Iowa Department of REVENUE

Sales and Use Tax for Construction Contractors

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Any oral or written opinion by Department personnel not pursuant to a Petition for Declaratory Order under 701 IAC 7.24 is not binding upon the Department.

About the Department

MISSION STATEMENT

The mission of the Iowa Department of Revenue is to serve Iowans and support state government by collecting all taxes required by law, but no more.

VISION

Iowa will be a state where it is easy to understand and comply with tax obligations for all Iowa tax filers.

VALUES

- **I** ntegrity first
- **D** edicated to teamwork
- **R** eady to serve

Legal Foundation

Statutory provisions imposing tax:

- Sales tax: Iowa Code section 423.2(1)(b) and (c)
- Use tax: Iowa Code section 423.5(1)(a) and (d)

Primary statutory exemption provisions:

- Services on or connected with new construction, reconstruction, alteration, expansion, remodeling: Iowa Code section 423.3(37)
- Designated exempt entities: Iowa Code section 423.3(80)

Administrative rules:

- 701 IAC 219

What is a Construction Contract?

- An agreement to provide materials and erect a building or structure
- Two parties:
  - General contractor, subcontractor, or builder
    - Can be an individual, corporation, partnership, or other entity
  - Sponsor

See 701 IAC 219.8

Four Types of Entities

1. Contractor
2. Contractor - Retailer
3. Retailer
4. Repair Company

The type is important for determining tax obligations

See 701 IAC 219.1

Contractor

- Consumer of building materials and supplies
- Sales tax responsibility: pay sales tax on the purchase
  - New construction, reconstruction, expansion, alteration, and remodeling:
    - Pay tax on materials when purchased
    - Do not collect any tax from customers
  - Other situations:
    - Pay tax on materials when purchased
    - Collect tax on labor and materials from customers
    - May take credit for tax paid on materials sold as part of a service transaction if itemized

See 701 IAC 219.2, 219.13

Contractor – Retailer

- Generally have a storefront
  - Frequent retail sales to the public of supplies and materials
  - May sell to other contractors
  - Build or improve residential or commercial structures
- Must obtain a sales and use tax permit to collect and remit tax
  - Including retail sales of taxable services and tangible personal property used in a construction contracts

See 701 IAC 219.4

Contractor – Retailers
Sales or Use Tax Responsibilities

- Buys Tax Free
  - For supplies and materials to be resold
  - To provide supplier with a valid sales tax exemption certificate
- Pays Sales or Use Tax
  - Sales tax to suppliers for supplies and materials not placed in inventory
  - Use tax to the Department if inventory is removed for use by the business
- Collects Sales Tax from Customers
  - For materials, supplies, and equipment sold without installation
  - When performing repairs or installations, charge sales tax on labor and materials
- Doesn't Collect or Remit Sales or Use Tax
  - Performing a construction contract
  - Materials withdrawn from inventory for use in construction projects performed outside Iowa

Retailers

- Sell to contractors or other consumers
  - Collects tax on the sales price, unless the consumer gives a valid exemption certificate
- Make retail sales
  - Must hold an Iowa sales tax or use tax permit
- May sell or use their products in construction contracts

Retailers
Sales Tax Responsibilities

- Primarily manufacturers:
  - Tax is computed on “fabricated” costs
    - materials, labor, power, transportation to the plant, other plant expenses such as overhead, but it does not include installation on the job site
- Primarily contractors:
  - Tax is computed on the cost of raw materials
- New construction
  - Does not collect sales tax from the final customer
- Taxable repair service
  - May withdraw materials from inventory tax free
  - Tax is collected from the final customer on the labor and materials
- Construction contracts outside of Iowa
  - No Iowa sales or use tax is due on the materials used
  - Be aware of laws in the other state

Repair Companies

- Repairs an existing building or structure
- Rarely or never sells supplies and materials or builds residential or commercial structures
- Sales tax responsibilities:
  - Itemize materials and labor separately on the bill
  - No sales tax on purchases of building materials & supplies **if**:
    - Purchases are for resale
    - Supplier is given a valid sales tax exemption certificate
    - Tax is collected on the total bill from the customer
  - Do not itemize materials and labor:
    - when tax is paid on the materials when purchased
    - when collecting tax on the total bill

Building Materials, Supplies, and Equipment Defined

Building materials:

- Materials used in construction work, and is not limited to materials used in constructing a building with sides and covering.

Building supplies:

- Anything that is furnished for and used directly in the carrying on of the work of an owner, contractor, subcontractor or builder and which is used or consumed by the contractor.

Building equipment:

- Any vehicle, machine, tool, implement or other device used by a contractor in erecting structures for others, or reconstructing, altering, expanding or remodeling property of others which does not become a physical component part of the property upon which work is performed, and which is not necessarily consumed in the performance of such work.

See 701 IAC 219.3

Examples of Building Materials & Supplies

- Asphalt
- Bricks
- Builders hardware
- Caulking material
- Cement
- Central air conditioning
- Cleaning compounds
- Conduit
- Doors
- Ducts
- Electric wires, connectors, & switches
- Fencing materials
- Floor coverings (not carpeting)
- Flooring
- Glass
- Gravel
- Insulation
- Lead
- Lighting fixtures
- Lime
- Linoleum
- Lubricants
- Lumber
- Macadam
- Masonry foundation anchors
- Millwork
- Modular & mobile homes
- Mortar
- Oil
- Paint
- Paper
- Piping, valves, & fittings
- Plaster
- Plumbing supplies
- Polyethylene covers
- Power poles, towers, & lines
- Putty
- Reinforcing Mesh
- Rock salt
- Roofing
- Rope
- Sand
- Sheet metal
- Steel
- Stone
- Stucco
- Tile
- Wall coping
- Wallboard
- Water conditioners
- Weather stripping
- Window screens
- Windows
- Wire netting and screen
- Wood preserver

See 701 IAC 219.3

Examples of Building Equipment

- Tax is due on items that do not become part of the realty being constructed
- Examples include:
  - Barricades
  - Building equipment
  - Compressors
  - Cranes
  - Drill presses
  - Dynamite
  - Electric generators
  - Equipment parts (replacements)
  - Forms
  - Lathes
  - Lodging
  - Machinery
  - Pile Drivers
  - Scaffolds
  - Stakes
  - Utilities
  - Vehicles (graders, lifts, excavators)
  - Warning Lights
  - Fuel
  - Hand tools

See 701 IAC 219.3

Construction Equipment
Excise Tax Responsibilities

- Certain equipment is exempt from sales tax and instead subject to a 5% excise tax.
  - Self-propelled building equipment, pile drivers, motorized scaffolding
  - Auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment
  - Replacement parts for the equipment
- The equipment must be directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures.

See Iowa Code chapter 423D, section 423.3(85)

Grain Bin Exemption

- Effective July 1, 2019, “the sales price from the sale of a **grain bin**, including material or replacement parts used to construct or repair a grain bin,” is exempt from sales tax.
  - “Grain bin” is defined as “property that is vented and covered with corrugated metal or similar material, and that is primarily used to hold loose grain for drying or storage”
  - Generally, this to mean anything permanently attached to a grain bin is exempt
  - See rule for additional details

See Iowa Code section 423.3(16A), 701 IAC 226.20

Taxable Labor

- Only enumerated services are taxable.
- Examples of enumerated taxable services related to construction contracts include:
  - Demolition
  - Electrical and electronic repair and installation
  - Excavating and grading
  - House or building moving
  - Landscaping, lawn care, tree trimming and removal
  - Painting, papering, interior decorating
  - Carpentry repair and installation
  - Pipe fitting and plumbing
  - Roof, shingle, and glass repair
  - Sign construction and installation
  - Welding
  - Well drilling

See 701 IAC 219.13, 701 IAC 26

Taxable Labor

- Labor **is** taxable when taxable services are performed to repair tangible personal property or real property.
- Labor **is not** taxable when services are performed on or connected with:
  - Alteration
  - Expansion
  - New construction
  - Reconstruction
  - Remodeling of buildings or structures

Taxable Labor
Additional Circumstances

- Timing close/near to construction
  - Exempt: excavate as part of construction project
  - Taxable: grade for seed a year after construction
- Physical Relationship
  - Exempt: machinery installed during machinery-building construction
- Magnitude of Service
  - Exempt: Replace an entire roof (construction)
  - Taxable: Replace a few shingles (repair)
- Replacing Items
  - Exempt: Replace working furnace for energy efficient furnace (reconstruction or remodeling)
  - Taxable: Replace broken furnace (repair)
- Both construction and repair
  - Itemize statement for taxable repair labor and exempt construction

See 701 IAC 219.13

Differences Between Repair & New Construction

- Repair
  - Mend, restore, maintain, replace, or service - restores an existing structure that has been damaged
  - When in doubt, treat as a taxable repair (can apply for a refund of tax paid)
  - Examples:
    - Broken or defective glass or windows
    - Individual or damaged roof shingles
    - Original wiring in a house or building
    - Defective garage door or garage door opener, kitchen cabinets, tub, shower, or faucet, water heater, furnace, or central air conditioning compressor

See 701 IAC 219.13

Differences Between Repair & New Construction

- New Construction, Reconstruction, Alteration, Expansion or Remodeling
  - Labor is exempt from sales tax for real property and structures only (not tangible personal property)
  - Pay tax to the supplier for materials
  - Do not charge tax to the customer for labor or materials
  - Examples:
    - New Construction: Altering existing structures: building or adding a garage or deck, replacing a roof, Installing a mobile home on a foundation
    - Reconstruction: Rebuilding a structure damaged by flood, fire, or other uncontrollable disaster or casualty
    - Reconstruction or Remodeling: Replacing an entire water heater, water softener, furnace, or central air conditioning unit that is not defective
    - Alteration: Adding a new room by building interior walls
    - Alteration or Remodeling: Replacing kitchen cabinets that are not defective
    - Expansion: Building a new wing to an existing building

Designated Exempt Entities: Only the Following

- Private nonprofit educational institution in Iowa
- Nonprofit private museum in Iowa
- Tax-certifying or tax-levying body or governmental subdivision of Iowa
  - including the state board of regents, state department of human services, state department of transportation
- Habitat for humanity
- Rural water districts organized under Iowa Code chapter 357A
- Municipally-owned solid waste facility which sells all or part of its processed waste as fuel to a municipally- owned public utility
- All divisions, boards, commissions, agencies, or instrumentalities of state, federal, county, or municipal government which do not have earnings going to the benefit of an equity investor or stockholder

See Iowa Code sections 423.3(80), 423.4(1); 701 IAC 19.12

Designated Exempt Entities: How it Works

- Designated exempt entities:
  - Register contracts with Department of Revenue
    - Includes information on contractors and subcontractors, uses online application
  - Provide each contractor/subcontractor with an exemption certificate/authorization letter developed exclusively for this purpose
    - The letters are printed directly from the online application
- Contractors and subcontractors give a copy of the certificate to their material suppliers
  - Allows purchase building materials for the contract free from sales tax
- Suppliers should retain this certificate in their records for at least three years

Benefits for Designated Exempt Entities

- Contracts don't include Iowa sales tax, which lower the bids
- They do not need to obtain Contractor's Statements after the project is completed
- They do not need to apply to the Iowa Department of Revenue for a refund of Iowa sales tax

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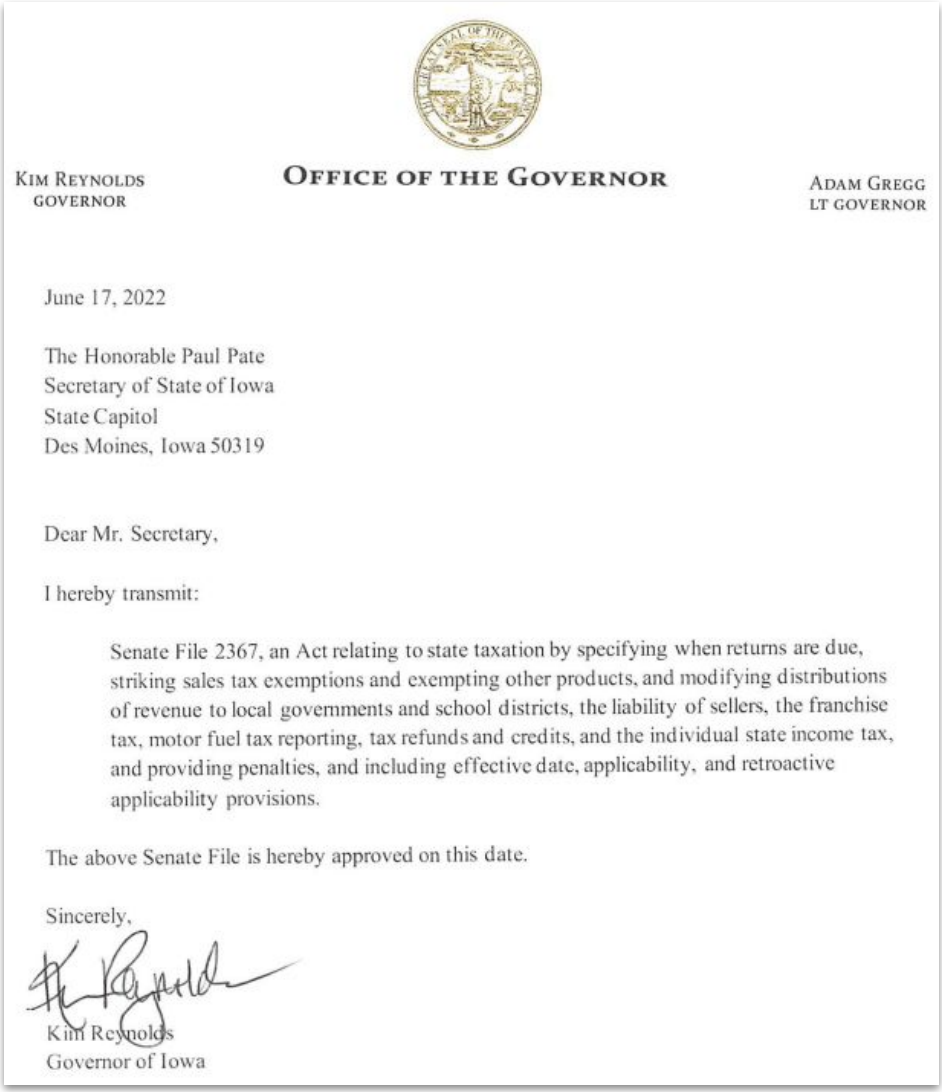
Sales and Use Tax Permit, Return Filing, and Payment Changes

Sales and Use Tax Permit, Return Filing, and Payment Changes

Senate File 2367

- Originally filed by IDR
- Multiple provisions added to original bill
- Signed by Governor Reynolds June 17, 2022

Effective date July 1, 2022



KIM REYNOLDS
GOVERNOR

OFFICE OF THE GOVERNOR

ADAM GREGG
LT GOVERNOR

June 17, 2022

The Honorable Paul Pate
Secretary of State of Iowa
State Capitol
Des Moines, Iowa 50319

Dear Mr. Secretary,

I hereby transmit:

Senate File 2367, an Act relating to state taxation by specifying when returns are due, striking sales tax exemptions and exempting other products, and modifying distributions of revenue to local governments and school districts, the liability of sellers, the franchise tax, motor fuel tax reporting, tax refunds and credits, and the individual state income tax, and providing penalties, and including effective date, applicability, and retroactive applicability provisions.

The above Senate File is hereby approved on this date.

Sincerely,

Kim Reynolds
Governor of Iowa

Iowa Department of REVENUE

Administrative Rule Changes

ARC 6398C

- Chapters 12, 13, and 30 rescinded
- New chapters 201 and 202 adopted
- Adopted on emergency basis, **effective July 1, 2022**

ARC 6399C

- Notice of Intended Action on same changes from ARC 6398C
- Public comment period closes August 2
- Public hearing 9:00 am - Hoover Building, August 11

Permit Changes

New and existing permit holders:

- Only one permit needed for both sales and use tax
- Retailers with multiple Iowa locations still need a permit for each location
- Retailers may use multiple permits if they prefer to do so

Existing permit holders:

- Taxpayers with one sales and one consumer's use permit now only have one permit (their existing sales tax permit)
- No changes for all other taxpayers unless taxpayer requests to merge, cancel, consolidate
- IDR contacting taxpayers with multiple permits

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Return Filing Changes

Two options for filing frequency

Monthly:

- Taxpayers collecting $1,200 or more in sales or use tax per calendar year
  - Must file returns and pay tax electronically
  - Due on the last day of the month following the month in which the tax was collected or accrued

Annually:

- Taxpayers under the $1,200 threshold
  - May file and pay by paper

GovConnectIowa

Iowa Department of Revenue

Return Filing Changes

Excise taxes:

- Most excise taxes must be remitted monthly regardless of amount of tax collected
  - Hotel and motel, automobile rental, construction equipment

Water service excise tax (WET):

- Remains on its own permit and return
- Can be monthly or annual, using $1,200 threshold
- Based on total WET, sales, and use tax collected per year

Return Filing Changes

Combined sales and use tax return

- All sales and use tax will be reported for each permit on one return
- Separate sections for sales tax and use tax
- Use tax:
  - No longer using “retailer’s use tax” and “consumer’s use tax” terms
  - Return includes lines for reporting “sales subject to use tax” and “taxable purchases”

Taxpayers with no use tax to report must confirm no use tax to report.

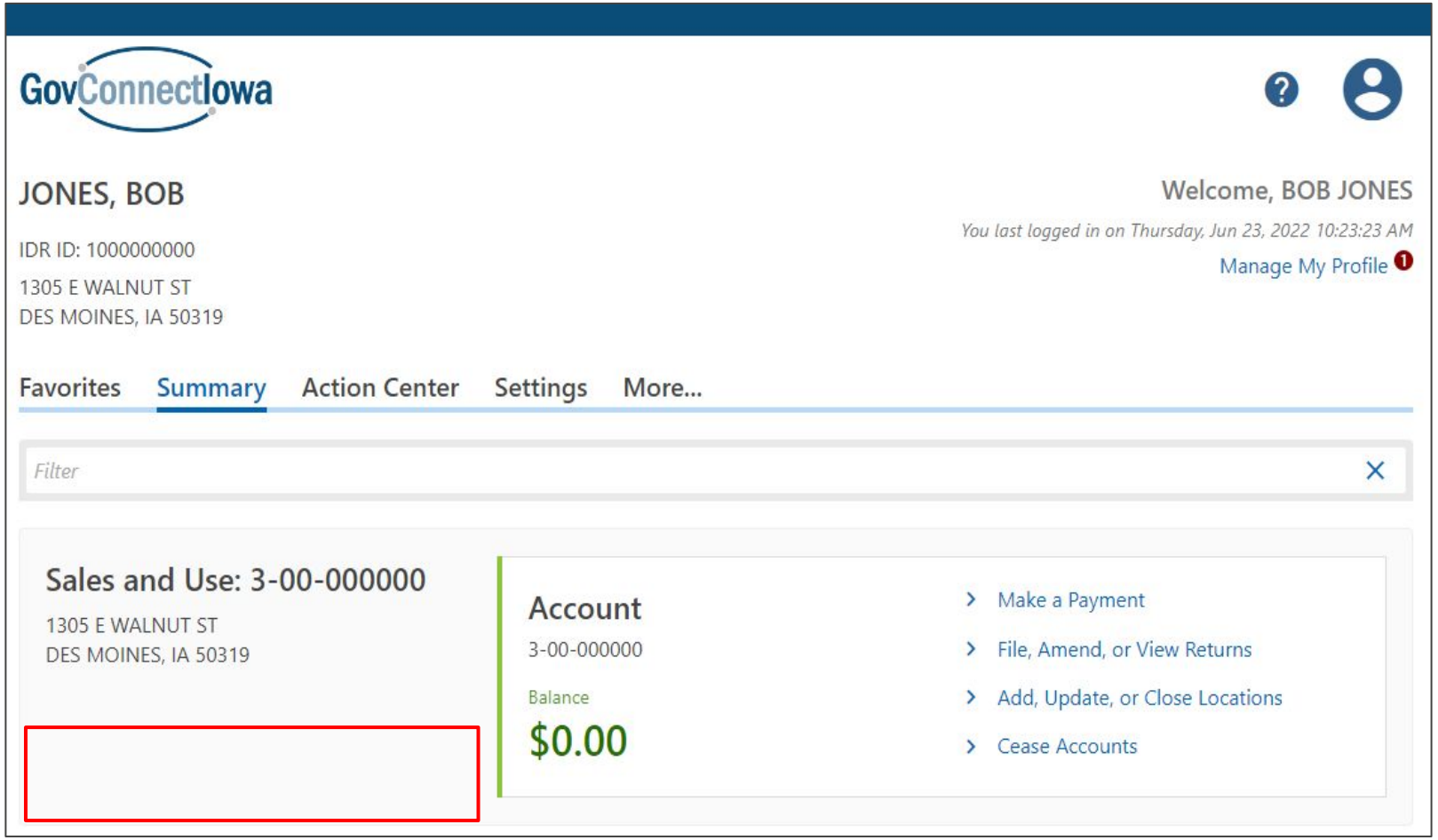
Tax Payment Changes

All sales and use tax due to be paid when a return is due

No more **required** monthly or semimonthly deposits

- Ability to make deposits will continue to exist in GovConnectIowa

GovConnectIowa Changes



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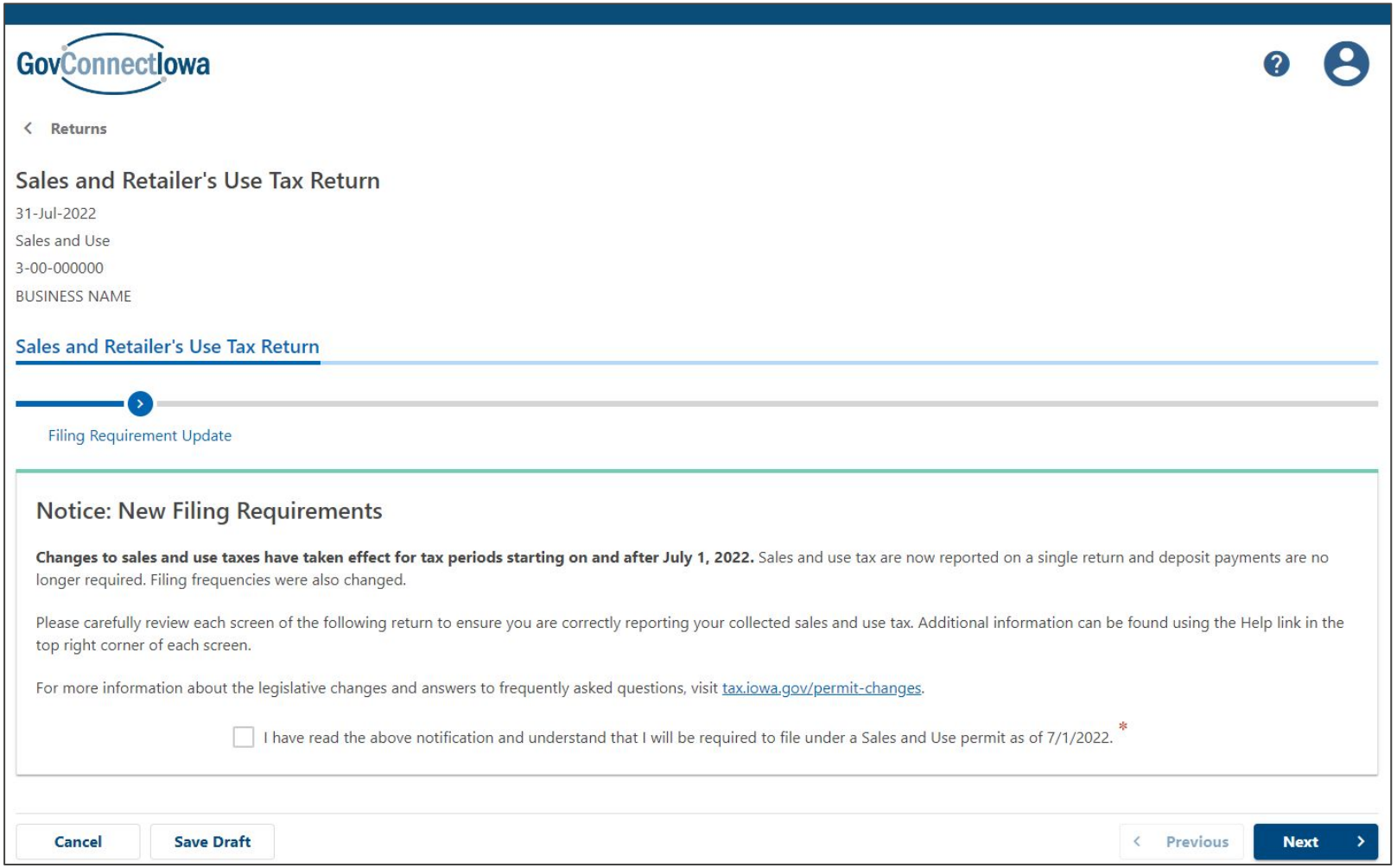
GovConnectIowa Changes



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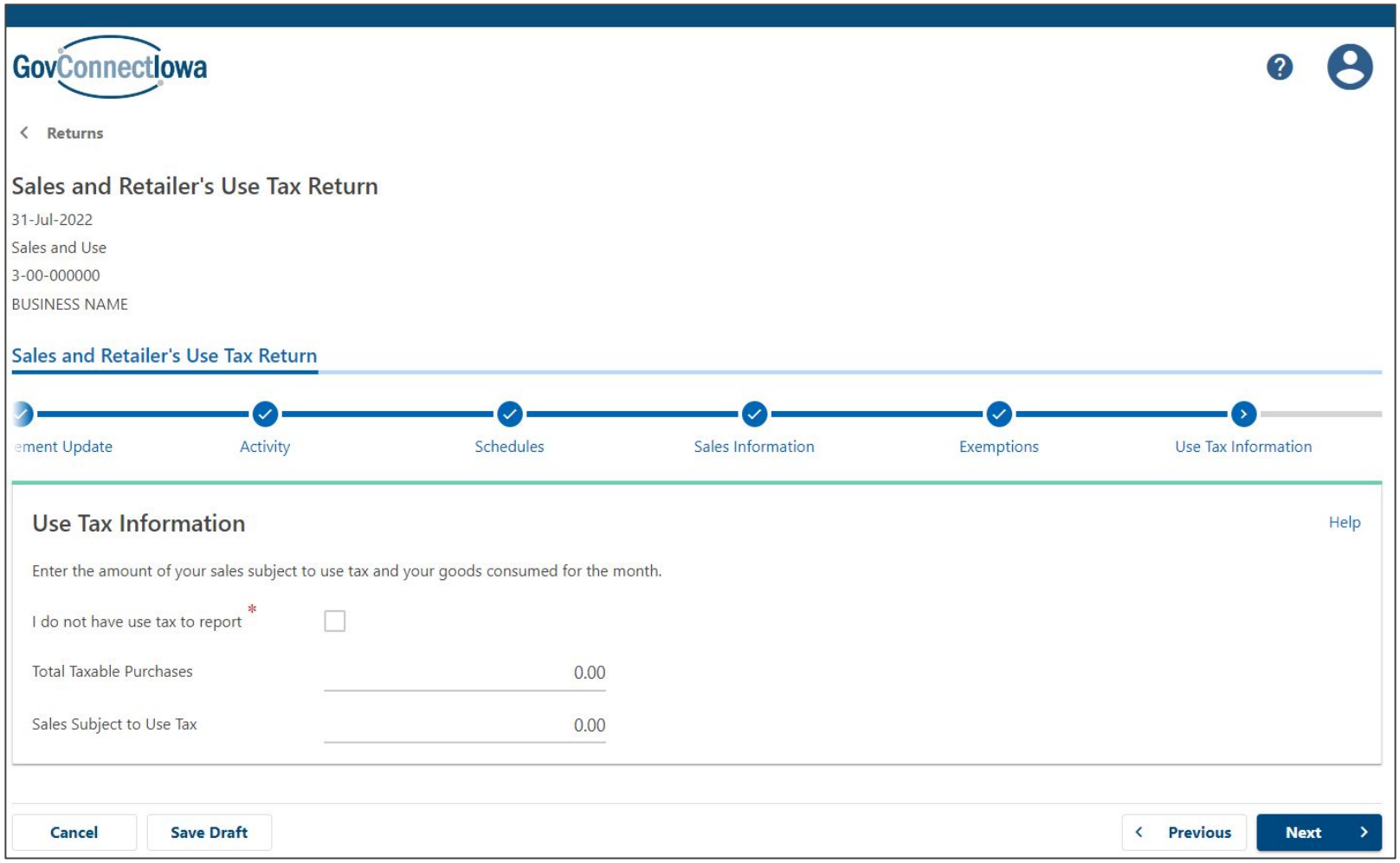
GovConnectIowa Changes



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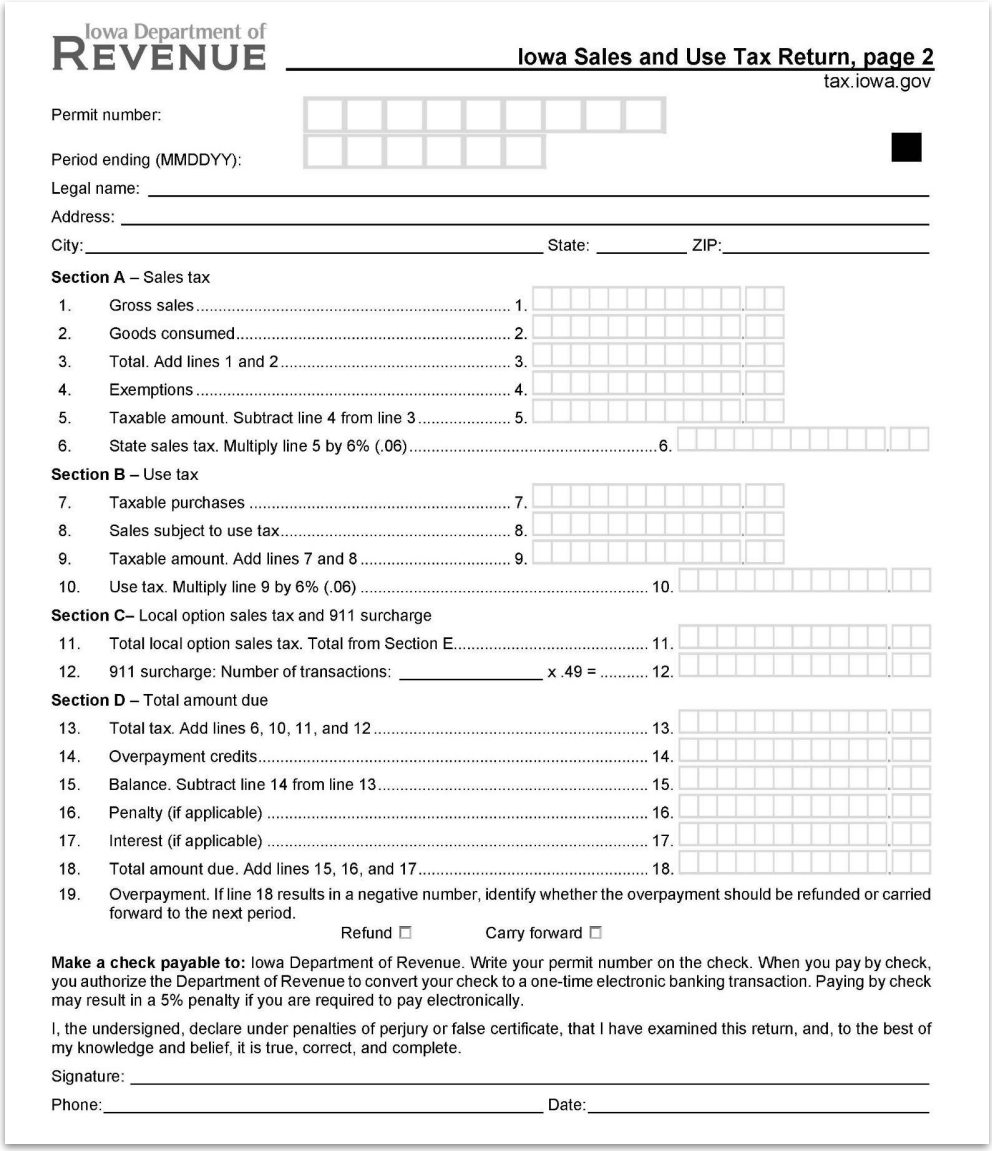
Paper Return Changes



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Iowa Sales and Use Tax Return, page 2

tax.iowa.gov

Permit number:

Period ending (MMDDYY):

Legal name: _____

Address: _____

City: _____ State: _____ ZIP: _____

Section A – Sales tax

1. Gross sales ..... 1.
2. Goods consumed ..... 2.
3. Total. Add lines 1 and 2 ..... 3.
4. Exemptions ..... 4.
5. Taxable amount. Subtract line 4 from line 3 ..... 5.
6. State sales tax. Multiply line 5 by 6% (.06) ..... 6.

Section B – Use tax

7. Taxable purchases ..... 7.
8. Sales subject to use tax ..... 8.
9. Taxable amount. Add lines 7 and 8 ..... 9.
10. Use tax. Multiply line 9 by 6% (.06) ..... 10.

Section C– Local option sales tax and 911 surcharge

11. Total local option sales tax. Total from Section E ..... 11.
12. 911 surcharge: Number of transactions: _____ x .49 = ... 12.

Section D – Total amount due

13. Total tax. Add lines 6, 10, 11, and 12 ..... 13.
14. Overpayment credits ..... 14.
15. Balance. Subtract line 14 from line 13 ..... 15.
16. Penalty (if applicable) ..... 16.
17. Interest (if applicable) ..... 17.
18. Total amount due. Add lines 15, 16, and 17 ..... 18.
19. Overpayment. If line 18 results in a negative number, identify whether the overpayment should be refunded or carried forward to the next period.

Refund ☐ Carry forward ☐

Make a check payable to: Iowa Department of Revenue. Write your permit number on the check. When you pay by check, you authorize the Department of Revenue to convert your check to a one-time electronic banking transaction. Paying by check may result in a 5% penalty if you are required to pay electronically.

I, the undersigned, declare under penalties of perjury or false certificate, that I have examined this return, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature: _____

Phone: _____ Date: _____

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More Information

Published guidance:

- Construction Contractors Guide:
  - tax.iowa.gov/iowa-contractors-guide
- Sales & Use Permit, Return Filing, Payment Changes:
  - tax.iowa.gov/permit-changes

Taxpayer Services:

- Phone: 800-367-3388 or 515-281-3114
- Email: idr@iowa.gov

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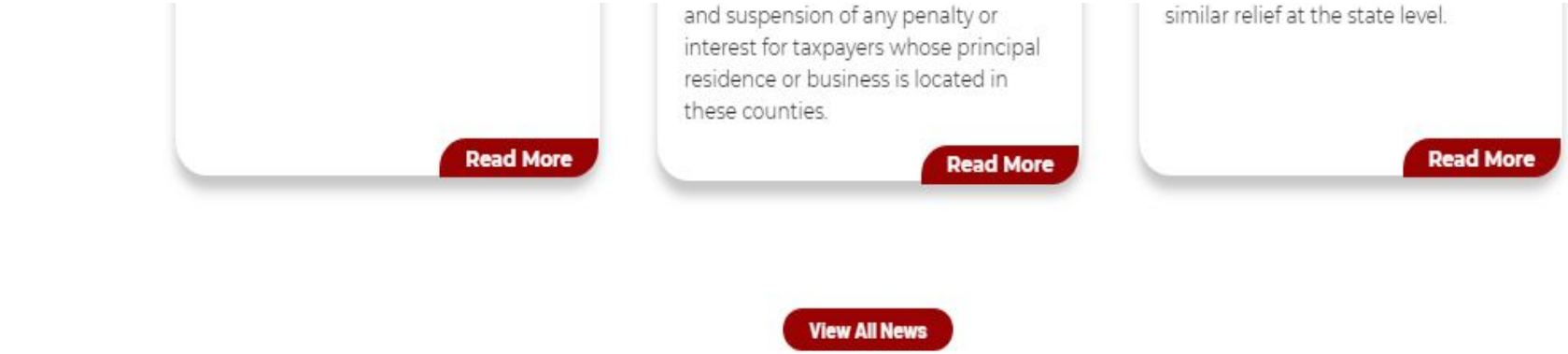
Subscribe to Updates at tax.iowa.gov



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Thank you!