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

IN THE MATTER OF MIDWEST WELL SERVICES, INC. 1212 STORBECK DR WAUPUN, WI 53963-9697 SALES AND USE	**DECLARATORY ORDER** DOCKET NO. 1356656

Pursuant to a Petition for Declaratory Order ("Petition") filed with the Iowa Department of Revenue ("Department") by MIDWEST WELL SERVICES, INC. (hereinafter referred to as "Midwest Well Services" or "Petitioner") on June 10, 2026, and in accordance with Iowa Code section 17A.9 (2026) and Iowa Administrative Code rule 701—4.7(17A)[1], "Declaratory order-in general," the Director issues the following order.

I. FACTS

According to the Petition, Petitioner is a construction company that provides building and maintenance services on wells. Petitioner has physical locations in both Iowa and Wisconsin. It has a vendor from which it orders materials to be shipped to its Iowa location. At the Iowa location, these materials are stored by Petitioner until they are needed at a particular job site. From that location, Petitioner ships materials needed for individual projects to the job sites where the work is taking place. If the job site in question is in Wisconsin, Petitioner ships the materials to Wisconsin itself to be utilized in its projects.

Petitioner intends to enter into a contract with a Wisconsin municipality to perform work on real property owned by the municipality. Petitioner intends to obtain materials for the

[1] As of July 1, 2026, Iowa Administrative Code rule 701—4.7 on Declaratory Orders is rescinded. 2026 Iowa Acts, Senate File 2463, Section 4, Subsection 4. The Department of Revenue's Administrative Code rules on Declaratory Orders are now found in Iowa Administrative Code chapter 701—2503. As the Petition was filed prior to this date, citations are made to rule 4.7.

performance of this contract in the above-described manner and install them into the real property owned by a Wisconsin municipality pursuant to a contract with the municipality.

II. ISSUES PRESENTED

Petitioner asks whether materials it installs into the real property owned by a Wisconsin municipality would be exempt from Iowa sales tax when sourced to Petitioner's Iowa location. The Petition states that Petitioner believes these materials would be exempt because of a reciprocal exemption in Wisconsin statute. In response to a request for additional information and subsequent email communication, Petitioner stated it would like an analysis of the exemption in Iowa Code section 423.3(80) in addition to a reciprocal exemption offered by Iowa. Therefore, this order will address the following questions:

1. Whether the materials purchased by Petitioner in Iowa and used for the described project in Wisconsin would be exempt from Iowa sales tax under Iowa Code section 423.3(80) and;
2. Whether the same materials would be exempt from Iowa sales tax under Iowa Code section 423.3(36).

III. STANDARD OF REVIEW

Declaratory Orders under the Iowa Administrative Procedure Act

Iowa Code chapter 17A, the Iowa 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.* § 17A.9(1)(a). The IAPA also describes agency rights and responsibilities with respect to declaratory order proceedings. *Id.* § 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.

IV. DISCUSSION

A. Exemption allowed by Iowa Code section 423.3(80)

Iowa Code section 423.3(80)(b) states

> . . . if a contractor, subcontractor, or builder is to use building materials, supplies, and equipment in the performance of a construction contract with a designated exempt entity, the person shall purchase such items of tangible personal property without liability for the tax if such property will be used in the performance of the construction contract…
>
> 1. *An entity must follow the procedure established by Iowa Administrative Code 701—219.22(2) to obtain an exemption certificate in Iowa*.

In order for the Department to determine whether the municipality may qualify for the exemption, the municipality involved in the construction contract would need to register with the Department and demonstrate to the Department that they are a designated exempt entity. If approved, the entity could then obtain an exemption certificate. The entity could then present the certificate to a contractor, subcontractor, or builder. A determination on whether an entity is a designated exempt entity requires the entity to register with the Department and provide all required information.

Iowa Administrative Code section 701—219.22(2) states "[a] designated exempt entity seeking to issue exemption certificates to contractors, subcontractors, builders, or manufacturers performing construction contracts shall register with the department through GovConnectIowa." This rule then lists the information the entity would need to provide the Department in order to determine whether it is a designated exempt entity. The rule provides the proper procedure for entities to obtain exemption certificates from the Department and requires that entities wishing to be designated exempt entities in Iowa follow this procedure in order to receive access to obtain a valid exemption certificate. To obtain the exemption certificate and authorize a contractor to purchase materials exempt from Iowa sales tax under Iowa Code section 423.3(80), the municipality in question would need to follow this procedure, be determined to be eligible and register.

2. A Wisconsin municipality must demonstrate to the Department it qualifies as a designated exempt entity under Iowa Code section 423.4.

To qualify for this exemption, the purchased materials must be for the performance of a construction contract with a designated exempt entity. According to Iowa Code section 423.3(80)(a), a "designated exempt entity" for the purpose of this exemption is an entity designated in section 423.4, subsection 1 or 6, or an entity that is an instrumentality of a county or municipal government created to own property within a chapter 15J reinvestment district.

Petitioner states that the entity at issue is a municipality in Wisconsin. Iowa Code chapter 15J applies only to Iowa entities. Iowa Code section 423.4(6) applies to certain educational institutions and therefore does not seem relevant to a Wisconsin municipality. Thus, an out of state entity must look to Iowa Code section 423.4(1) in order to determine whether materials purchased for a contract with this entity may be exempt from sales tax under this section. Iowa Code sections 423.4(1)(a)(4),(7), and (8) seem to be the categories of designated exempt entities that may be relevant to municipalities. These sections list as designated exempt entities:

> (4) A tax-certifying or tax-levying body or governmental subdivision of the state, including the state board of regents, the department of health and human services, and the state department of transportation.
> . . .
> (7) Any political subdivision of the state.
> (8) 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.
> Iowa Code § 423.4(1)(a)(4), (7)-(8).

"The state" as used in Iowa Code sections 423.4(1)(a)(4) and (7) refers to only Iowa entities. Iowa Code section 423.4(1)(a)(8) may apply differently, because the term "the" is not used before "state." However, the director will not reach a conclusion on the interpretation of sections 423.4(1)(a)(4), (7) or (8) because the municipality in question is not a party to the Petition.

Further, an entity desiring an exemption certificate must obtain an exemption certificate with the Department as outlined in Iowa Administrative Code rule 701—219.22(2). Whether an entity is a designated exempt entity would be determined via the procedure described in the department's rule.

3. To qualify for the exemption, materials must be completely consumed in the performance of a construction contract.

In addition to being a designated exempt entity as described above, materials must be completely consumed in the performance of a construction contract in order to be exempt from Iowa sales tax. Under Iowa Code section 423.3(80), materials purchased are exempt

> …only to the extent the building materials, supplies, equipment, or services are completely consumed in the performance of the construction contract with the designated exempt entity, and only if the property that is the subject of the construction project becomes public property or the property of the designated exempt entity. Iowa Code § 423.3(80)(c)(1).

Here, Petitioner asks about the exemption as it relates to materials installed into "real property in Wisconsin owned by a Wisconsin municipality." Pet. for Dec. Order, No. 1356656 (June 10, 2026) at 1-2 [hereinafter "Petition"]. As discussed above, it is not clear whether the municipality is a designated exempt entity. Absent a change in ownership, the property at issue will become public property or the property of the municipality. If the municipality is a designated exempt entity, it would meet the requirement that the property that is the subject of the construction project becomes public property or the property of the designated exempt entity.

Petitioner indicates that it has not yet performed under the contract at issue, so it is not yet known to what extent the materials purchased in Iowa will be used in the performance of the contract. If the materials qualify for the exemption in Iowa Code section 423.3(80), they would only be exempt to the extent they are consumed in performance of the contract. The Department requested a copy of the contract at issue but did not receive it. It is therefore unclear whether the contract at issue is a construction contract.

B. Exemption allowed by Iowa Code section 423.3(36)

The second exemption raised by Petitioner is the exemption found in Iowa Code section 423.3(36). Petitioner raises the question of whether its materials would be exempt from sales tax in Iowa because Wisconsin provides a similar exemption. In the Petition, Petitioner states its belief that it would be exempt from paying Iowa sales tax on its materials because Wisconsin provides an exemption for "materials installed into a facility owned by a qualified exempt entity." Petition at 2.

Iowa Code section 423.3(36) exempts from sales tax "[t]he sales price from sales of tangible personal property… to another state or political subdivision of another state if the other state provides a similar reciprocal exemption for this state and political subdivision of this state."

Petitioner's client is a Wisconsin Municipality, not Petitioner. Petitioner is the purchaser of the materials in question and is not a state or political subdivision. Because the sale is not being made to an entity described in Iowa Code section 423.3(36), the sales price is not exempt from Iowa sales tax under this section. Because the exemption does not apply to Petitioner, the issue of whether Wisconsin provides a "similar reciprocal exemption" for Iowa will not be analyzed in this declaratory order.

V. CONCLUSION

Petitioner asked whether it can purchase materials in Iowa exempt from sales tax under the exemptions in Iowa Code section 423.3(80) or Iowa Code section 423.3(36). To purchase materials exempt under Iowa Code section 423.3(80), the potential designated exempt entity at issue must be eligible to be a designated exempt entity and register as required under Iowa Administrative Code section 701— 219.22(2). Petitioner does not qualify for the exemption in Iowa Code section 423.3(36) because Petitioner, the purchaser of the materials, is not a state or political subdivision of a state.

ORDER

THEREFORE, based on the facts presented, foregoing reasoning, and applicable provisions of the law, the question presented in Petitioner's Petition for Declaratory Order, Docket No. 1356656 is answered above.

Issued at Des Moines, Iowa this 16th day of October, 2026.

IOWA DEPARTMENT OF REVENUE

By Mary Mosiman
Mary Mosiman, Director