manner or by any means whatsoever, for a consideration. See Iowa Code section 423.1(5).

“Purchase price” — The total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise:

- a. Cash discounts on sales are not included. A cash rebate provided by a motor vehicle manufacturer is not included if the rebate is applied to the purchase price of the vehicle.
- b. If tangible personal property is traded toward the purchase price of a vehicle, the purchase price is the portion payable in money to the retailer if:
 1. The tangible personal property traded to the dealer is the type of property normally sold in regular course of the dealer’s business, or
 2. The tangible personal property traded to the dealer is intended by the dealer to be ultimately sold at retail or is intended to be used by the dealer in the re-manufacturing of a like item.
- c. In transactions between persons, neither of which is a dealer of vehicles subject to registration, in which a vehicle subject to registration is traded toward the purchase price of another vehicle subject to registration:
The purchase price is the difference between the total purchase price and the amount of the traded vehicle. See Iowa Code section 423.1(6).
- d. The purchase price includes all accessories, additional equipment, enumerated services, freight and manufacturer’s taxes.
- e. The taxable purchase price does not include the charge commonly known as document fees. Document fees are charges that most dealers impose for the non-taxable service of processing the paper work involved in the purchase of a vehicle.

“Taxable use” — The exercise of any right of ownership over tangible personal property in Iowa by any person owning or using the property. Vehicles are tangible personal property.

“Taxpayer” — Any person who is subject to a tax imposed by Iowa Code chapters 422 and 423, whether acting on the person’s own behalf or as a fiduciary. See Iowa Code sections 422.42(19) and 423.1(14).

“Use” — The exercise by any person of any right or power over tangible personal property incident to the ownership of that property. It does not include processing or the sale of that property in the regular course of business. See Iowa Code section 423.1(12).

For the purpose of proper administration and to prevent evasion of the tax, evidence that tangible personal property was sold by any person for delivery in this state is prima facie evidence that such tangible personal property was sold for use in this state. See Iowa Code section 423.5.

“Vehicles subject to registration” — A vehicle subject to registration pursuant to Iowa Code sections 321.18 and 423.1(13).

EXPLANATIONS

CASUAL SALES

The casual sale exemption does not apply to vehicles subject to registration.

TRADE-INS AND TRADES

A trade is a type of sales transaction in which only the owner(s) with legal title to a vehicle can transfer that vehicle. The owner(s) is the person(s) named on the vehicle title.

When a trade-in occurs, the name(s) on the title and registration of the vehicle being purchased must be the same name(s) on the title and registration of the vehicle being used for trade-in.

There is one exception. If multiple names are on the title and registration and are listed with “or” separating the names, any one of the individuals may use the vehicle for trade. The reason is that “or” means each person on the title and registration owns 100% of the vehicle. In this instance, the trade-in allowance is allowed. NOTE: The exception only applies to “trade-ins” and *not* “consideration.”

Trade-ins to Dealers

When a person trades with a dealer, the purchase price is the portion paid in money if the following conditions are met:

- a. The tangible personal property being traded is the type normally sold in the regular course of the dealer’s business, and
- b. The property traded is intended to be sold at retail or is intended to be used in the re-manufacturing of a like item.

“Regular course of business” means a retailer makes sales of the same type of item on a recurring basis.

Example: John trades a boat toward the purchase of a new car. The car’s purchase price is \$10,000, and the

dealer allows a trade-in allowance of \$5,000 for the boat. The dealer is not regularly engaged in the business of selling boats. The trade-in amount of \$5,000 for the boat does not reduce the amount subject to use tax. Use tax is due on \$10,000.

Example: Mike is purchasing a new car for \$40,000 and trades in a combine. The dealer is regularly engaged in the business of selling cars and farm equipment. The dealer allows a trade-in of \$30,000 for Mike’s combine. Therefore, the price of the car is \$40,000 minus the \$30,000 trade allowance. Mike pays the dealer the difference of \$10,000. Since the dealer is regularly engaged in the business of selling farm equipment, the \$30,000 trade-in allowance is not subject to use tax. Use tax is due on \$10,000.

Example: Joe leases a vehicle from Ford Motor Credit Co. for nine months. Joe agrees to transfer the car he currently owns to a Ford dealer. The Ford dealer will be selling the car that Joe is leasing to Ford Motor Credit Co. The car sold to Ford Motor Credit Co. has a retail price of \$30,000, and the dealer allows a \$5,000 trade allowance. Thus, Ford Motor Credit Co. pays the Ford dealer \$25,000. Since the name on the vehicle being purchased (Ford Motor Credit Co.) is not the same name on the vehicle traded (Joe), the trade-in allowance of \$500 cannot be used for use tax purposes. Use tax is due on the \$30,000.

Example: On June 24, Cathy purchases a new truck and uses a truck she owns as a trade. Cathy goes to Truck Auto to purchase the new truck. The truck Cathy wants has to be ordered from the manufacturer and will take six months for delivery. Truck Auto prepares a purchase order showing the retail price of \$50,000 and a trade-in allowance for Cathy's truck of \$20,000. Since the truck being ordered will not be delivered for six months, Truck Auto allows Cathy to drive her truck until the new truck arrives. Truck Auto still allows Cathy the \$20,000 trade-in allowance regardless of the additional miles Cathy may put on her traded truck. Since the purchase order for the new truck shows a \$20,000 trade allowance, use tax is imposed on the \$30,000.

Example: George owns a car dealership corporation and a farm tractor corporation. Cecil wishes to purchase a car worth \$40,000 from the car dealership. Cecil uses a tractor as trade, and the car dealership allows a trade-in allowance of \$40,000. Cecil furnishes no money. Since Cecil's tractor was traded to the car dealership and not the tractor dealership, the trade-in allowance cannot be used for use tax purposes. Use tax is imposed on \$40,000.

Example: Sarah owns two cars and wants to trade both cars toward the purchase of a new car. Honest Abe's dealership allows a trade-in allowance of \$5,000 for the first car and \$7,000 for the second car, for a total trade-in allowance of \$12,000. The new car purchase price is \$14,000. Since Honest Abe's is in the business of reselling used cars, both cars can be used as a trade-in allowance. Use tax is imposed on \$2,000.

Trades between persons

When vehicles subject to registration are traded between persons, neither of which is a dealer, the purchase price is the difference between the prices of the vehicles.

Example: John Doe has an automobile with a value of \$2,000. His neighbor, Bill Jones, has an automobile valued at \$3,500. They decide to trade automobiles. John pays Bill \$1,500 cash difference. John will pay use tax on \$1,500. Bill's purchase is exempt from use tax.

Example: Jane has an automobile with a value of \$5,000. Her friend Jim also has an automobile valued at \$5,000. They decide to trade automobiles. Jane and Jim make an even trade, automobile for automobile with no money changing hands. No tax is due on either automobile because there is no exchange of money.

REFUNDS - CORRECTIONS OF ERRORS

If tax is mistakenly paid, it may be refunded. The owner of the vehicle must file a Claim for Refund (form IA 843) directly with the Iowa Department of Revenue within three years after the tax payment became due or one year after the payment was made, whichever time is the later.

REGISTRATION BY MANUFACTURERS

Manufacturers who title and register vehicles in Iowa from an MSO are allowed to pay use tax based on a purchase price of 50 percent of the fabricated costs of the vehicle. The 50 percent tax base was the result of an agreement between vehicle manufacturers and the department.

Note: Registrations made by subsidiaries of manufacturers are taxed on 100 percent of the purchase price.

REBATES

Manufacturers' rebates can be used to reduce the taxable purchase price of a vehicle. To qualify, all of the following must be present:

1. A rebate must be a return of an amount paid (or required to have been paid) by the purchaser;
2. The rebate must be in the form of cash;
3. The rebate must be offered by a manufacturer, which is any person or entity that fabricates, assembles or combines materials and parts to create a vehicle subject to registration in Iowa;
4. The rebate must be applied to the purchase price of the vehicle. The rebate cannot be used to reduce the gross receipts of the purchase.
5. The rebate is strictly a transaction between a manufacturer and a purchaser:
 - a. The rebate must be from an entity acting as a manufacturer of the vehicles when offering the rebate. It cannot be from a vehicle manufacturer engaging in other activities, such as a manufacturer acting in the capacity of a credit card issuer or a financing program; and
 - b. The purchaser must be in the process of purchasing the vehicle when the rebate is given. The rebate cannot be given to a customer in a situation similar to the credit card rebate program, in which the customer earns the right to the rebate over a period of time.

Credit cards issued by Ford Motor and General Motors that are used as a rebate toward the price of a Ford or GM vehicle are not a manufacturer's rebate. These types of rebates cannot be used toward reducing the taxable purchase price of a vehicle.

Example:

Price of Ford vehicle	\$30,000
Less trade-in	\$10,000
Less credit card “rebate”	\$ 1,000
Purchase price	\$19,000
Use tax is due on \$20,000 value.	

RETURNED VEHICLES

When a vehicle subject to registration is sold and later returned to the seller and the “entire purchase price” is refunded by the seller, the purchaser is entitled to a refund of the use tax paid. The “entire purchase price” means 100 percent not including tax, title and registration fees. To obtain a refund, the purchaser must be able to show that the entire purchase price was returned and provide proof that the use tax had been paid. The purchaser must send proof with a completed form IA 843 to the Iowa Department of Revenue.

RETURNED VEHICLES UNDER THE IOWA LEMON LAW — IOWA CODE CHAPTER 322G

If a vehicle manufacturer reimburses a purchaser for tax paid on a returned defective vehicle, the manufacturer may obtain a refund from the Iowa Department of Revenue. Proof that the tax was paid and the purchaser reimbursed in accordance with the provisions of Iowa Code chapter 322G must be sent to the department with a completed form IA 843.

REPOSSESSIONS

Repossessions can be made by dealers, financial institutions, or by individuals. Whether or not tax is due on a repossession depends on the manner in which the repossession is conducted. There must be a lien on the title, and the repossession must be regulated under the Uniform Commerce Code (Iowa Code, Chapter 554) for a repossession to be considered valid. If a valid repossession has occurred, taxability of the sale of the repossessed vehicle depends on the type of

entity performing the repossession and the documentation of the transaction as shown in the following examples:

Example: If a licensed dealer repossesses a vehicle and will be reselling the vehicle, the dealer can use the dealer resale exemption to avoid use tax. There must be a lien on the title, and the repossession must be regulated under the Iowa Uniform Commerce Code.

Example: If a financial institution repossesses a vehicle and does not have a dealer’s license, tax is based on one of the following:

- a) If the financial institution uses the foreclosure affidavit to take title to the vehicle and register the vehicle, tax is due based on the outstanding loan amount. The affidavit of foreclosure can only be used for repossessions.
- b) If the financial institution uses the foreclosure affidavit merely to retain possession of the vehicle until a buyer is found, no tax is due. In this instance, the person performing the repossession does not take title to the vehicle.

Repossessions of mobile homes are to be handled in the same manner as vehicles.

INSURANCE SETTLEMENTS

When an insurance company takes title to a vehicle after paying an insured client for damage to the client’s vehicle, tax is due on the amount of money paid by the insurance company to the policy holder, unless the insurance company has a used dealer’s license.

PREVIOUSLY-OWNED VEHICLES

A common misconception is that if a person sells a vehicle he/she owns and then buys the same vehicle back, the transaction is exempt from use tax. These are two separate transactions and both are taxable.

Note: This is not the same as a returned vehicle. In a returned vehicle situation, the purchaser makes the decision to return the vehicle, and the seller agrees to accept the returned vehicle and to void the sale agreement.

SALVAGE TITLES

If a salvage vehicle is repaired and subsequently registered for highway use, use tax is due on the parts, supplies and equipment, unless sales or use tax has been previously paid by the person who owns the salvaged vehicle. Upon registration, proof of sales or use tax paid on the parts, supplies and equipment must be provided. If proof of tax paid cannot be furnished, use tax is imposed on the fair market value of the vehicle.

FEDERAL EXCISE TAX

Federal excise tax imposed on the act of manufacturing rather than at the time of sale may not be deducted from the taxable price of vehicle. To be excluded from Iowa use tax, the Federal excise tax must (1) be due at the time of the retail sale and (2) must be billed or charged as a separate item. Proof that the two requirements have been met must be provided to the county treasurer or Iowa Department of Revenue.

Federal Luxury Excise Tax (FLET) is collected by the retailer and remitted directly to the IRS. This tax is based on a retail sale and cannot be subtracted from the purchase price before calculating Iowa use tax.

Example:

Retail sale	\$45,000
Less FLET threshold	\$32,000
Vehicle subject to FLET	\$13,000
Vehicle subject to use tax	\$45,000

IMPLEMENTS OF HUSBANDRY

Livestock trailers registered as implements of husbandry and drawn by a vehicle subject to registration are exempt from use tax. However, if the livestock trailer is titled and registered, use tax is due.

SALES TO NATIVE AMERICAN INDIANS

If a dealer delivers a vehicle to a resident Native American Indian on the reservation and at a later time the resident Native American Indian registers the vehicle at the county treasurer's office, no tax is due since the delivery took place on the reservation.

If the vehicle is delivered off the reservation, use tax is due even if the sole use of the vehicle is on the reservation.

If delivery takes place on the reservation but the owner is not a member of any recognized tribe, use tax is due.

All three tribes with land in Iowa – Sac and Fox, Winnebago, and Omaha – have governing bodies duly recognized by the Secretary of the Interior. These governing bodies resemble municipal, county and state governments. Therefore, purchases by the governing bodies of the above Native American Indian tribes on or off the reservation are exempt from tax. This is because governing tribal entities are considered to be quasi-governmental entities entitled to the same tax-exempt status granted to other governmental entities. (See Policy Statement dated 9-19-94.)

SPECIAL MOBILE EQUIPMENT

If special mobile equipment is titled and registered, use tax is due.

DISABLED VETERAN

If a governmental entity takes title or ownership of a vehicle subject to registration, the exemption granted to governmental entities can be claimed. However, if the governmental agency does not take title, the governmental exemption does not apply.

Example: Joe Beck is a disabled veteran and needs a van. Joe Beck contacts the Veterans Administration to see if they would provide the funds to purchase a van. The Veterans Administration agrees to provide the funds. Joe Beck purchases a van from Big Mike Ford for \$14,000. The Veterans Administration writes a check for \$14,000 payable to Big Mike Ford. The title is issued in the name of Joe Beck. Since the Veterans Administration did not take title of the van, Joe Beck's purchase of the van with government funds is subject to use tax. Use tax is due on \$14,000.

SALE OF CHASSIS WITH ADDED EQUIPMENT OR ACCESSORIES

If a dealer sells a chassis and the purchaser has the dealer install any equipment, use tax is due on the full purchase price, including the chassis and the equipment. This is a completed vehicle when driven off the dealer's lot.

Example: Joe's Tree Trimming Service purchases a chassis from Ford Auto for \$20,000. Joe's Tree Trimming Service wants a lift added to the chassis. Ford Auto agrees to sell and install the lift for \$15,000. Ford Auto takes the chassis to George's Lift Sales for purchase and installation of the lift. After the installation, Joe's Tree Trimming Service returns to Ford Auto to take delivery of the completed vehicle. Joe's Tree Trimming

Service requests Ford Auto to itemize the chassis price of \$20,000 and the lift price of \$15,000. Joe's Tree Trimming Service pays Ford Auto \$35,000 for the complete vehicle. The chassis and lift are a vehicle subject to registration and use tax is due on \$35,000.

Example: Joe's Tree Trimming Service purchases a chassis from Ford Auto for \$20,000. Joe's Tree Trimming Service wants a lift added to the chassis. However, Joe's Tree Trimming Service will purchase the lift from a third party and not from Ford Auto. Joe's Tree Trimming Service pays Ford Auto \$20,000 for the chassis. Joe's Tree Trimming Service drives the chassis to George's Lift Sales to purchase and install a lift for \$12,000. The purchase of the chassis from Ford Auto is subject to Iowa use tax. The purchase and installation of the lift from George's Lift Sales are subject to Iowa sales tax and any applicable local option tax.

SALE OF A BOAT OR ATV WITH A TRAILER

It is not uncommon for a boat dealer to sell a boat with a trailer as a packaged deal. The dealer must put a separate price on the boat, boat accessories, and trailer, so the correct amount of use tax may be imposed on the trailer. If the boat dealer does not, it is assumed the package deal is for the purchase of a trailer and not for the boat and accessories. It is not the responsibility of either the county treasurer or the county recorder to determine the purchase price of the property within the package deal.

OPTIONAL SERVICE AGREEMENTS

A dealer is required to collect sales tax on the sale of an optional service agreement. If the dealer includes the optional service agreement in the taxable price of the vehicle, the county treasurer is required to return all documents to the dealer with instructions to remit the sales tax on the sale of the optional service agreement directly to the Iowa Department of Revenue. The dealer then submits the use tax to the county treasurer based on the sales price of the vehicle less the cost of the optional service agreement.

UT510 AFFIDAVIT TRANSACTION CERTIFICATE AFFIDAVIT FORMS

UT 510 affidavit exemption certificates are used to confirm a purchase price or establish exemption from use tax.

The affidavit is used to report a purchase of a vehicle subject to registration and shows the total delivered purchase price of a vehicle subject to registration.

The exemption form separately lists the exemptions from use tax in eight major categories. If the affidavit is used to exempt a purchase from use tax and the owner is claiming exemption number 1 or number 3; the completion of the transaction action form is required. For exemptions 2, 4, 5, 6, 7, and 8, the treasurer, with the approval of the department, determines if the affidavit is necessary for a particular transaction.

Note: The burden of proof regarding whether an exemption applies is upon the person claiming the exemption. If the exemption appears questionable, the county treasurer should allow the exemption, “flag” the affidavit for review, and advise the person that the Iowa Department of Revenue will review the exemption. If the department disallows the exemption, the person claiming the exemption is liable for any applicable tax, penalty and interest.

Affidavits of exemption that are not correct in both substance and form will not be accepted by the county treasurer, the motor vehicle division or the Department of Revenue. When in doubt, the county treasurer or motor vehicle division will collect the tax. If the owner believes tax has been erroneously collected, a Claim for Refund form IA 843 may be filed with the Iowa Department of Revenue.

The Iowa Department of Revenue requires signatures on all affidavits. If a fleet (five or more vehicles) of vehicles is being registered, affidavits for each vehicle within the fleet need to be completed and signed. The department does allow the use of signature stamps to complete the signature portion of the affidavit form.

PENALTY FOR FALSE STATEMENT

A person who willfully makes a false statement in regard to the purchase price of a vehicle subject to taxation under Iowa Code section 423.7 is guilty of a fraudulent practice. See Iowa Code sections 423.26 and 423.18(2).

EXEMPTION #1

GIFT, PRIZE, OR TRANSFER WITHOUT CONSIDERATION

RAFFLE PRIZE

When an organization purchases a vehicle from a dealer to subsequently award it as a raffle prize under Iowa Code chapter 99B, neither the recipient of the prize nor the prize sponsor is liable for use tax (O.A.G. 4-16-91).

Example: A children's hospital purchases a vehicle from a local dealer to be used as a prize in a raffle. Raffle tickets are sold to raise funds for a new children's wing to the hospital. The purchase of the vehicle by the hospital as a prize for the raffle is not subject to Iowa use tax. In addition, when the raffle winner registers the vehicle, use tax is not due on the vehicle.

Example: Kings Dealership donates (gives) a car to a non-profit organization, which will use the car as a prize in a licensed raffle. Since the car is a prize in a licensed raffle and donated to a nonprofit organization under Iowa Code section 422.45(3), the dealer's purchase of the car is exempt from use tax.

PROMOTION

When a vehicle is given away by a dealer as a promotion, use tax is imposed on the dealer's purchase price. Because the vehicle was not resold, the dealer exemption does not apply. In some promotional giveaways, the dealer may require the winner to pay the use tax. Iowa law does not prohibit contest rules that require a prize recipient from paying the tax on behalf of the dealer. Even if the recipient is required to pay the use tax based on contest rules, the responsibility of paying the tax remains on the dealer.

Example: Bob's Chevrolet has a drawing for the purpose of promoting his dealership. Bob's Chevrolet displays a new car as the prize. Bob's Chevrolet purchased the car for \$7,000. One of the rules of the promotion is that the winner must pay any and all taxes imposed on Bob's Chevrolet. Jill is the winner and agrees to the drawing rules. The car used is subject to use tax. Tax is due on the \$7,000.

TRANSFERS RESULTING FROM MERGERS

If title to a vehicle is transferred from one corporation to another, the transfer is not subject to Iowa use tax if all of the following five criteria exist:

- 1) The merger is pursuant to statute (Iowa Code Section 490.1106);
- 2) By the terms of the statute, the title of the vehicle is transferred from a merging corporation to a surviving corporation;
- 3) The transfer is not based on consideration such as required in contract law;
- 4) The merging corporation is extinguished and dissolved the moment of the merger; and
- 5) The merging corporation does not receive any benefit of the merger as a result of the dissolution.

Example: ABC Corporation and Lucky Corporation enter into a voluntary merger agreement governed by Iowa Code section 490.1106. ABC and Lucky corporations voluntarily negotiate an arms-length merger agreement which results in the transfer of ABC's assets, including

all vehicles, to Lucky Corp for the dissolution of ABC Corp. In return, ABC Corp stockholders receive stock in Lucky Corp. ABC Corp's transfer of the vehicles to the surviving company Lucky Corp is a statutory merger; no use tax is due.

GIFT TRANSFERS

A gift of a vehicle from one person to another is exempt from use tax because no consideration has occurred.

Note: Transfers among family involving consideration are not exempt from use tax.

TRANSFERS FROM A CORPORATION TO AN EMPLOYEE

Most transfers of vehicles by a corporation to an individual are subject to Iowa use tax. However, there are two exceptions to this general rule. A corporation may make gifts of corporate vehicles without use tax being paid by the corporation or the recipient if (1) the gift is a charitable contribution or (2) if the transfer is a gift to a retiring employee.

Example: George is a shareholder and employee in MAC Corporation. In the months of April through November, George worked a substantial amount of overtime. In December, the corporation allowed George to choose whether to be paid for the overtime by receiving additional wages or by taking title to a corporate vehicle. George chooses to take the vehicle, and MAC Corporation transfers the title of the corporate vehicle to George.

The transfer of the vehicle to George was "in-kind" compensation paid by the corporation to George for the overtime hours worked. This compensation constitutes sufficient consideration. Use tax is due on the amount of the overtime pay.

TRANSFERS TO A RETIRING EMPLOYEE

Example: Easy-Tow Corporation executive Joe Rich has use of a company car while employed. Joe Rich retires and receives the car as a retirement gift. The car is fully depreciated on the corporation books.

A transfer of a vehicle upon retirement indicates that it is intended as a gift.

Note: If Easy-Tow Corporation provides George with a W-2 or 1099, Easy-Tow Corp intends the transfer of the vehicle to be income to George and not a gift. Use tax is due on the amount reported on the W-2 or 1099 as wages. (Policy Statement 02-21-94)

TRANSFERS INVOLVING FAMILY

Transfers among family members are subject to use tax if consideration is given:

Example: John and Mary Smith paid cash for a new car. The car is titled and registered as joint tenancy with full rights of survivorship by indicating "or" between the names on the title. John decides to remove his name from the title.

The removing of John's name does not create consideration. Under joint tenancy, both John and Mary Smith own 100% of the new car. As a result, the transaction is not subject to Iowa use tax. (Policy Statement 07-27-89)

Example: Mike Smith owns Big Mike Auto, a sole proprietorship. Mike's son, Craig, needs a car, and Mike gives (gifts) a car to Craig worth \$5,000. Craig does not provide any consideration. Craig does not owe use tax on the transfer. However, Big Mike Auto owes use tax on the purchase price. The vehicle was purchased for resale; however, it was not sold by Big Mike Auto. As a result, Big Mike Auto loses its dealer exemption for resale, and tax is due on the fair market value.

Example: Susan purchases a vehicle and titles it in her name. The outstanding loan on the vehicle and is co-signed by Susan's mother. At a later date, for insurance purposes, the vehicle is transferred from Susan to Susan's mother. A lien remains on the vehicle following transfer of title. Susan's mother received the vehicle; however, Susan received nothing of value in return. There has been no new consideration in support of the transfer. No use tax is due.

Example: A vehicle is titled in the father's name with a loan in the father's name. The father transfers the title to his child Jim, who assumes the unpaid balance of the loan. A new lien is filed. Use tax is due on the outstanding loan balance.

Example: A vehicle is titled in the mother's name with an outstanding loan balance of \$10,000. The mother transfers the title to her son Alan. Alan takes out a \$15,000 loan to pay off his mother's outstanding loan of \$10,000 and have \$5,000 for repairs to his house. Use tax is due only on the mother's outstanding loan balance of \$10,000.

TRANSFERS INVOLVING TRUSTS

Example: Sam Spade, grantor, establishes a living trust for the benefit of himself and his wife. Sam Spade transfers all his property in the trust, including his two vehicles. Since Sam Spade only transferred his property into a living trust, no consideration has occurred and no use tax is due.

Example: Paul Brown, grantor, establishes a trust for his daughter. Paul designates his brother, Sam Brown, as trustee. Paul transfers a vehicle to the trust. Sam, as trustee, uses the vehicle as a trade-in on a newer vehicle for the trust. The trust pays cash totaling \$15,000 for the new vehicle. This scenario involves two transactions. The first, from Paul Brown to the trust, is not subject to use tax because there was no consideration to support the transfer. The second transaction was between the dealer and the trust for the new vehicle. In this transaction, \$15,000 was given as consideration for the new vehicle and use tax is due on the amount.

EXEMPTION #2

CERTAIN NONPROFIT ORGANIZATIONS

Just because an organization is nonprofit does not mean it is automatically exempt from paying use tax when purchasing a vehicle.

The purchase of vehicles by the following types of nonprofit corporations are exempt if (1) the vehicle is purchased for use by the nonprofit organization and (2) it takes title to the vehicle.

- a. Community health centers as defined in 42 USCA §254c.
- b. Migrant health centers as defined in 42 USCA §254b.
- c. Residential care facilities and intermediate care facilities for the mentally retarded and residential care facilities for the mentally ill licensed by the Iowa Department of Health under Chapter 135C.
- d. Residential facilities for mentally retarded children licensed by the Iowa Department of Human Services under Iowa Code chapter 237.
All residential facilities for child foster care licensed by the Iowa Department of Human Services under Iowa Code chapter 237, other than those maintained by “individuals” as defined in Iowa Code subsection 237.1(7), are eligible for the exemption.
- e. Rehabilitation facilities that provide accredited rehabilitation services to persons with disabilities which are accredited by the Iowa Commission on Accreditation of Rehabilitation Facilities or the Accreditation Council for Services for Mentally Retarded and other developmentally disabled persons and adult day care services approved for reimbursement by the Iowa Department of Human Services.

- f. Community mental health centers accredited by the Iowa Department of Human Services under Iowa Code chapter 225c.
- g. Nonprofit legal aid organizations
- h. Nonprofit private museums if used for educational, scientific, historic preservation, or aesthetic purpose
- i. Nonprofit hospitals licensed under Iowa Code chapter 135B in which the property will be used in the operation of such hospital.
- j. Free-standing nonprofit hospice operating under 42C.F.R., Ch. 16, §418.3 and the purchases are used in the operation of the hospice program.
- k. Statewide nonprofit organ procurement organization as defined in Iowa Code §142C.2.

Exemption Authority:

Iowa Code section 422.45(22)
Iowa Code section 422.45(37)
Iowa Code section 422.45(43)

EXEMPTION #2 continued

PRIVATE NONPROFIT EDUCATIONAL INSTITUTIONS

Exemption from use tax on vehicles subject to registration is provided to private nonprofit educational institutions. Iowa Code section 422.45(8) provides as follows:

“The gross receipts of all sales of goods, wares or merchandise, or services used for educational purposes to any private nonprofit educational institution in this state. The exemption provided by this subsection shall also apply to all sales of goods, wares or merchandise, or services subject to use tax under the provisions of Iowa Code chapter 423.”

A private nonprofit educational institution consists of a school, college, or university with students, faculty, and an established curriculum, a group of qualifying organizations acting in concert, or libraries.

Example: The purchase of a vehicle by a church is subject to tax if registered in the church’s name. However, if a parochial school operated by the church purchases a vehicle and registers it in the name of the school, the vehicle is exempt from the tax.

Exemption Authority:

Iowa Code section 422.45(8)

Iowa Code section 423.4.

Department rule 701 IAC 32.2

EXEMPTION #2 continued

GOVERNMENT UNIT OR QUALIFYING GOVERNMENTAL CORPORATION

When the purchaser of a vehicle subject to registration is a governmental unit or certain federal corporation, the vehicle is exempt from use tax.

Department rule 701 IAC 34.5(4) provides as follows:

“When vehicles are purchased by any federal or state governmental agency or tax certifying or tax levying body of Iowa or governmental subdivision thereof. The exemption shall not apply to vehicles purchased or used in connection with the operation of or by a municipally-owned public utility engaged in selling gas, electricity or heat to the general public and, therefore, shall be subject to use tax.”

Department rule 701 IAC 17.5 provides as follows:

“Receipts from the sale of tangible personal property or from rendering, furnishing or providing taxable services to the American Red Cross, Coast Guard Auxiliary, Navy-Marine Corps Relief Society, and USO shall be exempt from sales tax. Purchases made by the Red Cross, Coast Guard Auxiliary, Navy-Marine Corps Relief Society and USO outside of Iowa for use in Iowa shall be exempt from use tax.”

To claim the exemption, the governmental unit or qualifying governmental corporation must (1) pay for the vehicle and (2) take title to the vehicle.

Department rule 701 IAC 17.7 enumerates some of the federal corporations immune from the imposition of sales and use tax in connection with their purchases:

1. Central Bank for Cooperatives and Banks for Cooperatives
2. Commodity Credit Corporation
3. Farm Credit Banks
4. Farmers Home Administration
5. Federal Credit Unions
6. Federal Crop Insurance Corporation
7. Federal Deposit Insurance Corporation
8. Federal Financing Bank
9. Federal Home Loan Banks
10. Federal Intermediate Credit Banks
11. Federal Land Banks and Federal Land Bank Association
12. Federal National Mortgage Association
13. Federal Reserve Bank
14. Federal Savings and Loan Insurance Corporation
15. Production Credit Association
16. Student Loan Marketing Association
17. Tennessee Valley Authority

The federal statutes creating the above corporations contain provisions substantially identical with the “Federal Farm Loan Act,” section 26, which has been construed as barring the imposition of state and local sales taxes.

Exemption Authority:

Iowa Code section 423.4(4)
Iowa Code section 422.45(5)
Department rule 701 IAC 17.5
Department rule 701 IAC 17.7
Department rule 701 IAC 34.5(4)

EXEMPTION #3

BUSINESS TRANSFERS

Department rule 701 IAC 34.5(9) and Iowa Code section 423.4(9) provide an exemption from use tax for vehicles transferred between certain businesses:

- A transfer from one corporation to another corporation is a transfer from one entity to another entity and is a taxable transaction, unless the transfer is pursuant to a statutory merger.
- Vehicles transferred from a sole proprietorship or partnership to a corporation for the purpose of continuing the business are exempt from tax.

Note: The exemption applies only if all of the stock of the corporation is owned by the sole proprietor and spouse or by all the partners if the business was a partnership.

This exemption is also applicable if vehicles are transferred from a corporation or an LLC to a sole proprietorship or partnership formed for the purpose of continuing the business when carried on by the same person or persons who were stockholders of the corporation.

This exemption contains the following provisions:

1. If the business transferring the vehicle is a sole proprietorship or partnership, the vehicle must be transferred to a new corporation or LLC. To constitute the transfer of a vehicle to a new corporation or LLC, the transfer must occur within 12 months from the date of incorporation to be exempt.
2. The new corporation or LLC must have been formed for the purpose of continuing the business of the sole proprietorship or partnership. The activities of the new corporation or LLC must be the same as the sole proprietorship or the partnership.
3. The new corporation or LLC must be owned 100 percent by the sole proprietor, the sole proprietor's spouse or all the partners, in case of a partnership.

The vehicle subject to registration must be transferred from a business or individual conducting business in Iowa. Therefore, the vehicle must already be registered in Iowa.

The following are some examples of use tax applicability in various situations involving the transfer of vehicles between businesses:

TRANSFERS TO NEW CORPORATIONS FROM PARTNERSHIPS

Example: Greg, Janice and Gary are partners in a retail business. All three partners agree that the business should continue as a corporation. On January 2, 2000, the Articles of Incorporation are filed with the Secretary of State. Over the course of the next 12 months, vehicles previously used in the partnership are transferred to the corporation. During this same 12-month period, Greg, Janice and Gary continue to be the sole shareholders in the newly-created corporation. No use tax is due.

TRANSFERS TO NEW CORPORATIONS FROM INDIVIDUALS

Example: Shirley decides to open a floral business. Shirley found a location for a shop and leased the premises, and purchased equipment and inventory. Prior to the scheduled opening of the shop, Shirley purchased a van for use as a delivery van in the business. At the time of purchase, use tax was paid on the van and it was titled in the Shirley's name. After purchasing the van but prior to opening the shop, Shirley consulted an attorney, who advised her to form a corporation for the purpose of conducting the floral business rather than operating the business as a sole proprietorship. Within a few weeks after the purchase of the van, the Articles of Incorporation were filed with the Secretary of State. Upon incorporation, Shirley transferred the van to the corporation. There is no use tax due.

TRANSFERS FROM A SOLE PROPRIETORSHIP TO A CORPORATION

Example: Bill forms a corporation in 1990. In 1994, he transfers an automobile that is titled and registered in Bill's name as a sole proprietor. Transfers must take place within 12 months of incorporation to constitute a transfer to a "new" corporation to be exempt. Therefore, use tax is imposed on the corporate book value.

TRANSFERS TO A NEW CORPORATION WHEN OWNERSHIP DOES NOT REMAIN THE SAME

Example: Hank, Cecil and Marie are partners in a partnership. The partnership decides to incorporate. At the time of incorporation, Suzie joins the corporation as a shareholder, thereby making all the shares in the corporation owned by Hank, Cecil, Marie and Suzie. A motor vehicle owned by the old partnership has an outstanding liability of \$5,000. The outstanding loan balance is transferred to the new corporation within 12 months from the date of incorporation. The corporation also assumes the outstanding liability on the vehicle. Since Suzie was not one of the original partners, use tax is imposed on the \$5,000 outstanding loan balance.

TRANSFERS UPON DISSOLUTION WITH CONTINUATION OF THE BUSINESS

Example: Sam is the sole stockholder in SAM Corporation, which engages in the business of plumbing repair. Sam decides to operate the business as a sole proprietor. The SAM Corporation files a Statement of Intent to Dissolve with the Iowa Secretary of State. Upon dissolution, the SAM Corporation transfers title of a motor vehicle with all other corporate assets to the individual (Sam). Sam uses this vehicle in the plumbing repair business that he continues to operate as a sole proprietor. There is no use tax liability. Since the transfer from SAM Corporation to a sole proprietorship is for the purpose of continuing the business of the corporation and all the corporate shareholders are the same at the time of dissolution, no use tax is due.

TRANSFERS FROM CORPORATION TO STOCKHOLDER

Example: John Doe owns 100% of John Doe Inc. One of John Doe Inc. assets is a Rolls Royce and is carried on the corporate books with a book value of \$75,000. John Doe Inc. transfers the Rolls Royce to John Doe, 100% stockholder. Although John Doe owns 100% of John Doe Inc., John Doe only owns the corporation. John Doe Inc. owns the assets. Use tax is imposed on the \$75,000.

TRANSFERS FROM CORPORATION TO CORPORATION

Example: GO Corporation owns three vehicles: a truck, a car, and a new van. The truck is fully depreciated; the car has a book value of \$8,000, and the van a book value of \$25,000 with an outstanding loan of \$30,000. GO Corporation wants to get rid of the three vehicles and transfers the three vehicles to PICK Corporation. MAXI Corporation owns both the GO Corporation and PICK Corporation. No money is exchanged. Since the truck was fully depreciated, use tax is due on the fair market value. Use tax is due on the car's \$8,000 book value. The van's book value is \$25,000; however, use tax is imposed on the \$30,000 outstanding loan balance.

Exemption Authority:

Iowa Code, Section 423.4(9)
Department Rule 701 IAC 34.5(9)

EXEMPTION #4 DEALERS

Persons licensed as dealers who purchase vehicles for resale are allowed an exemption from use tax if licensed to sell that make of vehicle.

Example: Henry Ford is licensed as a franchised Ford dealership. Any new Ford make or model may be purchased tax exempt if Henry Ford has the vehicle in their resale inventory.

Example: Henry Ford is a franchised Ford dealership. A relative of the owner of Henry Ford dealership wants to purchase a new Buick. The owner of Henry Ford purchases a new Buick for his relative. Since Henry Ford is not franchised to sell Buicks, his purchase is subject to use tax. The sale of the Buick to his relative is also subject to use tax.

Example: A Chevrolet dealer not licensed to sell new Fords registers a new Ford. The dealer's resale exemption is not applicable because the dealer is not licensed to sell new Fords. Since the sale of that vehicle is not in the regular course of business, the dealer has exercised "use" of the Ford and owes use tax at the time it is registered.

Example: A Ford dealer purchases a Ford chassis with a manufacturer's MSO stating it is a Ford. The chassis is then used and is converted to a Winnebago. After completion of the conversion, the MSO is converted to Winnebago. Upon completing the conversion, the Ford dealer claims exemption from tax at the time he registers the vehicle by claiming it is a Ford

product, which the dealer is licensed to sell. In this scenario, use tax is due on the vehicle at the time the vehicle is registered and titled by the dealer. A chassis is not a complete vehicle. At the time the vehicle is completed and the dealer seeks to title it, the vehicle is a Winnebago and the dealer is not authorized to sell that type of vehicle. Consequently, the dealer's exemption based on his license does not apply

PROMOTIONS AND RAFFLES (SEE EXEMPTION 1)

When a dealer provides a vehicle to be given away as part of a promotion, the dealer is subject to tax on the vehicle based on the dealer's cost of the vehicle, to be paid as part of the dealer's periodic return. The dealer's exemption does not apply because the vehicle was purchased for resale and a sale of the vehicle did not occur. The recipient of the vehicle is not liable for tax.

If a dealer donates a vehicle to a charity for a fund-raising raffle, the dealer does not pay use tax on the vehicle. Tangible personal property (including a vehicle) given as a prize in a licensed raffle is exempt. Neither the charity, the raffle winner, nor the dealer is required to pay tax on the vehicle.

EXEMPT DEALER USE

A dealer that holds a proper dealer's license may register a vehicle free from use tax if the vehicle is held for resale at all times. To qualify a vehicle as "being held for resale at all times," all of the following criteria must be met:

1. The dealer must be licensed in Iowa pursuant to Iowa Code chapter 322;
2. The "use" of the vehicle by the dealer must not constitute a taxable "sale" under Iowa Code section 423.1(5);
3. The dealer must keep the vehicle in its inventory for sale at all times;
4. The person using the vehicle must be aware of and accept that the vehicle may be sold at any time, resulting in the vehicle being removed from that person's possession at any given time;
5. The dealer permits the vehicle to be used without charge; and
6. The dealer does not title the vehicle in its name and only registers the vehicle with "dealer plates."

Note: It is the department's position that tax is due on a dealer's registration of a vehicle. If the dealer states the vehicle is for resale at all times, the dealer may file a Claim for Refund (IA 843) with the Iowa Department of Revenue.

Persons having restricted licenses for selling repossessed vehicles and licensed wholesalers can purchase for resale under the dealer's exemption.

Recyclers, if licensed, may purchase parts and salvage title vehicles for resale.

If a dealership license expires and is not renewed or the dealer license has been revoked, the dealer must title and register all the vehicles in the dealership inventory. Use tax is due on the purchase price of each vehicle by the dealer at the time of titling and registration. However, if a dealer license is suspended, a dealer is not required to title or register the vehicles in the dealer's inventory since a suspension is merely a temporary interruption in the dealership business. The dealer's exemption remains intact during the period of suspension.

Exemption Authority:

Iowa Code Section 423.1(1)
Department Rule 701 IAC 34.7

EXEMPTION #5

VEHICLES PURCHASED FOR RENTAL OR LEASE

PURCHASED FOR RENTAL

If a vehicle subject to registration is purchased for rental, the vehicle is exempt from tax if *both* of the following conditions exist:

1. The person must be regularly engaged in the business of renting vehicles and licensed under Iowa Code chapter 322;
and
2. The vehicle must be held for rental for a period of 120 days or more and actually rented for periods of 60 days or less.

All rentals are subject to taxation under Iowa Code chapter 422C.

PURCHASED FOR LEASE

The purchase of a vehicle that will be subject to Iowa lease tax is exempt from use tax if *all* of the following criteria exist:

1. The vehicle is subject to registration under Iowa Code chapter 321; and
2. The vehicle has a gross vehicle weight rating of less than sixteen thousand pounds (16,000). (This excludes motorcycles and motorized bicycles.); and
3. The vehicle is purchased for lease and titled by a lessor licensed pursuant to Iowa Code chapter 321F; and
4. The vehicle is leased for a period of 12 months or longer; and
5. The lease of the vehicle is subject to motor vehicle lease tax under Iowa Code section 423.7A.

Exemption Authority:

Iowa Code chapter 422C
Iowa Code section 423.4(14)
Department Rule 701 IAC 34.10
Department Rule 701 IAC 32.11

EXEMPTION #6

INTERSTATE COMMERCE, LEASED VEHICLE

Motor trucks, truck tractors, road tractors, trailers, or semi-trailers defined in Iowa Code section 321.1, purchased for the purpose of leasing, and then actually leased for use *solely* outside of Iowa (interstate commerce) are exempt.

Note: Vehicles designed primarily for carrying persons are not exempt. See 701 IAC 32.9 and 34.5(8) and Iowa Code section 423.4(7).

The Iowa Department of Revenue makes a distinction between a true lease and a contract to haul. While an agreement may be a lease for I.C.C. purposes, this does not mean it is a lease for Iowa use tax purposes. A true lease exists when the owner (lessor) gives the lessee exclusive possession of the lessor's property for a specified period. A contract to haul exists when an owner contracts to do a piece of work while retaining control of the vehicle and methods of operation. A contract to haul is not a lease; therefore, the vehicle is not exempt. Ballstadt v. Iowa Department of Revenue, 368 N.W.2d 147 (Iowa 1985).

Example: ABC Leasing purchased a Ford cargo van for the purpose of leasing it to Pop's Trucking. The lease agreement is for 36 months. Pop's Trucking will pick up property from Iowa businesses to be delivered out of state. No delivery in Iowa ever occurs. Since Pop's Trucking never uses the van for deliveries in Iowa, the van is solely used (100%) outside of Iowa and may be purchased exempt from use tax.

Example: ABC Leasing purchases a GM flatbed truck for the purpose of leasing it to Get-Up-N-Go Trucking. The lease is for five months. Get-Up-N-Go Trucking will use the truck for deliveries out of state and in Iowa. Since some deliveries occur in Iowa, the sole use out-of-state requirement (100%) will not be met. ABC Leasing's (lessor) purchase of the GM flatbed is subject to use tax.

Note: Although a contract to haul may not qualify for this exemption, they may qualify under Exemption #7.

Exemption Authority:

Iowa Code, Section 423.4(7)
Department Rule 701 IAC 32.9
Department Rule 701 IAC 34.5(8)

EXEMPTION #7

VEHICLES USED IN INTERSTATE COMMERCE

Vehicles (power units), trailers, and semi-trailers that are registered or operated under Iowa Code chapter 326 are exempt from use tax if (1) they accrue at least 25% of their mileage outside of Iowa; and (2) they are registered for a gross weight of 13 tons (26,000 pounds) or more. Both conditions must be met to claim the exemption.

Periods for substantiating mileage by the Iowa Department of Revenue are fiscal year July 1-June 30, with the exception if the initial registration period is a short year (less than 12 months). Mileage during that period will be totaled with the first full year for substantiation purposes (Department Rule 701 IAC 32.4).

If a vehicle, trailer, or semi-trailer was originally prorated, then fully registered with traditional county plates, the exemption applies if the 25% mileage factor and registered weight requirement are met.

The 25% out-of-state mileage factor must be maintained for the first four years of operation. If the mileage factor is not met for each year of the 4-year period, tax is due and is imposed on book value or market value, whichever is less.

Example: ABC Trucking purchased two semi-tractors two years ago in August; mileage was prorated for that year. Twenty-five percent of the mileage for each was out-of-state mileage. Two years later, ABC Trucking decides to register with traditional county plates one of the semi-tractors; it will be used only in Iowa. ABC Trucking's book value is \$60,000, and the market value is \$75,000. The book value is less than the market value; use tax is imposed on the \$60,000 book value.

Example: Two years ago, ABC Trucking purchased a power unit and a semi-trailer. Both the power unit and semi-trailer were used in excess of the 25% mileage requirement and registered prorate (more than 26,000 pounds). This year, ABC Trucking decided to register with traditional county plates the semi-trailer, instead of renewing the prorate registration. Although the semi-trailer will be county plated, ABC Trucking will still use the semi-trailer 25% outside of Iowa. The gross registered weight did not change. Since both the 25% mileage factor and the 26,000 pound registered weight factor are met, no tax is due.

Example: Two years ago, ABC Trucking purchased a power unit and a semi-trailer. Both the power unit and semi-trailer were used in excess of the 25% mileage requirement and registered prorate (more than 26,000 pounds). This year, ABC Trucking decided to register with traditional county plates the semi-trailer, instead of renewing the prorate registration. The semi-trailer will not be used 25% outside of Iowa. The gross registered weight did not change. Since both factors are not met and the 25% mileage factor was maintained for the first four years, tax is due based upon book value or market value, whichever is less.

Exemption Authority:

Iowa Code, Section 423.4(10)
Department Rule 701 IAC 32.4
Department Rule 701 IAC 32.10
Department Rule 701 IAC 33.6

EXEMPTION #8

MANUFACTURED HOUSING AND MOBILE HOMES

Mobile homes are exempt from motor vehicle use tax if Iowa use tax has been previously paid. (Department rule 701 IAC 32.3). Mobile homes are taxed at 60% of the purchase price. Tax on the mobile home is due at the time it is registered. However, when a mobile home becomes real property and the title to the mobile home is surrendered, no refund is allowed for the tax previously paid.

Example: A new mobile home is purchased by the State Conservation Commission for use at a state park. No tax is paid at the time of initial registration. This mobile home is later sold to Bill Smith, a resident of Iowa. Bill Smith titles the mobile home in Iowa. Since Iowa use tax was not paid by the State Conservation Commission, Bill Smith owes use tax on 60% of his purchase price.

Example: Hank Jones, resident of Nebraska, titles a mobile home in Nebraska. Hank Jones later moves to Iowa and titles the mobile home in Iowa. No use tax is due since Hank Jones did not purchase it for use in Iowa. (Use the move-in exemption.) Hank Jones later sells it to Richard Smith, a resident of Iowa. Since Iowa use tax has not been previously paid, Richard Smith owes use tax on 60% of his purchase price.

When tax is paid on a mobile home, the amount of tax paid should be entered on the title.

New mobile homes are taxed only on the portion of the cost of the mobile home attributable to materials used in building the mobile home. For purposes of this exemption, 40% of the mobile home cost is attributable to labor, so that mobile homes are to be taxed at 60% of the purchase price. This exemption does not apply to RVs and travel trailers, which are taxed at full value.

MOBILE HOME TRADE-INS

In order for a trade-in allowance to apply, it must:

- a. be the type of property normally sold in the regular course of the retailer's business and
- b. be intended to be ultimately sold at retail or used to manufacture a like item.

When the traded mobile home is ultimately sold, it will not be subject to use tax if the Iowa use tax has been previously paid.

Example: A mobile home dealer receives from the factory a new mobile home that has a sales price of \$40,000. The dealer sells the mobile home to Larry and Lola Smith. Larry and Lola Smith trade in their old mobile home for \$5,000. The used mobile home has been previously titled in Iowa and use tax was paid. The dealer lists the trade-in for sale. Iowa use tax is computed as follows:

Sales price	\$40,000
Less trade-in	\$ 5,000
Buyer's price	\$35,000
Amount subject to tax .	\$21,000
(\$35,000 X 60%)	
Use tax at 5%	\$1,050
(\$21,000 X 5%)	

The trade-in allowance applies since the traded-in mobile home will be ultimately sold at retail.

Example: ABC Inc. is a dealer of mobile homes. ABC Inc. sells a mobile home to Larry and Lola Smith for \$40,000 less the \$5000 trade-in of their old mobile home. The used mobile home has been previously titled in Iowa and use tax was paid. The mobile home will be retained by the dealer as an office. The Iowa use tax is computed as follows:

Sales price	\$40,000
Less trade-in	\$ 5,000
Buyer's price	\$35,000
Amount subject to tax .	\$21,000
(\$35,000 X 60%)	
Use tax at 5%	\$1,050
(\$21,000 X 5%)	

The trade-in allowance does not apply since the traded-in mobile home will not be sold at retail or used to manufacture a like item.

MANUFACTURED HOUSING

Manufactured housing is subject to Iowa use tax only on 60% of the purchase price which is to be paid by the owner of the home to the county treasurer. "Manufactured housing" is defined as housing which is factory built to specifications required by 42 U.S.C. section 5403, and must display a seal from the United States Department of Housing and Urban Development. Typically, a manufactured home has the following three characteristics:

1. It is a structure built on a permanent chassis; and
2. It is transportable in one or more sections; and
3. It is designed to be used as a dwelling with or without a permanent foundation.

The tax is based on the installed purchase price. The incidence of the tax is on the owner of the manufactured home and not the dealer who sells the manufactured home.

Example: Woods Home Sales sells a manufactured housing to Kelvin and Renee Jones for \$120,000, which includes placing the manufactured housing on a foundation. Kelvin and Renee take the title to their county treasurer to convert the title to real estate.

Tax is figured as follows: $60\% \times \$120,000 = \$72,000 \times 5\% = \$3,600$.

Exemption Authority:

Iowa Code section 423.4(11)
Iowa Code section 234.4(12)
Department rule 701 IAC 32.3
Department rule 701 IAC 33.10

EXEMPTION #8

INHERITANCE WITH AND WITHOUT A COURT ORDER

TRANSFER OF TITLE

TRANSFERS RESULTING FROM COURT ORDERS

Court-ordered transfers of vehicles, such as those arising as a result of probate administration, divorce proceedings and other types of court orders, are exempt from tax. The vehicle must be transferred by court order and not by mutual agreement of the parties.

Example: John and Mary own a Ford Explorer valued at \$32,000 and a Chevrolet van valued \$22,000. John and Mary get a divorce. In the divorce degree, John receives the Chevrolet van and Mary receives the Ford Explorer. No use tax is due.

Example: Mary and her husband John are divorcing. Mary Jones owns a new Corvette. John Jones has a Rockwell painting. Each are appraised at \$80,000. Before the divorce, Mary transfers title of the Corvette to John in exchange for the Rockwell painting. Since this transfer was not court ordered, Mary received consideration (Rockwell painting). John owes tax on the \$80,000 Corvette.

Example: Pete Baker owns a motor home worth \$100,000. Pete passes away and is survived by his two children. Pete Baker's estate is worth \$200,000. A court orders that it is to be divided equally between his son and daughter. The son takes the motor home, and the daughter takes all other property. Since the son received the motor home from his dad's estate, no use tax is due.

Note: The results would be the same if Pete Baker did not have a will as long as there is a court order.

Example: Pete Baker owns a motor home worth \$100,000. Pete Baker passes away and is survived by his two children. The only other property in Pete's estate is a \$20,000 checking account. His will gives his children all his property equally. A court order states that each child's share of the estate should be \$60,000. The son wants the motor home and agrees to pay his sister \$40,000 in cash. His agreeing to pay her \$40,000 constitutes consideration, and use tax is due on the \$40,000.

TRANSFERS WITHOUT COURT ORDER (BY WILL AND INTESTATE)

Vehicles being titled as a result of inheritance without a court order or a will are exempt from tax.

Department rule 701 IAC 34.5(6) reads as follows:

"When a vehicle subject to registration is inherited, the county treasurer shall require the registrant to set forth the facts before such exemption is granted."

Supporting documentation such as a copy of the will, death certificate, or a copy of the inheritance tax return may be requested at the discretion of the county treasurer to support the exemption.

Exemption Authority:

Department Rule 34.5(6)

EXEMPTION #8

PURCHASED WITH NO INTENT TO USE VEHICLE IN IOWA

The most common types of exemptions:

- Nonresident move-in
- Nonresident in transit
- Temporary use by a nonresident in Iowa
- Vehicles purchased in foreign countries

PURCHASED IN FOREIGN COUNTRY

If a vehicle at the time of purchase was not intended to be in used Iowa, but later the owner moves to Iowa, an exemption applies and no use tax is due on the vehicle.

Department Rule 34.5(7).

Department rule 701 IAC 34.5(7) states an exemption shall apply:

“When an applicant for an Iowa registration has moved from another state with intent of changing residency to Iowa and if the vehicle subject to registration was purchased for use in the state from which the applicant moved and was not, at or near the time of such purchase, purchased for use in Iowa.”

Example: A soldier stationed in Germany purchases, titles, and registers a vehicle in Germany for traveling in Germany. At the time of purchase, the soldier has one year left on her service assignment in Germany. After the one year, the soldier is reassigned to Iowa. The soldier titles and registers the same vehicle in Iowa. Since the soldier purchased the vehicle to travel Germany with no intent for use in Iowa at the time of purchase, then no use tax is due.

NONRESIDENT IN-TRANSIT

When a nonresident of Iowa purchases a vehicle subject to registration and acquires a nonresident in-transit registration, an exemption applies under department rule 701 IAC 34.5(3).

This rule, 701 IAC 34.5(3) reads as follows:

“When a nonresident of Iowa applies for a ‘nonresident-in-transit’ registration for a motor vehicle purchased in Iowa but which the person intends to permanently register in a state other than Iowa, the applicant shall execute and file an affidavit, in duplicate, with the office issuing the registration establishing this fact.”

NONRESIDENT MOVE-IN

If a nonresident is registering a vehicle purchased outside of Iowa, and the nonresident is bringing the vehicle into Iowa for personal use while in Iowa, the exemption provided in Iowa Code section 423.4(2) applies.

Iowa Code section 423.4(2) provides exemption for:

“All articles of tangible personal property brought into the state of Iowa by a nonresident individual thereof for the individual’s use or enjoyment while within the state.”

Example: Jim Strong, a resident of Illinois, purchases a new Lexus while living in Illinois and employed with Space Rocket Corporation. Space Rocket Corp. transfers Jim Storm to the Space Rocket Corp. office in Iowa. Jim Strong brings the Lexus he just purchased in Illinois to be

titled and registered in Iowa. Since Jim Strong was not aware of the pending transfer, the purchase of the Lexus was for use in Illinois and no Iowa use tax is due on the vehicle.

DETERMINING USE

The determination of whether a vehicle was purchased for use in a foreign country or purchased for use in Iowa is a factual determination. In most instances, this applies to military service personnel. In these circumstances, the following factors should be considered:

1. Length of time the person owned the vehicle prior to returning to Iowa. If the vehicle was purchased early in the person's tour of service, it might indicate the intent was to use the vehicle in the foreign country rather than Iowa. Conversely, if the vehicle was purchased near the end of the person's tour of service, it might indicate an intent to use in Iowa.
2. Registration in the foreign country. Registration of the vehicle for use in the foreign country might indicate that the vehicle was purchased for use in the foreign country rather than Iowa. If the person did not register the vehicle in the foreign country, this lack of registration indicates that the vehicle was purchased for use in Iowa.

3. Mileage documentation. If the person can show thorough mileage documentation that substantial miles were driven in the foreign country, it might indicate an intent to use the vehicle in the foreign country rather than Iowa. Evidence of this intent is when the mileage incurred on the vehicle in the foreign country is more than the mileage incurred on the vehicle in Iowa.

Example: A soldier purchases a vehicle while stationed in Germany. The soldier will ship the vehicle to his next duty station. The soldier receives his orders; his next duty station will be Iowa. The vehicle is shipped to Iowa. When the soldier purchased the vehicle, the soldier had no intent to use the vehicle in Germany. Iowa use tax is imposed on the soldier's purchase price (U.S. dollar and not the German dollar).

Exemption Authority:

Department rule 701 IAC 34.5(3)
Department rule 701 IAC 34.5(7)
Iowa Code section 423.4(2)

EXEMPTION #8

OTHER

This category is for any exemptions not covered by exemptions 1-7. If this “other” category is used, a full and detailed explanation must be attached.

Note: Proper use of the “other” category includes correction of title, qualifying sales to Native American Indians, salvage titles, returned vehicles, registration by manufacturers, vehicles directly and primarily used in recycling, or any miscellaneous exempt transaction.

“Directly and primarily used in recycling” means that the vehicle is used more than 50% of the time in the process of obtaining waste to be remanufactured into another product.

Example: Stan Perkins purchases a garbage truck to be used primarily to collect bottles and transport them to a bottle recycling plant. No tax is due. However, if the garbage truck is primarily used to pick up bottles to be taken to the landfill and not to be recycled, then the purchase of the truck is subject to Iowa tax.

EXEMPTION #8

HOMEMADE VEHICLES

Homemade vehicles subject to registration are exempt from use tax upon the first registration if sales or use tax was paid on the parts purchased at retail used to build the vehicle. If proof of the tax having been paid is not provided, the taxable price is fair market value.

Department rule 701 IAC 34.5(2) reads as follows:

“When the consumer applies for registration of a ‘homemade vehicle subject to registration’ built from parts purchased at retail, upon which the consumer paid a tax to the seller, and never before registered, the applicant shall execute and file an affidavit in duplicate, establishing these facts with the office issuing the registration. The original shall be forwarded to the department along with the monthly

report; and the copy shall be retained by the issuing office. The term ‘homemade vehicle subject to registration’ shall include such things as homemade automobiles, trucks, trailers, motorcycles and motorbikes, but shall not include those vehicles subject to registration which are made by a manufacturer engaged in the business for the purpose of sales or rental.”

This rule is not applicable when a homemade vehicle is being registered other than for the first registration.

A UT510 form must be filled out for all homemade vehicle exemptions.

Exemption Authority:

Department Rule 701 IAC 34.5(2)

EXEMPTION #8

TAX PAID TO ANOTHER STATE

When a vehicle is purchased in another state for use in Iowa, credit can be allowed for state tax paid to the other state. For the credit to apply, the person must show proof they were legally required to pay a state sales tax, a state use/sales tax or a state occupational tax to the other state. Evidence of the payment may include purchase records, cancelled checks, invoices or some form of documentation by the other state. This would be sufficient proof the tax was paid to the other state.

Iowa Code section 423.25 reads as follows:

“If any person who causes tangible personal property to be brought into this state has already paid a tax in another state in respect to the sale or use of such property, or an occupation tax in respect thereto, in an amount less than the tax imposed by this title, the provisions of this title shall apply, but at a rate measured by the difference only between the rate herein fixed and the rate by which the previous tax on the sale or use, or the occupation tax, was computed. If such tax imposed and paid in such other state is equal to or more than the tax imposed by this title, then no tax shall be due in this state on such personal property.”

Department rule 701 IAC 34.5(1) reads as follows:

“When the applicant for an Iowa registration for a vehicle subject to registration has paid to another state a sales, use or occupational tax on that unit, credit shall be allowed against the Iowa tax due in the amount paid. Credit shall not be allowed when such tax is paid upon equipment rental receipts. If tax paid is equal to or greater than the Iowa tax due, no further tax shall be collected. If tax paid is less than the Iowa tax due, the difference shall be collected by Iowa.”

Example: John and Angel Banks are Iowa residents. While they were in Nevada, they purchased a new camper for \$20,000. Nevada did not require the Banks to pay a state sales, use, or occupational tax. John and Angel Banks bring the camper back to Iowa. The camper requires an Iowa title and registration. Since no state sales, use, or occupational tax was paid to the State of Nevada, Iowa use tax is due on the purchase price of \$20,000.

Example: John Henry is an Iowa resident and spends the winter months in Florida. John decides to purchase a new Buick in Florida for \$35,000 from Florida Auto Sales. John is required to pay 5% Florida state

sales tax. John Henry chooses not to title or register the Buick in Florida. After spending the winter months in Florida, John returns to Iowa and brings his new Buick. Since John had to pay a 5% Florida state sales tax, no Iowa use tax is due when he registers the vehicle in Iowa.

Example: Iowa resident Betty Keen purchases a Ford for 25,000 while she is in Arizona. Betty was required to pay an Arizona state sales tax of 2% and a county tax of 1%. Betty returns to Iowa with the Ford. She has a bill of sale showing a breakdown as follows:

Purchase Price	\$25,000
Arizona State Sales tax	\$500
Arizona County Tax	\$250
Total Amount Due	\$25,750

When Betty titles and registers the Buick in Iowa, the Iowa use tax is \$1,250. Betty receives credit only for the Arizona State Sales Tax of \$500.

Iowa tax is as follows: Iowa Use Tax \$1,250, less Arizona State Sales Tax \$500 = Iowa Use Tax Due of \$750.

Example: Iowa resident Spike Jones purchases an \$80,000 Lexus in California and is required to pay a 9% California State Sales Tax of \$7,200. Spike Jones returns to Iowa with the Lexus. Spike Jones' bill of sale shows:

Purchase Price	\$80,000
California State Sales Tax	\$7,200
Total Amount Due	\$87,000

When Spike Jones titles and registers the Lexus in Iowa, the Iowa use tax is \$4,000. Since Spike Jones paid a California State Sales Tax of \$7,200, which was more than the Iowa use tax, no Iowa use tax is due.

Exemption Authority:

Iowa Code, Section 423.25
Department Rule 34.5(1)

MOTOR VEHICLE LEASE TAX (MVLT)

Qualifying vehicles

A vehicle subject to registration with a gross vehicle weight rating of less than 16,000 pounds AND is leased for 12 months or longer is subject to the MVLT instead of use tax.

If either the weight or lease term requirement is not met, use tax is due on the purchase price.

This does not apply to motorcycles or motorized bicycles.

Example: John leases a car weighing 13,000 pounds for nine months. Since the lease is less than 12 months, the lessor pays use tax on its purchase price.

Example: John leases a car weighing 16,000 pounds for 24 months. Since the weight is not less than 16,000 pounds, the lessor pays the use tax on its purchase price.

MVLT imposed on lessor

By law, all MVLT is the liability of the owner (lessor) and not the lessee.

Iowa law does not prohibit a lessor to require the lessee to reimburse the lessor, by adding the MVLT to the monthly lease payment or by requiring the lessee to pay the MVLT up front.

MVLT imposed on lease, not vehicle

The MVLT is imposed on the terms of the lease and not the leased vehicle.

There is no refund of MVLT if the lessee moves out-of-state prior to the end of the lease or terminates the lease prior to the full contract term of the lease.

Refunds

Refunds may be allowed:

1. under the Iowa Lemon Law (only the manufacturer may file for a refund), or
2. if the MVLT Worksheet was computed in error, or
3. if tax was paid on the purchase price and not lease price, or
4. if the lease was voided.

Note: Although the lessee may have paid the tax, the incidence of the tax is on the lessor, and only the lessor is eligible to file a claim for refund.

How to complete the MVLT worksheet Jim Jones Example

Example: Jim Jones decides to lease a Ford Explorer from Harris Ford for 36 months. The terms of the lease is as follows:

The gross cost of the Ford Explorer is \$40,000.00

Jim Jones trades in his personal car worth \$12,000

Jim Jones agrees to reimburse the lessor for the MVLT as a part for the lessor's MVLT liability.

Note that Jim pays the tax as part of his monthly payment. The total tax to be paid by Jim is \$2,004.

Jim Jones also agrees to pay the lessor a month handling fee of \$5.00

Jim Jones' monthly payment is \$780.00

See page 34 to see how the MVLT worksheet is completed for Jim Jones' vehicle.

Note: Line 7c and line 9 may vary, but should not vary by more than \$1.00. This is acceptable.

Example: Lease Tax Worksheet for Jim Jones

Motor vehicle lease tax is based on the lease price of a vehicle.

1. Enter the monthly lease payment to be paid by the lessee. 1. \$780.00
2. Enter the number of lease payments for the term of the lease.
For move-ins: Calculate the remaining lease periods. X 2. 36
3. Multiply line 1 by line 2 to determine the total base lease payments. = 3. 28,080.00
4. Enter total up-front fees (not capitalized) that are paid by the lessee. 4. 0.00
5. Enter the amount of any capitalized cost reduction (cash or net trade).. 5. 12,000.00
6. Add lines 3, 4 and 5 and enter total here. 6. 40,080.00
7. List the cost of each of the following items if paid by the lessee as part of the monthly payment or paid up-front and enter the total of all costs:
- a. Title fees a. 0.00
- b. Registration fees..... b. 0.00
- c. Vehicle lease tax
1. Multiply line 6 by .05 c1. 2,004.00
2. Divide c1 by 1.05 c2. 1,950.00
- d. Federal excise tax d. 0.00
- e. Optional service or warranty contract..... e. 0.00
- f. Insurance f. 0.00
- g. Manufacturer's rebate g. 0.00
- h. Refundable deposit..... h. 0.00
- i. Finance charges applicable on any of the above-excluded items i. 0.00
- TOTAL OF ITEMS a - i / enter on line 7. 1,950.00** 7. 1,950.00
8. Subtract line 7 from line 6 and enter the total here. This is the "Lease Price" that is to be entered on the "Application of Title" form. 8. 38,076.00
9. Multiply the amount entered on line 8 by 5% to determine the "lease tax due to the State of Iowa." NOTE: Line 7c and line 9 may vary, but should not vary by more than \$1; this is acceptable. X .05 = 9. 1,950.00

Application of Title

(Motor vehicle lease tax due)

The "Lease Price" reflected on line 8 should be listed on the "Application of Title" form to the left of the area designated for the "Signature of Applicant 1". A check to the county treasurer in the amount indicated in line 9 should accompany your "Application of Title" form and license fees. You should also submit a UT-510 exemption certificate form indicating this is a "leased vehicle" in the blank designated as "other" on this form.

LESSEE MOVE-IN FROM ANOTHER STATE:

When a lessee moves to Iowa, MLVT is due on the remaining lease term.

Example: Jim Brown, a resident of Minnesota, leased a car for 48 months on June 18, 2000. Jim Brown moves to Iowa on July 31, 2003. Beginning Aug 1, 2003, Jim Brown has a remaining lease of 10 months (48 – 38 Minnesota lease = 10 Iowa lease). Jim Brown's monthly lease payment is \$440. The MVLT out-of-state worksheet is computed as follows:

1. Enter the Iowa lease term 10
(remaining months left on the original lease)
2. Enter the monthly lease payment... \$440
(no adjustments can be made to the original monthly payment)
3. Multiply line 2 by line 1 \$4,400
4. Multiply line 3 by .05 \$220
(MVLT DUE)

Credit allowed for these states:

A credit for tax paid to the following states may be used toward the MVLT. To be eligible for the credit, the tax must be similar to Iowa's with incidence of the tax on the lessor.

Arkansas
Hawaii
Illinois
Kentucky
Missouri
Nevada
New Jersey
North Carolina
North Dakota
Rhode Island
Texas
Virginia

Credit toward Iowa tax due is allowed only for tax previously paid to another state for the remaining term of the lease (from the date the vehicle enters Iowa to the termination date of the lease).

Example: Lisa Smith, a resident of Illinois, leased a car for 48 months on June 18, 2000, with a monthly lease payment of \$600.00. Illinois State Sales Tax of \$1,900 was paid up-front by the lessor. Lisa moves to Iowa on July 31, 2003. Beginning Aug. 1, 2003, Lisa has a remaining lease of 10 months (48 – 38 Illinois lease = 10 Iowa lease). The MVLT out-of-state credit worksheet is computed as follows:

1. Enter the state tax paid up-front in Illinois \$1,900.00
2. Enter the total lease term (months) ... 48
3. Divide line 1 by line 2
($\$1,900 \div 48$) \$39.60
4. Enter the number of the Iowa lease term (months) 10
5. Multiply line 3 by line 4
(39.60×10) \$390.60
(tax paid to Illinois for months remaining on the lease)
6. Enter the Iowa MVLT on the original lease \$300.00
($600 \times 10 = 6,000 \times .05 = \300)
7. Subtract line 5 from line 6 \$0.00
(MVLT DUE)

Iowa gives credit for lease tax paid in Illinois. As a result, since tax paid to Illinois for the 10-month term of the lease was more than would have been paid to Iowa, no additional Iowa tax is due.

Example: Mike Johnson, a Texas resident, leases a car for 48 months beginning December 7, 2000, with a monthly lease payment of \$950. Missouri State Sales Tax was paid up-front by the lessor in the amount of \$1,200. Mike moves to Iowa on April 9, 2003. The remaining Iowa lease term is 20 months ($48 - 28 = 20$). The out-of-state tax credit is computed as follows:

1. Enter Missouri state sales tax \$1,200.00
2. Enter the original lease term (months). 48
3. Divide line 1 by line 2\$25.00
4. Enter the number of Iowa
lease term (months) 20
5. Multiple line 3 by line 4\$500.00
6. Compute the Iowa MVLT
($950 \times 10 = 9,500 \times .05 = 475$) ...\$475.00
7. Subtract line 5 from line 6 0
(MVLT DUE)

(Since line 5 is greater than line 6, the amount due Iowa is zero. Line 7 cannot be a negative amount.)

Lessee terminates lease to purchase

When a lessee chooses to terminate a lease and purchase the car being leased, the purchase is subject to use tax. The lessee has entered into two separate transactions. The first is a purchase of a service (lease) and the second is a purchase of tangible personal property (car). It does not matter if the lessee paid the MVLT for the lessor as required under the lease agreement. This is a contract issue and not a tax issue. The use tax is imposed on the purchase price (consideration) the lessee gave to the lessor.

Example: Willie Adams is leasing a car from GM Leasing for 60 months. Willie wants to terminate the lease early and purchase the car from GM Leasing. GM Leasing agrees to sell the car to Willie for \$30,000.

Willie pays \$10,000 in cash and takes out a loan for the \$20,000 balance. GM Leasing receives \$30,000 (consideration for selling the car to Willie). Willie owes use tax on the \$30,000.

Example: Mike Johnson leases a car for 12 months. After the lease expires, Mike has an option to purchase the car for \$12,000. Mike exercises his option and gives the lessor (Ford Motor Credit Leasing) \$12,000 in cash. For the same reasons as the above example, Ford Motor Credit Leasing receives consideration in the amount of \$12,000. Mike owes use tax on \$12,000.

Example: Greg Black is leasing a car for 24 months. At the end of the lease, Greg has the option to purchase the car for \$8,000. The lease ends and Greg Black does not want the car. However, Greg's neighbor, Jane, does.

Jane agrees to give Greg the \$8,000 before Greg purchases the car from the leasing company. Thus, Greg uses Jane's money to pay for the car. Greg does not owe use tax on \$8,000, because Greg is acting in behalf of his neighbor. Jane will pay the use tax when she registers the vehicle in her name.

Questions? or For More Information...

For further assistance regarding taxes relating to motor vehicles, please contact the Iowa Department of Revenue, Taxpayer Services.

TO TALK TO A TAX SPECIALIST

515/281-3114 or 800-367-3388 (Iowa, Omaha and Rock Island/Moline only)

idrf@idrf.state.ia.us

TO OBTAIN PUBLICATIONS AND FORMS

Internet - <http://www.state.ia.us/tax>

By fax - 515/281-4139 or 800-573-3943 (Iowa, Omaha and Rock Island/Moline only)

By mail - 515/281-7239 or 800-532-1531 (Iowa only)

TDD FOR HEARING IMPAIRED

515/242-5942

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Taxpayer Services

Iowa Department of Revenue

PO Box 10457

Des Moines, Iowa 50306-0457