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

IN THE MATTER OF CITY OF AMES 515 CLARK AVE AMES IA 50010-6135 SALES/USE/EXCISE	**DECLARATORY ORDER** DOCKET NO. 1335179

Pursuant to a Petition for Declaratory Order ("Petition") filed with the Iowa Department of Revenue ("Department") by the CITY OF AMES (hereinafter referred to as "the City" or "Petitioner") on May 12, 2026, and in accordance with Iowa Code section 17A.9 (2026) and Iowa Administrative Code rule 701—4.7(17A), "Declaratory order-in general," the Director issues the following order.

I. FACTS

The City of Ames ("Petitioner") is implementing a mandatory recycling program beginning July 1, 2026. This program will apply to all residential properties with less than five units. The City of Ames has contracted with a third party, Aspen Waste, to collect recyclables from the residential properties. Petitioner stated that the City is going to handle all billing related to the program.

II. QUESTION PRESENTED

Is the City of Ames required to collect sales tax for the collection of recyclables?

III. STANDARD OF REVIEW

A. Declaratory Orders under the Iowa Administrative Procedure Act

Iowa's Administrative Procedure Act ("IAPA") was enacted "to provide a minimum procedural code for the operation of all state agencies when they take action affecting the rights and duties of the public." Iowa Code § 17A.1(2). Under the IAPA, "[a]ny person may petition an agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency." *Id.* at § 17A.9(1)(a). The IAPA also describes agency rights and responsibilities with respect to declaratory order proceedings. *Id.* at § 17A.9(8). Pursuant to Iowa Code section 17A.9(2), the Department adopted Iowa Administrative Code rule 701—4.7, which outlines department-specific rules governing declaratory orders.

The purpose of a declaratory order is to provide a "generally available means for persons to obtain reliable information about agency administered law as it applies to their particular circumstances." *Sierra Club Iowa Chapter v. Iowa Dep't of Transp.*, 832 N.W.2d 636, 647 (2013) (citing Arthur Earl Bonfield, Amendments to Iowa Administrative Procedure Act, Report on Selected Provisions to Iowa State Bar Association and Iowa State Government, 1–8 (1998)). Declaratory orders are not contested cases that "entitle[] parties affected by the agency action to an adversarial hearing" in order to "adjudicate disputed facts pertaining to particular individuals in specific circumstances." *Greenwood Manor v. Iowa Dep't of Pub. Health, State Health Facilities Council*, 641 N.W.2d 823, 834 (Iowa 2002); *see also* Iowa Code § 17A.12. Instead, the IAPA "contemplates declaratory rulings by administrative agencies on purely hypothetical sets of facts." *City of Des Moines v. Pub. Emp't Relations Bd.*, 275 N.W.2d 753, 758 (Iowa 1979).

As such, "[t]he procedure established by section 17A.9 allows persons to seek formal opinions on the effect of future transactions and arrange their affairs accordingly." *Bennett v. Iowa Dep't of Nat. Res.*, 573 N.W.2d 25, 26 (Iowa 1997). Declaratory orders issued by an administrative agency do, however, have "the same status and binding effect as any final order issued in a contested case proceeding." Iowa Code § 17A.9(7). The Department's rules governing declaratory orders are consistent with this understanding of the role of declaratory orders in administrative procedure. *See* Iowa Admin. Code r. 701—4.7.

B. Statutory Construction and Interpretation of Tax Statutes

"When engaging in statutory interpretation," the Department "first examine[s] the language of the statute and determine[s] whether it is ambiguous." *Kay-Decker v. Iowa State Bd. of Tax Review*, 857 N.W.2d 216, 223 (Iowa 2014) (citing *Rolfe State Bank v. Gunderson*, 794 N.W.2d 561, 564 (Iowa 2011)). "'Generally, we presume words used in a statute have their ordinary and commonly understood meaning.'" *Id.* (quoting *McGill v. Fish*, 790 N.W.2d 113, 119 (Iowa 2010)). "[L]egislative intent is expressed by what the legislature has said, not what it could or might have said. When a statute's language is clear, we look no further for meaning than its express terms. Intent may be expressed by the omission, as well as the inclusion . . . of statutory terms . . . ." *Hawkeye Land Co. v. Iowa Utils. Bd.*, 847 N.W.2d 199, 210 (Iowa 2014) (quoting *State v. Beach*, 630 N.W.2d 598, 600 (Iowa 2001)).

IV. DISCUSSION

Iowa Code section 423.2(7)(a) imposes a tax of six percent on "the sales price from the sales, furnishing, or service of solid waste collection and disposal service." Additionally, Iowa Administrative Code rule 701—211.29(1) states that "[p]ersons engaged in the business of solid waste collection and disposal are selling a service subject to tax." Solid waste is defined as "garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from nonresidential commercial operations…" Iowa Code § 423.2(7)(a)(1).

Iowa Code section 423.2(7)(b) further states that "the costs of a service or portion of a service to collect and manage recyclable materials separated from solid waste by the waste generator are exempt from the tax imposed by this subsection." Iowa Code § 423.2(7)(b).

Aspen Waste will provide a service to residential properties in Ames to collect and manage recyclables. The individuals who generated the waste will have separated out recyclables from solid waste for Aspen Waste to collect. The facts presented align with the exemption in Iowa Code section 423.2(7)(b). Since Aspen Waste is collecting and managing recyclable materials that the waste generators, i.e., the City's residents, have separated from solid waste, the sales price for the collection of the recyclables is exempt from tax.

ORDER

THEREFORE, based on the facts presented, foregoing reasoning, and applicable provisions of the law, the Director finds that the recycling program described in the Petition is not subject to the sales tax imposed by Iowa Code section 423.2(7) because it involves collecting and managing recyclable materials separated from solid waste by the waste generator.

Issued at Des Moines, Iowa this 8th day of June, 2026.

IOWA DEPARTMENT OF REVENUE

By Mary Mosiman
Mary Mosiman, Director