

## Iowa Sales Tax Updates

### Sales Tax on Service Work (Interstate Commerce)

A question came up after the sales tax breakout session at the annual meeting regarding interstate commerce and sales tax on equipment serviced at an Iowa dealership. The particular question was, do we charge Iowa sales tax if an Iowa dealer picks up equipment from a Missouri farmer, services it at the dealership and delivers it back to Missouri?

Answer: Since the customer takes possession of the serviced equipment in Missouri, Missouri sales tax rules apply.

### Streamlined Sales Tax Project Sourcing Issues Papers states...

*With services, receipt is defined as “making first use of the services.” While “use” is not defined within the sourcing provisions, use should be thought of as generally including all activities most states include in their current definitions, including the exercise of any right incidental to ownership, custody or possession. Therefore, if a car repaired at the seller’s shop is picked up at the shop by the purchaser, the sale is sourced to the shop; if the repaired car is delivered to the purchaser, the sale is sourced to where the purchaser receives the car.*

So, for our question above, if the dealer delivers it, Missouri state law applies. If the farmer picked it up or drove it home from the dealership, Iowa law applies.

Also, note that the definition above applies to **interstate** commerce. If it is an **intrastate** sale, the location in which the work is performed applies. If a Polk County dealer picks up a combine from a Warren County farmer and performs service work at their dealership and delivers it back to Warren County, Polk County tax applies.

**Please Note: Most states now say that if an out-of-state dealer picks up or delivers equipment into their state with their company vehicle, they create nexus in that state and require the dealer to have a sales tax permit for their state. The definition was expanded with the Streamlined Sales Tax initiative.**

### Sales Tax on Off-Road Diesel Fuel

With the high diesel fuel cost, a couple of dealers asked about sales tax on off-road diesel fuel that they purchase to put into farm equipment that they sell to farmers. Both dealers state that they are paying the sales tax and think that it should be exempt since the fuel is used in ag production.

The opinion of the Iowa Revenue Department is that the fuel can be exempt from sales tax since the dealer is a reseller of the fuel. If all the fuel being purchased by the dealer goes into farm equipment that is resold, the fuel supplier should accept the exemption certificate from the dealer as a reseller. In most cases, however, the fuel supplier may choose not to accept the certificate since they assume some of the fuel is used on the dealer’s premise for non-ag production. The

option for the dealer is to record the amount of fuel being sold with the equipment on all purchase orders. The dealer will then have these purchase orders to verify to the fuel supplier or for a sales tax refund filing with the Iowa Department of Revenue.

## **Equipment Purchased for CRP Maintenance**

Land which is placed in the CRP program cannot be used for agricultural production. Because CRP land cannot be used for agricultural production, equipment used primarily on CRP ground are not directly and primarily used in the production of agricultural products.

Here is a portion of a January 10, 2008 letter from the IA Revenue Dept. regarding this topic;

*“After reviewing the information in your protest, the Review Unit does not agree the ATV you purchased is exempt from Iowa sales tax as farm machinery and equipment. The Department finds support for its position in revenue department rule [701—18.44\(1\)](#) located in the Iowa Administrative Code. To be eligible for exemption from, or refund of, tax under the applicable provisions of this rule, the machinery or equipment must be “directly and primarily used in the production of agricultural products.”*

*Your protest indicates you use the ATV for spraying and removing trees, as well as other activities as required by your agricultural payment contract under the CRP program. Land which is placed in the CRP program cannot be used for agricultural production. In fact, the whole concept of the CRP program is to ensure non-production on the enrolled land. Because CRP land cannot be used for agricultural production, your ATV is not directly and primarily used in the production of agricultural products. The fact you occasionally loan your vehicle to a tenant who is involved in the production of livestock does not make your purchase of the ATV directly and primarily for use in the production of agricultural products.*

*Finally, the fact the Department of Agriculture requires maintenance on CRP enrolled land does not make the purchase exempt. Because the ATV purchase is not exempt from sales tax under revenue rule 18.44(1), the Department was correct in denying your claim for a refund of the sales tax paid.*