

1 SEC. 4. Section four hundred twenty-two point thirty-five  
 2 (422.35), Code 1962, as amended by section four (4) of chapter two  
 3 hundred fifty-eight (258), Acts of the Sixtieth General Assembly, is  
 4 hereby further amended as follows:

5 1. By inserting after the word "as" in line three (3) the word  
 6 "properly".

7 2. By striking subsections five (5), six (6) and seven (7) and in-  
 8 serting in lieu thereof the following:

9 "5. Add the amount by which the basis of qualified depreciable  
 10 property is required to be increased for depreciation purposes under  
 11 the Internal Revenue Code Amendments Act of 1964 to the extent  
 12 that such amount equals the net amount of the special deduction  
 13 allowed on the basis of the amount by which the depreciable basis of  
 14 such qualified property was required to be reduced for depreciation  
 15 purposes under the Internal Revenue Code Amendments Act of 1962.  
 16 The 'net amount of the special deduction' shall be computed by taking  
 17 the sum of the amounts by which the basis of qualified property was  
 18 required to be decreased for depreciation purposes for the years 1962  
 19 and 1963 and subtracting from it the sum of the amounts by which  
 20 the basis of such property was required to be increased, prior to 1964,  
 21 for depreciation or disposition purposes under the Internal Revenue  
 22 Code Amendments Act of 1962."

1 SEC. 5. This Act being deemed of immediate importance shall be  
 2 in full force and effect from and after its passage and publication in  
 3 the Manly Signal, a newspaper published at Manly, Iowa, and in the  
 4 Lake Mills Graphic, a newspaper published at Lake Mills, Iowa.

Approved February 26, 1965.

I hereby certify that the foregoing Act, House File 198, was published in the Manly Signal, Manly, Iowa, March 11, 1965, and in the Lake Mills Graphic, Lake Mills, Iowa, March 3, 1965.

GARY L. CAMERON, *Secretary of State.*

## CHAPTER 348

### WITHHOLDING STATE INCOME TAX

S. F. 600

AN ACT to amend section four hundred twenty-two point four (422.4), section four hundred twenty-two point seventeen (422.17), section four hundred twenty-two point sixteen (422.16) and section four hundred twenty-two point twenty-four (422.24), Code 1962, to provide for withholding of state income taxes on income earned in Iowa; to provide for payment of estimated income tax by self-employed individuals having self-employment income derived from sources within the state of Iowa.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section four hundred twenty-two point four (422.4),  
 2 Code 1962, is hereby amended by repealing subsection thirteen (13)  
 3 thereof, inserting in lieu thereof the following subsections, and re-  
 4 numbering any succeeding subsection (s) :

5 "13. The term 'withholding agent' means any individual, fiduciary,  
6 estate, trust, corporation, partnership or association in whatever  
7 capacity acting and including all officers and employees of the state  
8 of Iowa, or any municipal corporation of the state of Iowa and of any  
9 school district or school board of the state, or of any political sub-  
10 division of the state of Iowa, or any tax-supported unit of govern-  
11 ment that is obligated to pay or has control of paying or does pay to  
12 any resident or nonresident of the state of Iowa or his agent any  
13 wages that are subject to the Iowa income tax in the hands of such  
14 resident or nonresident, or any of the above designated entities  
15 making payment or having control of making such payment of any  
16 taxable Iowa income to any nonresident."

17 "14. The term 'wages' shall have the same meaning as provided by  
18 the Internal Revenue Code of 1954."

19 "15. The term 'employer' shall mean and include those who have a  
20 right to exercise control as to how, when, and where services are to  
21 be performed."

22 "16. The term 'other person' shall mean that person or entity  
23 properly empowered to act in behalf of an individual payee and shall  
24 include authorized agents of such payees whether they be individuals  
25 or married couples."

1 SEC. 2. Strike all of section four hundred twenty-two point six-  
2 teen (422.16), Code 1962, and substitute in lieu thereof the following:

3 "1. Every withholding agent as defined herein and every employer  
4 as defined herein and further defined in the Internal Revenue Code of  
5 1954, as amended, with respect to income tax collected at source,  
6 making payment of wages as defined herein to either a resident  
7 employee or employees, or a nonresident employee or employees,  
8 working in Iowa, shall deduct and withhold from such wages an  
9 amount which will approximate the employee's annual tax liability  
10 on a calendar year basis, calculated on the basis of tables to be pre-  
11 pared by the state tax commission and schedules or percentage rates,  
12 based on such wages, to be prescribed by the state tax commission.  
13 Every employee or other person shall declare to such employer or  
14 withholding agent the number of his personal exemptions and de-  
15 pendency exemptions or credits to be used in applying such tables  
16 and schedules or percentage rates, provided that no more such per-  
17 sonal or dependency exemptions or credits may be declared by such  
18 employee or other person than the number to which he is entitled.  
19 Such claiming of such exemptions or credits in excess of entitlement  
20 shall constitute a misdemeanor."

21 "2. Every withholding agent required to deduct and withhold tax  
22 under subsections one (1) and twelve (12) of this section shall, for  
23 the quarterly period beginning January 1, 1966, and for each calendar  
24 quarterly period thereafter, on or before the last day of the month  
25 following the close of each calendar quarterly period make a return  
26 on forms prescribed by the state tax commission and pay over to the  
27 state tax commission, in the form of remittances made payable to  
28 'Treasurer, State of Iowa', the tax required to be withheld, or the  
29 tax actually withheld, whichever is greater, under the provisions of  
30 subsections one (1) and twelve (12) hereof; provided, however,  
31 commencing with the period beginning January 1, 1966, every with-

32 holding agent who withholds more than fifty (50) dollars in any one  
33 month commencing with January 1, 1966, shall deposit with the state  
34 tax commission said sum, made out on a deposit form for the month  
35 in such form and manner as may be prescribed by the state tax com-  
36 mission. The said deposit form being due on or before the fifteenth  
37 (15th) day of the month next succeeding the month of withholding,  
38 except that no deposit shall be required for the amount withheld in  
39 the third (3rd) month of the quarter but the total amount of with-  
40 holding for the quarter shall be computed and that amount by which  
41 the aforementioned deposit fails to equal the total quarterly liability  
42 shall be due upon the filing of the quarterly report which shall be due  
43 within the month next succeeding the end of the quarter. If the state  
44 tax commission in any case has reason to believe that the collection  
45 of the tax provided for in subsections one (1) and twelve (12) hereof  
46 is in jeopardy, it may require the employer or withholding agent to  
47 make such return and pay such tax at any time, in accordance with  
48 section four hundred twenty-two point thirty (422.30), Code 1962.  
49 The state tax commission may authorize incorporated banks and trust  
50 companies which are depositories or financial agents of the United  
51 States, or of this state, to receive any tax imposed under this Act, in  
52 such manner, at such times and under such conditions as it may pre-  
53 scribe; and it shall prescribe the manner, times, and conditions under  
54 which the receipt of such tax by such banks and trust companies is  
55 to be treated as payment of such tax to the commission."

56 "3. Every withholding agent employing not more than two persons  
57 who expects to employ either or both of such persons for the full  
58 calendar year may, with respect to such persons, pay with the with-  
59 holding tax return due for the first calendar quarter of the year the  
60 full amount of income taxes required to be withheld from the wages  
61 of such persons for the full calendar year. The amount to be paid shall  
62 be computed as if the employee were employed for the full calendar  
63 year for the same wages and with the same pay periods as prevailed  
64 during the first quarter of the year with respect to such employee. No  
65 such lump sum payment of withheld income tax shall be made without  
66 the written consent of all employees involved. The withholding agent  
67 shall be entitled to recover from the employee any part of such lump  
68 sum payment that represents an advance to the employee. If a with-  
69 holding agent pays a lump sum with the first quarterly return he shall  
70 be excused from filing further quarterly returns for the calendar year  
71 involved unless he hires other or additional employees."

72 "4. Every withholding agent who fails to withhold or pay to the  
73 commission any sums required by this Act to be withheld and paid,  
74 shall be personally, individually, and corporately liable therefor to  
75 the state of Iowa, and any sum or sums withheld in accordance with  
76 the provisions of subsections one (1) and twelve (12) hereof, shall  
77 be deemed to be held in trust for the state of Iowa."

78 "5. In the event a withholding agent fails to withhold and pay over  
79 to the commission any amount required to be withheld under subsec-  
80 tions one (1) and twelve (12) of this section, such amount may be  
81 assessed against such employer or withholding agent in the same  
82 manner as prescribed for the assessment of income tax under the

83 provisions of Divisions II and V, Chapter four hundred twenty-two  
84 (422), Code 1962.”

85 “6. Whenever the state tax commission determines that any em-  
86 ployer or withholding agent has failed to withhold and/or pay over  
87 to the state tax commission sums required to be withheld under sub-  
88 sections one (1) and twelve (12) of this section the unpaid amount  
89 thereof shall be a lien as defined in section four hundred twenty-two  
90 point twenty-six (422.26), Code 1962, shall attach to the property of  
91 said employer or withholding agent as therein provided, and in all  
92 other respects the procedure with respect to such lien shall apply as  
93 set forth in said section four hundred twenty-two point twenty-six  
94 (422.26), Code 1962.”

95 “7. Every withholding agent required to deduct and withhold a tax  
96 under subsections one (1) and twelve (12) of this section shall fur-  
97 nish to such employee, nonresident, or other person in respect of the  
98 remuneration paid by such employer or withholding agent to such  
99 employee, nonresident, or other person during the calendar year, on  
100 or before January 31 of the succeeding year, or, in the case of em-  
101 ployees, if the employee’s employment is terminated before the close  
102 of such calendar year, within thirty (30) days from the day on which  
103 the last payment of wages is made, if requested by such employee,  
104 but not later than January 31 of the following year, a written state-  
105 ment showing the following:

106 ‘a. The name and address of such employer or withholding agent,  
107 and the identification number of such employer or withholding agent.

108 ‘b. The name of the employee, nonresident, or other person and his  
109 federal social security account number, together with the last known  
110 address of such employee, nonresident, or other person to whom  
111 wages have been paid during such period.

112 ‘c. The gross amount of wages, or other taxable income, paid to the  
113 employee, nonresident, or other person.

114 ‘d. The total amount deducted and withheld as tax under the pro-  
115 visions of subsections one (1) and twelve (12) of this section.

116 ‘e. The total amount of federal income tax withheld.

117 “The statements required to be furnished by this subsection in  
118 respect of any wages or other taxable Iowa income shall be in such  
119 form or forms as the state tax commission may, by regulation, pre-  
120 scribe.”

121 “8. An employer or withholding agent shall be liable for the pay-  
122 ment of the tax required to be deducted and withheld or the amount  
123 actually deducted, whichever is greater, under subsections one (1)  
124 and twelve (12) of this section; and any amount deducted and with-  
125 held as tax under subsections one (1) and twelve (12) of this section  
126 during any calendar year upon the wages of any employee, nonresi-  
127 dent, or other person shall be allowed as a credit to the employee,  
128 nonresident, or other person against the tax imposed by section four  
129 hundred twenty-two point five (422.5), Code 1962, irrespective of  
130 whether or not such tax has been, or will be, paid over by the em-  
131 ployer or withholding agent to the state tax commission as provided  
132 by this Act.”

133 “9. The amount of any overpayment of the individual income tax  
134 liability of the employee taxpayer, nonresident, or other person which  
135 may result from the withholding and payment of withheld tax by the

136 employer or withholding agent to the state tax commission under  
137 subsections one (1) and twelve (12) hereof, as compared to the indi-  
138 vidual income tax liability of the employee taxpayer, nonresident, or  
139 other person properly and correctly determined under the provisions  
140 of section four hundred twenty-two point four (422.4), Code 1962,  
141 to and including section four hundred twenty-two point twenty-five  
142 (422.25), Code 1962, may be credited against any income tax or  
143 installment thereof then due the state of Iowa and any balance of  
144 one (1) dollar or more shall be refunded to the employee taxpayer,  
145 nonresident or other person with interest at six (6) percent per  
146 annum, such interest to begin to accrue forty-five (45) days after the  
147 date the return was due to be filed or was filed, whichever is the later  
148 date. Amounts less than one (1) dollar shall be refunded to the  
149 taxpayer, nonresident, or other person only upon written application,  
150 in accordance with section four hundred twenty-two point sixty-seven  
151 (422.67), Code 1962, only if such application is filed within twelve  
152 (12) months after the due date of the return. Refunds in the amount  
153 of one (1) dollar or more provided for by this subsection shall be paid  
154 by the state treasurer by means of warrants drawn by the comp-  
155 troller at the direction of the state tax commission, or an authorized  
156 employee of the state tax commission, and the taxpayer's return of  
157 income shall constitute a claim for refund for this purpose, except in  
158 respect to amounts of less than one (1) dollar. There is hereby  
159 appropriated, out of any funds in the state treasury not otherwise  
160 appropriated, a sum sufficient to carry out the provisions of this sub-  
161 section."

162 "10. 'a. Any employer or withholding agent required under the  
163 provisions of this Act to furnish a statement required by this Act  
164 who willfully furnishes a false or fraudulent statement, or who will-  
165 fully fails to furnish such statement shall, for each such failure, be  
166 subject to a civil penalty of one hundred (100) dollars, such penalty  
167 to be in addition to any criminal penalty otherwise provided by the  
168 Code of 1962.

169 'b. Any employer or withholding agent required under the provi-  
170 sions of this Act to withhold taxes on wages or other taxable Iowa  
171 income subject to this Act who fails to withhold such taxes, or to  
172 make the required returns or who fails to timely remit to the tax  
173 commission the amounts withheld, shall be liable for the amount of  
174 such taxes which should have been withheld and paid, and in addition  
175 shall be subject to a civil penalty, equal to five (5) percent of the  
176 amount which should have been withheld and paid over to the com-  
177 mission, for each month or fraction thereof during which such failure  
178 continues, not to exceed twenty-five (25) percent in the aggregate;  
179 interest at the rate of six (6) percent per annum shall be added to the  
180 tax required to be transmitted beginning with the first day of the  
181 second month following the end of the calendar quarter for which the  
182 tax was not transmitted, and such interest and such penalty shall  
183 become a part of the tax due from the withholding agent.

184 'c. If any withholding agent, being a domestic or foreign corpora-  
185 tion, required under the provisions of this section to withhold on  
186 wages or other taxable Iowa income subject to this Act, fails to with-  
187 hold the amounts required to be withheld, make the required returns  
188 or remit to the state tax commission the amounts withheld, the com-

189 mission may, in its discretion, having exhausted all other means of  
190 enforcement of the provisions of this Act, certify such fact or facts  
191 to the secretary of state, who shall thereupon cancel the articles of  
192 incorporation or certificate of authority (as the case may be) of such  
193 corporation, and the rights of such corporation to carry on business  
194 in the state of Iowa shall thereupon cease. The secretary of state  
195 shall immediately notify by registered mail such domestic or foreign  
196 corporation of the action taken by him. The provisions of subsection  
197 three (3) of section four hundred twenty-two point forty (422.40)  
198 of the Code shall be applicable.

199 'd. The tax commission, shall upon request of any fiduciary furnish  
200 said fiduciary with a certificate of acquittance showing that no li-  
201 ability as a withholding agent exists with respect to the estate or trust  
202 for which said fiduciary acts, provided the tax commission has deter-  
203 mined that there is no such liability.' "

204 "11. 'a. Every person or married couple filing a joint return shall  
205 make a declaration of estimated tax if his or their Iowa income tax  
206 attributable to income other than wages subject to withholding can  
207 reasonably be expected to amount to fifty (50) dollars or more for the  
208 taxable year, except that, in the cases of farmers and fishermen, the  
209 exceptions provided in the Internal Revenue Code of 1954 with re-  
210 spect to such declarations shall apply. The declaration provided for  
211 herein shall be filed on or before the last day of the fourth (4th)  
212 month of the taxpayer's tax year for which such declaration is filed,  
213 in such form as the state tax commission may require by regulations.  
214 The estimated tax shall be paid in quarterly installments. The first  
215 installment shall be paid at the time of filing the declaration. The  
216 other installments shall be paid on or before June 30, September 30,  
217 and January 31. However, at the election of the person or married  
218 couple filing jointly, any installment of the estimated tax may be paid  
219 prior to the date prescribed for its payment. Whenever a person or  
220 married couple filing a joint return have reason to believe that his or  
221 their Iowa income tax may increase or decrease, either for purposes  
222 of meeting the requirement to file a declaration of estimated tax or  
223 for the purpose of increasing or decreasing such declaration, an  
224 amended estimate shall be filed by him or them to reflect such in-  
225 crease or decrease in estimated Iowa income tax.

226 'b. In the case of persons or married couples filing jointly, the total  
227 balance of the tax payable after credits for taxes paid through with-  
228 holding, as provided in subsection one (1) of this section, or through  
229 declaration and payment of estimated tax, or a combination of such  
230 withholding and declaration of estimated tax payments, as provided  
231 herein, shall be due and payable on or before April 30, next following  
232 the close of the calendar year, or if the return should be made on the  
233 basis of a fiscal year, then on or before the last day of the fourth  
234 (4th) month next following the close of such fiscal year.

235 'c. The declaration provided for in this section may be filed or  
236 amended during the taxable year under regulations prescribed by the  
237 state tax commission.

238 'd. If a taxpayer is unable to make his own declaration, the decla-  
239 ration may be made by a duly authorized agent, or by the guardian  
240 or other person charged with the care of the person or property of  
241 such taxpayer.

242 'e. Any amount of tax paid on a declaration of estimated tax shall  
 243 be a credit against the amount of tax found payable on a final, com-  
 244 pleted return, as provided in subsection nine (9) hereof, relating to  
 245 the credit for the tax withheld against the tax found payable on a  
 246 return properly and correctly prepared under the provisions of sec-  
 247 tion four hundred twenty-two point five (422.5), to and including  
 248 section four hundred twenty-two point twenty-five (422.25), Code  
 249 1962; and any overpayment of one (1) dollar or more shall be  
 250 refunded to the taxpayer and such return shall constitute a claim for  
 251 refund for this purpose. Amounts less than one (1) dollar shall be  
 252 refunded to the taxpayer only upon written application in accordance  
 253 with section four hundred twenty-two point sixty-seven (422.67),  
 254 Code 1962, but only if such application is filed within twelve (12)  
 255 months after the due date for the return. The civil penalties provided  
 256 by the Internal Revenue Code of 1954 for failure to file a declaration  
 257 or for underpayment of the tax payable shall apply to persons re-  
 258 quired to file declarations and make payments of estimated tax under  
 259 the provisions of this section. Underpayment of estimated tax shall  
 260 be determined in the same manner as provided under the provisions  
 261 of the Internal Revenue Code of 1954 and the exceptions therein pro-  
 262 vided shall also apply.

263 'f. In lieu of claiming a refund, the taxpayer may elect to have the  
 264 overpayment shown on his final, completed return for the taxable year  
 265 credited to his tax liability for the following taxable year.'"

266 "12. In the case of nonresidents having income subject to taxation  
 267 by Iowa, but not subject to withholding of such tax under subsection  
 268 one (1) hereof, withholding agents shall withhold from such income  
 269 at the same rate as provided in subsection one (1) hereof, and such  
 270 withholding agents and such nonresidents shall be subject to the  
 271 provisions of this section, according to the context, except that such  
 272 withholding agents may be absolved of such requirement to withhold  
 273 taxes from such nonresident's income upon receipt of a certificate  
 274 from the state tax commission issued in accordance with the provi-  
 275 sions of section four hundred twenty-two point seventeen (422.17),  
 276 Code 1962, as hereby amended. In the case of nonresidents having  
 277 income from a trade or business carried on by them in whole or in  
 278 part within the state of Iowa, such nonresident shall be considered  
 279 to be subject to the provisions of subsection twelve (12) hereof unless  
 280 such trade or business is of such nature that the business entity  
 281 itself, as a withholding agent, is required to and does withhold Iowa  
 282 income tax from the distributions made to such nonresident from  
 283 such trade or business."

1 SEC. 3. Section four hundred twenty-two point seventeen  
 2 (422.17), Code 1962, is hereby repealed and the following enacted in  
 3 lieu thereof:

4 "Any nonresident whose Iowa income is not subject to subsection  
 5 one (1) of section two (2) of this Act, in whole or in part, and who  
 6 elects to be governed by subsection twelve (12) of section two of this  
 7 Act to the extent that he makes such declaration and pays the entire  
 8 amount of tax properly estimated thereunder on or before the last  
 9 day of the fourth (4th) month of his tax year, for such year begin-  
 10 ning after December 31, 1965, may for each such year of each such

11 election and such payment, be granted a certificate from the state  
12 tax commission authorizing each withholding agent, the income from  
13 whom the nonresident has included in his declaration of estimate and  
14 to the extent such income is included in such declaration of estimate,  
15 to make payments to such nonresident without withholding such tax  
16 from such payments. Withholding agents, whenever such payments  
17 exceed the amount estimated by such nonresident upon his declara-  
18 tion of estimate, as indicated upon such certificate, shall proceed to  
19 withhold tax in accordance with subsection twelve (12) of section  
20 two (2) of this Act."

1 SEC. 4. Section four hundred twenty-two point twenty-four  
2 (422.24), Code 1962, subsection one (1) is hereby repealed, and the  
3 following inserted in lieu thereof:

4 "For all taxpayers with tax years beginning on or after January 1,  
5 1966, the total tax due shall be paid in full at the time of filing the  
6 return."

1 SEC. 5. The tax commission may, in its discretion, waive or remit  
2 any penalty herein provided for when in its judgment the error, omis-  
3 sion or failure requiring imposition of the penalty is unintentional or  
4 due to inadvertence, mistake, misunderstanding, error, casualty or  
5 misfortune, or when the assessment or imposition of the penalty  
6 would require disproportionate cost or effort.

1 SEC. 6. Section four hundred twenty-two point twenty-four  
2 (422.24), Code 1962, subsection two (2), is amended by striking the  
3 words "one-half of the total tax," from lines three (3) and four (4),  
4 and inserting in lieu thereof the words "the total tax due,". This  
5 section and section four (4) of this Act shall apply only with respect  
6 to tax years beginning on and after January 1, 1966.

1 SEC. 7. If any provisions of this Act or the application of such  
2 provision to any person or circumstance shall be held invalid, the  
3 remainder of this Act or the application of such provision to persons  
4 or circumstances other than those to which it is held invalid shall not  
5 be affected thereby.

1 SEC. 8. Wherever in this Act any section of the Code of Iowa is  
2 referred to as "Code 1962", such reference shall mean and include the  
3 Code 1962 as amended by the Acts of the Sixtieth (60th) General  
4 Assembly, the Acts of the Sixtieth (60th) General Assembly in Ex-  
5 traordinary Session, and the Acts of the Sixty-first (61st) General  
6 Assembly.

1 SEC. 9. The tax commission is hereby authorized and directed to  
2 enter into an agreement with the secretary of the treasury of the  
3 United States with respect to withholding of income tax as provided  
4 by this Act, pursuant to an Act of Congress, 66 Stat. 765, Chap. 940;  
5 Pub. Law 587; 5 USCA, Section 84b, 84c, July 17, 1952, and Execu-  
6 tive Order No. 10407, 17 F. R. 10132, November 7, 1952, Laws 1961,  
7 Page 527, Par. 19.

Approved June 30, 1965.