

- 23 7. On the tenth through the fifteenth thousand dollars of taxable  
 24 income or any part thereof, seven percent.  
 25 8. On the sixteenth through the twentieth thousand dollars of tax-  
 26 able income or any part thereof, eight percent.  
 27 9. On the twenty-first through the twenty-fifth thousand dollars  
 28 of taxable income or any part thereof, nine percent.  
 29 10. On the twenty-sixth through the thirtieth thousand dollars of  
 30 taxable income or any part thereof, ten percent.  
 31 11. On the thirty-first through the fortieth thousand dollars of  
 32 taxable income or any part thereof, eleven percent.  
 33 12. On the forty-first through the seventy-fifth thousand dollars of  
 34 taxable income or any part thereof, twelve percent.  
 35 13. On all taxable income over ~~nine~~ seventy-five thousand dol-  
 36 lars, ~~seven~~ thirteen percent.

1 SEC. 2. Section four hundred twenty-two point nine (422.9), subsec-  
 2 tion one (1), Code 1975, is amended to read as follows:

3 1. An optional standard deduction of ten percent of the net income  
 4 after deduction of federal income tax, not to exceed five hundred dol-  
 5 lars for a married person who files separately, or one thousand dol-  
 6 lars for a single person or a husband and wife who file a joint  
 7 return.

1 SEC. 3. Section four hundred twenty-two point nine (422.9), subsec-  
 2 tion two (2), paragraph b, Code 1975, is amended to read as follows:

3 b. Add the amount of federal income taxes paid or accrued as the  
 4 case may be, during the tax year, adjusted by any federal income tax  
 5 refunds. Provided, however, that where married persons, who have  
 6 filed a joint federal income tax return, file separately, such total shall  
 7 be divided between them according to the portion thereof paid or ac-  
 8 crued, as the case may be, by each; ~~and provided further that where a~~  
 9 ~~taxpayer has used an optional standard deduction on his federal re-~~  
 10 ~~turn, he shall use the optional standard deduction provided for above.~~

1 SEC. 4. The provisions of this Act shall be retroactive to January 1,  
 2 1975, for all taxable years commencing on or after January 1, 1975, and  
 3 to this extent the provisions of this Act are retroactive.

Approved July 16, 1975

This Act was passed by the G.A. prior to July 1, 1975; see §3.7 of the Code

## CHAPTER 208

### PROBATE

S. F. 541

AN ACT relating to the probate code.

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

1 SECTION 1. Section four hundred twenty-two point twenty-seven  
 2 (422.27), subsection one (1), Code 1975, is amended to read as follows:

3 1. No final account of a ~~fiduciary~~ *an executor, administrator, or*  
 4 *trustee* shall be allowed by any court unless such account shows, and  
 5 the judge of said court finds, that all taxes imposed by the provisions

6 of this division upon ~~said fiduciary~~ *the executor, administrator, or*  
 7 *trustee*, which have become payable, have been paid, and that all tax-  
 8 es which may become due are secured by bond, deposit or otherwise.  
 9 The certificate of the director and the receipt for the amount of the tax  
 10 therein certified shall be conclusive as to the payment of the tax to the  
 11 extent of said certificate.

1 SEC. 2. Section six hundred thirty-three point three (633.3), subsec-  
 2 tion eight (8), Code 1975, is amended to read as follows:

3 8. Costs of administration—includes court costs, fiduciary's fees, at-  
 4 torney fees, all appraisers' fees, premiums on corporate surety bonds,  
 5 statutory allowance for support of surviving spouse and children, cost  
 6 of continuation of abstracts of title, recording fees, transfer fees, trans-  
 7 fer taxes, agents' fees allowed by order of court, and all other fees and  
 8 expenses allowed by order of court in connection with the administra-  
 9 tion of the estate. *Court costs shall include expenses of selling prop-*  
 10 *erty.*

1 SEC. 3. Section six hundred thirty-three point twenty-two (633.22),  
 2 Code 1975, is amended by adding the following new subsection:

3 NEW SUBSECTION. 5. The approval, when notice has been waived by  
 4 all persons interested, of petitions and reports, or joint petitions and  
 5 reports, in respect to the sale, mortgage, pledge, lease or exchange of  
 6 property pursuant to sections six hundred thirty-three point three  
 7 hundred eighty-six (633.386) through six hundred thirty-three point  
 8 four hundred (633.400) of the Code.

1 SEC. 4. Section six hundred thirty-three point twenty-three (633.23),  
 2 Code 1975, is amended to read as follows:

3 **633.23 Clerk's actions reviewed.** Any person aggrieved by any  
 4 order made or entered by the clerk under the powers conferred in sec-  
 5 tion 633.22, *subsections one (1) through four (4)*, may have the same  
 6 reviewed in court upon motion filed within six months or before the  
 7 hearing on the final report of the fiduciary, whichever is the earlier,  
 8 and upon such notice as ~~the court may prescribe~~ *provided in section*  
 9 *six hundred thirty-three point forty (633.40) of the Code.*

1 SEC. 5. Section six hundred thirty-three point ninety-five (633.95),  
 2 Code 1975, is amended to read as follows:

3 **633.95 Release of liens and mortgages.** Any fiduciary qualified  
 4 under the laws of this state may, without prior order of court, release,  
 5 ~~assign~~ or discharge, in whole or in part any mortgage, judgment or  
 6 other lien held by the estate.

1 SEC. 6. Section six hundred thirty-three point three hundred four  
 2 (633.304), Code 1975, is amended to read as follows:

3 **633.304 Notice of probate of will with administration.** On ad-  
 4 mission of a will to probate, the executor shall, as soon as letters are is-  
 5 sued, cause to be published once each week for two consecutive weeks  
 6 in a daily or weekly newspaper of general circulation published in the  
 7 county in which the estate is pending, a notice of admission of the will  
 8 to probate and of the appointment of the executor, in which shall be  
 9 included a notice that any action to set aside the probate of said will  
 10 must be brought within ~~one year~~ *six months* from the date of the sec-  
 11 ond publication of said notice or thereafter be forever barred, and  
 12 there shall also be included therein a notice to debtors to make pay-  
 13 ment, and to creditors having claims against said estate to file them  
 14 with the clerk within six months from the second publication of said  
 15 notice, or thereafter be forever barred.

16 Such notice shall be substantially in the following form:  
 17 Notice of Probate of Will, of Appointment of Executor, and Notice  
 18 to Creditors  
 19 In the District Court of Iowa  
 20 in and for ..... County. Probate No.....  
 21 In the Estate of....., Deceased  
 22 To All Persons Interested in the Estate of .....  
 23 ..... , Deceased:

24 You are hereby notified that on the ..... day of  
 25 ..... , 19....., the last will and testament of  
 26 ..... , deceased, bearing date of the..... day  
 27 of....., 19....., was admitted to probate in the above  
 28 named court and that..... was appointed executor  
 29 of said estate. Any action to set aside said will must be brought in the  
 30 district court of said county within ~~one year~~ *six months* from the date  
 31 of the second publication of this notice, or thereafter be forever barred.

32 Notice is further given that all persons indebted to said estate are re-  
 33 quested to make immediate payment to the undersigned, and creditors  
 34 having claims against said estate shall file them with the clerk of the  
 35 above named district court, as provided by law, duly authenticated, for  
 36 allowance; and unless so filed within six months from the second pub-  
 37 lication of this notice (unless otherwise allowed or paid) such claim  
 38 shall thereafter be forever barred.

39 Dated this..... day of....., 19.....

40 .....  
 41 .....  
 42 .....  
 43 .....  
 44 .....  
 45 .....  
 46 .....  
 47 .....  
 48 .....  
 49 .....  
 50 .....  
 51 .....  
 52 .....  
 Address

.....  
 Attorney for said executor  
 .....  
 Address

.....  
 Date of second publication  
 ..... day of....., 19.....  
 (Date to be inserted by publisher)

51 *This section is applicable to wills admitted to probate on or after*  
 52 *July 1, 1975.*

1 SEC. 7. Section six hundred thirty-three point three hundred five  
 2 (633.305), Code 1975, is amended to read as follows:

3 **633.305 Notice where no administration.** On admission of a  
 4 will to probate without administration of the estate, and upon ad-  
 5 vanced payment of the costs thereof by the proponent, the clerk shall  
 6 cause to be published, in the manner prescribed in the preceding sec-  
 7 tion, a notice of the admission of the will to probate in which shall be  
 8 included a notice that any action to set aside said will must be brought  
 9 within ~~one year~~ *six months* from the date of the second publication of  
 10 said notice or thereafter be barred.

11 Such notice shall be substantially in the following form:  
 12 Notice of Proof of Will  
 13 Without Administration  
 14 In the District Court of Iowa  
 15 in and for ..... County. Probate No.....  
 16 In the Estate of....., Deceased  
 17 To All Persons Interested in the Estate of .....  
 18 ..... , Deceased:

19 You are hereby notified that on the ..... day of .....  
 20 ....., 19....., the last will and testament of.....  
 21 ....., deceased, bearing date of the.....  
 22 day of....., 19....., was admitted to probate in the  
 23 above named court and there will be no present administration of the  
 24 estate. Any action to set aside said will must be brought in the district  
 25 court of said county within ~~one year~~ *six months* from the date of the  
 26 second publication of this notice or thereafter be forever barred.

27 Dated this ..... day of ....., 19.....

28 .....  
 29 Clerk of the district court

30 .....  
 31 Attorney for said estate

32 .....  
 33 Address

34 Date of second publication  
 35 ..... day of ....., 19.....

36 (Date to be inserted by publisher)

37 *This section is applicable to wills admitted to probate on or after*  
 38 *July 1, 1975.*

1 SEC. 8. Section six hundred thirty-three point three hundred nine  
 2 (633.309), Code 1975, is amended to read as follows:

3 **633.309 Time within which action must be commenced.** An  
 4 action to contest or set aside the probate of a will must be commenced  
 5 in the court in which the will was admitted to probate within ~~one year~~  
 6 *six months* from the date of second publication of notice of admission  
 7 of such will to probate and not thereafter. *This section is applicable*  
 8 *to wills admitted to probate on or after July 1, 1975.*

1 SEC. 9. Section six hundred thirty-three point three hundred thirty-  
 2 two (633.332), Code 1975, is amended to read as follows:

3 **633.332 Exempt personal property.** When the decedent left a  
 4 surviving spouse, all personal property, which in the hands of the decedent  
 5 as head of a family would be exempt from execution, ~~after being~~  
 6 ~~inventoried and appraised,~~ *shall be which is bequeathed or set aside*  
 7 *to the surviving spouse, and in accordance with the provisions of this*  
 8 *chapter, shall be exempt in the hands of such surviving spouse as in*  
 9 *the hands of the decedent.*

1 SEC. 10. Section six hundred thirty-three point three hundred fifty-  
 2 two (633.352), Code 1975, is amended to read as follows:

3 **633.352 Collection of rents and payment of taxes and charges.**  
 4 Unless otherwise provided by the will, the personal representative shall  
 5 collect the income from the property of which he has possession, pay  
 6 the taxes and fixed charges thereon and apply the balance of such in-  
 7 come to general estate obligations. Unless otherwise provided *by will,*  
 8 any unexpended portion of such income shall become a part of the  
 9 general assets of such estate.

1 SEC. 11. Section six hundred thirty-three point three hundred  
 2 seventy-five (633.375), Code 1975, is amended to read as follows:

3 **633.375 Review of allowance to surviving spouse.** The court  
 4 may, upon the petition of the spouse, or other person interested, and  
 5 after hearing pursuant to notice to all interested parties, review such  
 6 allowance and increase *or decrease* the same.

1 SEC. 12. Section six hundred thirty-three point four hundred thirty-  
 2 seven (633.437), Code 1975, is amended to read as follows:

3     **633.437 Contrary provision as to abatement.** *If, upon applica-*  
 4 *tion to the court by a fiduciary or a distributee, and after notice to*  
 5 *all interested parties, the court finds it clear and convincing that*  
 6 *the provisions of the will, the testamentary plan, or the express or the*  
 7 *implied purpose of the devise would be defeated by the order of abate-*  
 8 *ment stated in section 633.436, the court shall determine the order of*  
 9 *abatement the shares of distributees shall abate in such other manner*  
 10 *as may be found necessary to give effect to the intention of the testa-*  
 11 *tor.*

1     SEC. 13. Section six hundred thirty-three point six hundred four-  
 2 teen (633.614), Code 1975, is amended to read as follows:

3     **633.614 Application of other provisions to veterans' conserva-**  
 4 **torships.** Whenever moneys are paid or are payable pursuant to any  
 5 law of the United States through the veterans administration to a con-  
 6 servator or a guardian, the provisions of sections 633.615 to ~~633.621~~ *six*  
 7 *hundred thirty-three point six hundred twenty-two (633.622) of the*  
 8 *Code shall apply to the administration of said moneys. However, such*  
 9 *provisions shall be construed to be supplementary to the other provi-*  
 10 *sions for conservators, and shall not be exclusive of such provisions.*

1     SEC. 14. Section six hundred thirty-three point six hundred twenty-  
 2 two (633.622), Code 1975, is amended by striking the section and insert-  
 3 ing in lieu thereof the following:

4     **633.622 Bond requirements.** In administering moneys paid by  
 5 the veterans administration the conservator, unless it is a bank or trust  
 6 company qualified to act as a fiduciary in this state, shall execute and  
 7 file with the clerk a bond by a recognized surety company equal to  
 8 such moneys and the annual income therefrom, plus the expected an-  
 9 nual veterans administration benefit payments.

1     SEC. 15. Chapter six hundred thirty-three (633), division sixteen  
 2 (XVI), Code 1975, is amended by adding the following new section:

3     **NEW SECTION. When power of attorney not affected by disabili-**  
 4 **ty.** Whenever a principal designates another his attorney in fact or  
 5 agent by a power of attorney in writing and the writing contains the  
 6 words "This power of attorney shall not be affected by disability of the  
 7 principal", or "This power of attorney shall become effective upon the  
 8 disability of the principal", or similar words showing the intent of the  
 9 principal that the authority conferred shall be exercisable notwith-  
 10 standing his disability, the authority of the attorney in fact or agent is  
 11 exercisable by him as provided in the power on behalf of the principal  
 12 notwithstanding later disability or incapacity of the principal or later  
 13 uncertainty as to whether the principal is dead or alive. All acts done  
 14 by the attorney in fact or agent pursuant to the power during any peri-  
 15 od of disability or incompetence or uncertainty as to whether the prin-  
 16 cipal is dead or alive have the same effect and inure to the benefit of  
 17 and bind the principal and his heirs, devisees and personal representa-  
 18 tives as if the principal were alive, competent and not disabled. If a  
 19 conservator thereafter is appointed for the principal, the attorney in  
 20 fact or agent, during the continuance of the appointment, shall ac-  
 21 count to the conservator rather than the principal, and the conservator  
 22 shall have the power to revoke the power of attorney on behalf of the  
 23 principal.

1     SEC. 16. Chapter six hundred thirty-three (633), division sixteen  
 2 (XVI), Code 1975, is amended by adding the following new section:

3     **NEW SECTION. Other powers of attorney not revoked until notice**  
 4 **of death or disability.**

5 1. The death, disability, or incompetence of any principal who has  
6 executed a power of attorney in writing other than a power as de-  
7 scribed by section fifteen (15) of this Act, does not revoke or terminate  
8 the agency as to the attorney in fact, agent or other person who, with-  
9 out actual knowledge of the death, disability, or incompetence of the  
10 principal, acts in good faith under the power of attorney or agency.  
11 Any action so taken, unless otherwise invalid or unenforceable, binds  
12 the principal and his heirs, devisees, and personal representatives.

13 2. An affidavit, executed by the attorney in fact or agent stating  
14 that he did not have, at the time of doing an act pursuant to the pow-  
15 er of attorney actual knowledge of the revocation or termination of the  
16 power of attorney, by death, disability or incompetence, is, in the ab-  
17 sence of fraud, conclusive proof of the nonrevocation or nontermina-  
18 tion of the power at that time. If the exercise of the power requires  
19 execution and delivery of any instrument which is recordable, the affi-  
20 davit when properly acknowledged is likewise recordable.

21 3. This section shall not be construed to alter or affect any provision  
22 for revocation or termination contained in the power of attorney.

1 SEC. 17. Sections six hundred thirty-three point six hundred sixteen  
2 (633.616), six hundred thirty-three point six hundred seventeen  
3 (633.617), six hundred thirty-three point six hundred eighteen (633.618),  
4 six hundred thirty-three point six hundred nineteen (633.619), six  
5 hundred thirty-three point six hundred twenty (633.620), and six  
6 hundred thirty-three point six hundred twenty-one (633.621), Code  
7 1975, are repealed.

Approved July 14, 1975

This Act was passed by the G.A. prior to July 1, 1975; see §3.7 of the Code

## CHAPTER 209

### CORPORATE INCOME TAX

#### H. F. 844

AN ACT relating to the filing of consolidated returns for corporation income tax purposes and making the act retroactive.

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

1 SECTION 1. Section four hundred twenty-two point thirty-two  
2 (422.32), Code 1975, is amended by adding the following new subsec-  
3 tions:

4 NEW SUBSECTION. The term "affiliated group" means a group of cor-  
5 porations as defined in section one thousand five hundred four (1504)  
6 (a) of the Internal Revenue Code of 1954.

7 NEW SUBSECTION. The term "unitary business" means a business car-  
8 ried on partly within and partly without a state where the portion of  
9 the business carried on within the state depends on or contributes to  
10 the business outside the state.

1 SEC. 2. Section four hundred twenty-two point thirty-seven  
2 (422.37), Code 1975, is amended by striking the section and inserting in  
3 lieu thereof the following: