

7 dealers who have entered into a franchise agreement with their re-
8 spective suppliers.

1 SEC. 16. NEW SECTION. **Hearing.** Upon receiving an application,
2 the commission shall order a hearing. The hearing shall be held
3 within thirty days of receipt of the application and in accordance with
4 the Iowa Administrative Procedure Act. The commission shall notify
5 the franchiser or distributor of the time and place of the hearing. The
6 commission may also give notice of the application to any other party
7 the commission deems an interested person. The notice shall be in
8 the form and substance and given in the manner determined by the
9 commission.

10 Any person who can show an interest in the application may become
11 a party to the hearing, whether or not he receives notice; but a party
12 not receiving notice shall be limited to participation at the hearing
13 on the question of the public interest in the termination or continua-
14 tion of the franchise.

1 SEC. 17. NEW SECTION. **Appeal.** Appeal may be taken from the
2 final order of the commission by either the distributor, franchiser,
3 dealer or any person served with notice pursuant to section four (4) of
4 this Act, to the district court of the county where the distributor or
5 dealer either resides or maintains his principal place of business, with-
6 in thirty days from the time the decision is filed with the commission,
7 by giving at least ten-days' notice to the commission to be served on
8 its chairman or secretary in the same manner as original notices are
9 now served, and by filing with the clerk of court a bond for costs in
10 the sum of not less than five hundred dollars. Appeal shall be taken
11 in accordance with the provisions of the Iowa Administrative Proce-
12 dure Act.

1 SEC. 18. NEW SECTION. **Waiver.** Any provision of a dealer fran-
2 chise or distributor franchise which is an attempted waiver of the
3 benefits of this Act shall be void and unenforceable.

1 SEC. 19. Sections sixteen (16) and seventeen (17) of this Act
2 shall become effective July 1, 1975.

3 Sections four (4), seven (7), eleven (11), twelve (12) and thir-
4 teen (13) of this Act are repealed effective July 1, 1975.

Approved May 29, 1974

CHAPTER 1199

TAX REPORTS PENALTIES

S. F. 1197

AN ACT revising penalties imposed on additional taxes due, failure to file reports, and filing of fraudulent reports under the income, sales and use, chain store, and motor vehicle fuel tax laws.

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

1 SECTION 1. Section three hundred twenty-four point fifteen
2 (324.15), subsection three (3), Code 1973, is amended to read as
3 follows:

4 3. The reports required in this section shall be for information pur-
 5 poses only and the department of revenue may in its discretion waive
 6 the filing of any of these reports not necessary for proper adminis-
 7 tration of this division. The reports required in this section shall be
 8 certified under penalty for false certificate and filed with the depart-
 9 ment of revenue within the time allowed for filing of distributors'
 10 reports of motor fuel received. ~~Any report not filed within the time~~
 11 ~~allowed by the department of revenue will be subject to a penalty of~~
 12 ~~ten dollars.~~

1 SEC. 2. Section three hundred twenty-four point sixty-five
 2 (324.65), Code 1973, is amended to read as follows:

3 **324.65 Penalty for failure to promptly report or pay fuel taxes.** If
 4 a licensee or other person fails to file a required report with the depart-
 5 ment of revenue on or before the time fixed for the filing thereof ~~or~~
 6 ~~if a licensee or other person fails to pay to the department of reve-~~
 7 ~~nuce an amount of fuel taxes when due, a penalty of two percent of the~~
 8 ~~tax unpaid and due to twelve o'clock a.m. of the third day after~~
 9 ~~due date and an additional three percent of the tax unpaid and due~~
 10 ~~from twelve o'clock a.m. of the third day to twelve o'clock a.m. of the~~
 11 ~~tenth day after due date, and an additional five percent of the tax~~
 12 ~~unpaid and due after twelve o'clock a.m. of the tenth day after due date~~
 13 ~~shall be added, the unpaid tax and penalty shall immediately accrue~~
 14 ~~and thereafter shall bear interest at the rate of one-half of one per-~~
 15 ~~cent per month until paid due date, unless it is shown that such failure~~
 16 ~~was due to reasonable cause there shall be added to the amount re-~~
 17 ~~quired to be shown as tax due on the return five percent of the amount~~
 18 ~~of the tax if the failure is for not more than one month, with an~~
 19 ~~additional five percent for each additional month or fraction of a~~
 20 ~~month during which such failure continues, not exceeding twenty-five~~
 21 ~~percent in the aggregate. If a licensee or other person fails to remit~~
 22 ~~the tax due with the filing of the return on or before the due date or~~
 23 ~~fails to pay any amount of the tax required to be shown on the return,~~
 24 ~~there shall be added to the tax a penalty of five percent of the amount~~
 25 ~~of the tax due, unless it is shown that such failure was due to reason-~~
 26 ~~able cause. The taxpayer shall also pay interest on the tax or addi-~~
 27 ~~tional tax at the rate of three-fourths of one percent per month count-~~
 28 ~~ing each fraction of a month as an entire month, computed from the~~
 29 ~~date the return was required to be filed. The department of revenue~~
 30 ~~shall not remit any part of a penalty for delinquent payment where~~
 31 ~~the delinquency results from the fact that a check given in payment~~
 32 ~~is not honored because of insufficient funds in the account upon which~~
 33 ~~the check was drawn. Provided, further, that if it appears as a result~~
 34 ~~of investigation by the department of revenue or from a preponder-~~
 35 ~~ance of the evidence adduced at a hearing before the department of~~
 36 ~~revenue that there has been a deliberate attempt on the part of a~~
 37 ~~licensee or other person to evade payment of fuel taxes there shall be~~
 38 ~~added to the assessment against the offending person and collected a~~
 39 ~~penalty of one hundred percent of the tax, the evasion of which was~~
 40 ~~attempted, and the tax and penalty shall immediately accrue and shall~~
 41 ~~thereafter bear interest at the rate of one-half of one percent per month~~
 42 ~~until paid fifty percent of the tax due. When penalties are applicable~~
 43 ~~for failure to file a return and failure to pay the tax due or required~~
 44 ~~on the return, the penalty provision for failure to file shall be in lieu~~

45 *of the penalty for failure to pay the tax due or required on the return,*
 46 *except in the case of a deliberate attempt on the part of the licensee*
 47 *or other person to evade payment of fuel taxes. Any report required*
 48 *of licensees or persons operating under divisions one (1), two (2) and*
 49 *three (3) of this chapter, upon which no tax may be due, shall be*
 50 *subject to a penalty of ten dollars if such report is not timely filed.*

1 SEC. 3. Section four hundred twenty-two point sixteen (422.16),
 2 subsection ten (10), paragraph b, Code 1973, is amended to read as
 3 follows:

4 b. Any employer or withholding agent required under the provi-
 5 sions of this chapter to withhold taxes on wages or other taxable Iowa
 6 income subject to this chapter who fails to withhold such taxes, or to
 7 make the required returns or who fails to timely remit to the depart-
 8 ment the amounts withheld, shall be liable for the amount of such
 9 taxes which should have been withheld and paid, and in addition shall
 10 be subject to a civil penalty, equal to five percent of the amount which
 11 should have been withheld and paid over to the department, for each
 12 month or fraction thereof during which such failure continues, not to
 13 exceed twenty-five percent in the aggregate; interest at the rate of
 14 six percent per annum; shall be added to the tax required to be trans-
 15 mitted beginning with the first day of the second month following the
 16 end of the calendar quarter for which the tax was not transmitted, and
 17 such interest and such file a return for the withholding of tax with
 18 the department of revenue on or before the due date, unless it is shown
 19 that such failure was due to reasonable cause, shall be subject to a
 20 penalty determined by adding to the amount required to be shown as
 21 tax due on the return five percent of the amount of the tax if the fail-
 22 ure is for not more than one month, with an additional five percent for
 23 each additional month or fraction of a month during which such failure
 24 continues, not exceeding twenty-five percent in the aggregate. If any
 25 person or withholding agent fails to remit the tax due with the filing
 26 of the return on or before the due date, or fails to pay any amount of
 27 any tax required to be shown on the return, there shall be added to the
 28 tax a penalty of five percent on the tax due unless it is shown that such
 29 failure was due to reasonable cause. When penalties are applicable for
 30 failure to file a return and failure to pay the tax due or required on the
 31 return, the penalty provision for failure to file shall be in lieu of the
 32 penalty provision for failure to pay the tax due or required on the
 33 return. The taxpayer shall also pay interest on the tax or additional
 34 tax at the rate of three-fourths of one percent per month counting
 35 each fraction of a month as an entire month, computed from the date
 36 the return was required to be filed. Such penalty and interest shall
 37 become a part of the tax due from the withholding agent.

1 SEC. 4. Section four hundred twenty-two point sixteen (422.16),
 2 Code 1973, is amended by striking subsection thirteen (13).

1 SEC. 5. Section four hundred twenty-two point twenty-four
 2 (422.24), subsection two (2), Code 1973, is amended to read as fol-
 3 lows:

4 2. When, at the request of the taxpayer, the time for filing the
 5 return is extended, interest at the rate of ~~six percent per annum~~
 6 *three-fourths of one percent per month counting each fraction of a*

7 *month as an entire month*, on the total tax due, from the time when
8 the return was ~~originally~~ required to be filed to the time of payment,
9 shall be added and paid.

1 SEC. 6. Section four hundred twenty-two point twenty-five
2 (422.25), subsection two (2), Code 1973, is amended to read as fol-
3 lows:

4 2. In addition to the tax or additional tax as determined by the de-
5 partment under the provisions of subsection 1 of this section, the
6 taxpayer shall pay interest on ~~such~~ *the* tax or additional tax ~~so deter-~~
7 ~~mined~~ *at the rate of six percent per annum three-fourths of one per-*
8 *cent per month counting each fraction of a month as an entire month,*
9 *computed from the date the return was required by law to be filed; and*
10 *computed on a calendar month basis, considering each fraction of a*
11 *month as an entire month.* In case of failure to file a return, ~~or to~~
12 ~~pay~~ *the tax required to be paid with the filing of the return, on the*
13 ~~date prescribed therefor~~ *with the department on or before the due date*
14 *(determined with regard to any extension of time for filing), unless*
15 *it is shown that such failure was due to reasonable cause and not due*
16 *to willful neglect, there shall be added to the amount required to be*
17 *shown as tax on such return five percent of the amount of such tax if*
18 *the failure is for not more than one month, with an additional five*
19 *percent for each additional month or fraction thereof during which*
20 *such failure continues, not exceeding twenty-five percent in the aggre-*
21 *gate. If any person fails to remit the tax due with the filing of the*
22 *return on or before the due date, or fails to pay any amount of any tax*
23 *required to be shown on the return, there shall be added to the tax a*
24 *penalty of five percent of the tax due unless it is shown that such fail-*
25 *ure was due to reasonable cause.* In case of willful failure to file a
26 return with intent to evade tax, ~~or in case of willfully filing a false~~
27 ~~return with intent to evade tax,~~ in lieu of the ~~five percent monthly~~
28 ~~penalty~~ above provided, there shall be added to the amount required
29 to be shown as tax on such return fifty percent of the amount of such
30 tax, ~~and in case of willful filing of a false return with intent to evade~~
31 ~~tax, there shall be added to the amount required to be shown as tax on~~
32 ~~such return fifty percent of the amount of such tax.~~ *When penalties*
33 *are applicable for failure to file a return and failure to pay the tax due*
34 *or required on the return, the penalty provision for failure to file shall*
35 *be in lieu of the penalty provision for failure to pay the tax due or*
36 *required on the return except in the case of willful failure to file a*
37 *return and willfully filing of a false return with intent to evade tax.*

1 SEC. 7. Section four hundred twenty-two point twenty-five
2 (422.25), subsection three (3), Code 1973, is amended to read as fol-
3 lows:

4 3. If the amount of the tax as determined by the department shall
5 be less than the amount theretofore paid, the excess shall be refunded
6 with interest after sixty days from the date of payment at ~~six percent~~
7 ~~per annum~~ *three-fourths of one percent per month counting each*
8 *fraction of a month as an entire month* under the provisions of such
9 regulations as may be prescribed by the director. *If an overpayment*
10 *of tax results from a net operating loss or net capital loss which is*
11 *carried back to a prior year, the overpayment shall be considered as*
12 *having been made at the close of the taxable year in which the net*

13 *operating loss or net capital loss occurred or sixty days from the date*
 14 *of the actual payment of the tax, whichever is later. However, when*
 15 *the net operating loss or net capital loss carry back to a prior year*
 16 *eliminates or reduces an underpayment of tax due for an earlier year,*
 17 *the full amount of the underpayment of tax shall bear interest at the*
 18 *rate of three-fourths of one percent per month counting each fraction*
 19 *of a month as an entire month from the due date of the tax for the*
 20 *earlier year to the last day of the taxable year in which the net operat-*
 21 *ing loss or net capital loss occurred.*

1 SEC. 8. Section four hundred twenty-two point fifty-eight
 2 (422.58), subsection one (1), Code 1973, is amended to read as fol-
 3 lows:

4 1. ~~Any~~ *If any person failing fails to file a permit holders monthly*
 5 *tax deposit, or a return or corrected return or to pay any tax within*
 6 *the time required by this division, shall be subject to an interest pen-*
 7 *alty of five percent of the amount of tax due, plus one-half of one*
 8 *percent of such tax for each month of delay or fraction thereof, ex-*
 9 *cepting the first month after such return was required to be filed or*
 10 *such tax became due, and excepting the period between the completion*
 11 *of an examination of the books and records of a taxpayer and the giv-*
 12 *ing of notice to the taxpayer that a tax or additional tax is due; but*
 13 *the director, if satisfied that the delay was excusable, may remit all*
 14 *or any part of such interest penalty with the department of revenue*
 15 *on or before the due date, unless it is shown that such failure was due*
 16 *to reasonable cause, there shall be added to the amount required to be*
 17 *shown as tax on the return five percent of the amount of the tax if the*
 18 *failure is for not more than one month, with an additional five percent*
 19 *for each additional month or fraction of a month during which such*
 20 *failure continues, not exceeding twenty-five percent in the aggregate.*
 21 *If any person or permit holder fails to remit the tax due with the fil-*
 22 *ing of the return on or before the due date, or fails to pay any amount*
 23 *of any tax required to be shown on the return, excepting the period*
 24 *between the completion of an examination of the books and records of*
 25 *a taxpayer and the giving of notice to the taxpayer that a tax or addi-*
 26 *tional tax is due, there shall be added to the tax a penalty of five per-*
 27 *cent on the tax due, unless it is shown that such failure was due to*
 28 *reasonable cause. When penalties are applicable for failure to file a*
 29 *return and failure to pay the tax due or required on the return, the*
 30 *penalty provision for failure to file shall be in lieu of the penalty pro-*
 31 *vision for failure to pay the tax due or required on the return. The*
 32 *taxpayer shall also pay interest on the tax or additional tax at the rate*
 33 *of three-fourths of one percent per month counting each fraction of a*
 34 *month as an entire month, computed from the date the return was*
 35 *required to be filed. Such interest penalty and interest shall be paid*
 36 *to the department and disposed of in the same manner as other*
 37 *receipts under this division. Unpaid interest penalties and interest*
 38 *may be enforced in the same manner as the tax imposed by this*
 39 *division.*

1 SEC. 9. Section four hundred twenty-three point eighteen (423.18),
 2 Code 1973, is amended to read as follows:

3 423.18 **Failure to pay—penalties.** ~~Any~~ *If any person failing fails*
 4 *to file a return or corrected return or to pay any tax and/or amount*

5 required to be paid by this chapter within the time required by this
6 chapter, shall be subject to an interest penalty of five percent of the
7 amount due, plus one-half of one percent of such amount for each
8 month of delay or fraction thereof, excepting the first month after
9 such return was required to be filed or such tax or amount became due,
10 and excepting the period between the completion of an examination
11 of the books and records of a taxpayer and the giving of notice to the
12 taxpayer that a tax or additional tax is due; but the director, if satis-
13 fied that the delay was excusable, may remit all or any part of such
14 interest penalty with the department of revenue on or before the due
15 date, unless it is shown that such failure was due to reasonable cause,
16 there shall be added to the amount required to be shown as tax on the
17 return five percent of the amount of the tax if the failure is for not
18 more than one month, with an additional five percent for each addi-
19 tional month or fraction of a month during which such failure con-
20 tinues, not exceeding twenty-five percent in the aggregate. If any
21 person fails to remit the tax due with the filing of the return on or
22 before the due date, or fails to pay any amount of any tax required to
23 be shown on the return, excepting the period between the completion
24 of an examination of the books and records of a taxpayer and the giv-
25 ing of notice to the taxpayer that a tax or additional tax is due, there
26 shall be added to the tax a penalty of five percent on such tax due,
27 unless it is shown that such failure was due to reasonable cause. When
28 penalties are applicable for failure to file a return and failure to pay
29 the tax due or required on the return, the penalty provision for failure
30 to file shall be in lieu of the penalty provision for failure to pay the tax
31 due or required on the return. The taxpayer shall also pay interest
32 on the tax or additional tax at the rate of three-fourths of one percent
33 per month counting each fraction of a month as an entire month,
34 computed from the date the return was required to be filed. Such
35 interest penalty and interest shall be paid to the department and dis-
36 posed of in the same manner as other receipts under this chapter.
37 Unpaid interest penalties penalty and interest may be enforced in the
38 same manner as the tax imposed by this chapter. The certificate of
39 the director to the effect that a tax and/or amount required to be paid
40 by this chapter has not been paid, that a return has not been filed, or
41 that information has not been supplied pursuant to the provisions of
42 this chapter, shall be prima-facie evidence thereof.

1 SEC. 10. Section four hundred twenty-four point thirteen (424.13),
2 subsection one (1), Code 1973, is amended to read as follows:

3 1. ~~Any~~ ~~If any~~ person failing fails to file a return or corrected return
4 or to pay any tax within the time required shall be subject to a penalty
5 of five percent of the amount of tax due, plus one percent of such tax
6 for each month of delay or fraction thereof, excepting the first month
7 after such return was required to be filed or such tax became due; but
8 the director, if satisfied that the delay was excusable, may remit all or
9 any part of such penalty with the department of revenue on or before
10 the due time, unless it is shown that such failure was due to reasonable
11 cause, there shall be added to the amount required to be shown as tax
12 on the return five percent of the amount of tax if the failure is for not
13 more than one month, with an additional five percent for each addi-
14 tional month or fraction of a month during which such failure con-
15 tinues, not exceeding twenty-five percent in the aggregate. If any

16 *person fails to remit the tax due with the filing of the return on the due*
 17 *date, or fails to pay any amount in respect of any tax required to be*
 18 *shown on the return, there shall be added to the tax a penalty of five*
 19 *percent on such tax due, unless it is shown that such failure was due to*
 20 *reasonable cause. When penalties are applicable for failure to file a*
 21 *return and failure to pay the tax due or required on the return, the*
 22 *penalty provision for failure to file shall be in lieu of the penalty pro-*
 23 *vision for failure to pay the tax due or required on the return. The*
 24 *taxpayer shall also pay interest on the tax or additional tax at the rate*
 25 *of three-fourths of one percent per month counting each fraction of a*
 26 *month as an entire month, computed from the date the return was*
 27 *required to be filed. Such penalty and interest shall be paid to the*
 28 *department and disposed of in the same manner as other receipts*
 29 *under this chapter. Unpaid penalties and interest may be enforced in*
 30 *the same manner as the tax imposed.*

1 SEC. 11. The provisions of this Act, except section seven (7), shall
 2 be effective for tax periods beginning on or after July 1, 1974. The net
 3 operating loss and net capital loss provisions of section seven (7) shall
 4 be effective for tax loss years or periods beginning on or after Janu-
 5 ary 1, 1974, except that interest on refunds or credits for periods
 6 prior to January 1, 1974, which were created by tax loss years or
 7 periods beginning on or after January 1, 1974, shall be limited to six
 8 percent per annum.

Approved April 25, 1974

CHAPTER 1200

CLAIMS AGAINST COUNTY

S. F. 1227

AN ACT relating to the filing of claims with a county.

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

1 SECTION 1. Section three hundred thirty-one point twenty-one
 2 (331.21), Code 1973, is amended to read as follows:
 3 **331.21 Unliquidated claims.** All unliquidated claims against coun-
 4 ties and all claims for fees or compensation ~~in excess of twenty-five~~
 5 ~~dollars~~, except salaries fixed by statute, shall, before being audited or
 6 paid, be so itemized as to clearly show the basis of any such claim and
 7 whether for property sold or furnished the county, or for services
 8 rendered it, or upon some other account, and shall be ~~duly verified by~~
 9 ~~the affidavit of~~ *signed by* the claimant, filed with the county auditor
 10 for presentation to the board of supervisors; and no action shall be
 11 brought against any county upon any such claim until the same has
 12 been so filed and payment thereof refused or neglected.

Approved April 25, 1974