

CHAPTER 1194

INCOME TAX REFERENCE

H. F. 1320

AN ACT to correct an internal code reference under the individual income tax law.

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

1 SECTION 1. Section four hundred twenty-two point sixteen (422.16), subsection
 2 nine (9), Code 1975, is amended to read as follows:
 3 9. The amount of any overpayment of the individual income tax liability of the
 4 employee taxpayer, nonresident, or other person which may result from the
 5 withholding and payment of withheld tax by the employer or withholding agent
 6 to the department under subsections 1 and 12 hereof, as compared to the
 7 individual income tax liability of the employee taxpayer, nonresident, or other
 8 person properly and correctly determined under the provisions of section 422.4, to
 9 and including section 422.25, may be credited against any income tax or
 10 installment thereof then due the state of Iowa and any balance of one dollar or
 11 more shall be refunded to the employee taxpayer, nonresident or other person
 12 with interest at six percent per annum, such interest to begin to accrue forty-five
 13 days after the date the return was due to be filed or was filed, whichever is the
 14 later date. Amounts less than one dollar shall be refunded to the taxpayer,
 15 nonresident, or other person only upon written application, in accordance with
 16 section ~~422.74~~ *four hundred twenty-two point seventy-three (422.73) of the Code*, only
 17 if such application is filed within twelve months after the due date of the return.
 18 Refunds in the amount of one dollar or more provided for by this subsection shall
 19 be paid by the ~~state~~ *treasurer of state* by means of warrants drawn by the
 20 comptroller at the direction of the director, or an authorized employee of the
 21 department, and the taxpayer's return of income shall constitute a claim for
 22 refund for this purpose, except in respect to amounts of less than one dollar.
 23 There is hereby appropriated, out of any funds in the state treasury not otherwise
 24 appropriated, a sum sufficient to carry out the provisions of this subsection.

Approved May 20, 1976

CHAPTER 1195

INTEREST PAYMENTS AND PENALTIES ON SALES AND INCOME
TAXES

H. F. 749

AN ACT relating to interest payments and interest penalties under the retail sales and income taxes.

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

1 SECTION 1. Section four hundred twenty-two point sixteen (422.16), subsection
 2 nine (9), Code 1975, is amended to read as follows:
 3 9. The amount of any overpayment of the individual income tax liability of the
 4 employee taxpayer, nonresident, or other person which may result from the
 5 withholding and payment of withheld tax by the employer or withholding agent
 6 to the department under subsections 1 and 12 hereof, as compared to the
 7 individual income tax liability of the employee taxpayer, nonresident, or other

8 person properly and correctly determined under the provisions of section 422.4, to
 9 and including section 422.25, may be credited against any income tax or
 10 installment thereof then due the state of Iowa and any balance of one dollar or
 11 more shall be refunded to the employee taxpayer, nonresident or other person
 12 with interest at ~~six percent per annum~~ *the rate of three-fourths of one percent per*
 13 *month or fraction of a month*, such interest to begin to accrue ~~forty-five~~ *thirty* days
 14 after the date the return was due to be filed or was filed, whichever is the later
 15 date. Amounts less than one dollar shall be refunded to the taxpayer, nonresident,
 16 or other person only upon written application, in accordance with section 422.74,
 17 only if such application is filed within twelve months after the due date of the
 18 return. Refunds in the amount of one dollar or more provided for by this
 19 subsection shall be paid by the state treasurer by means of warrants drawn by the
 20 comptroller at the direction of the director, or an authorized employee of the
 21 department, and the taxpayer's return of income shall constitute a claim for
 22 refund for this purpose, except in respect to amounts of less than one dollar.
 23 There is hereby appropriated, out of any funds in the state treasury not otherwise
 24 appropriated, a sum sufficient to carry out the provisions of this subsection.

1 SEC. 2. Section four hundred twenty-two point sixteen (422.16), subsection
 2 eleven (11), paragraph e, Code 1975, is amended to read as follows:

3 e. Any amount of tax paid on a declaration of estimated tax shall be a credit
 4 against the amount of tax found payable on a final, completed return, as provided
 5 in subsection 9 hereof, relating to the credit for the tax withheld against the tax
 6 found payable on a return properly and correctly prepared under the provisions
 7 of section 422.5, to and including section 422.25, and any overpayment of one
 8 dollar or more shall be refunded to the taxpayer and such return shall constitute a
 9 claim for refund for this purpose. Amounts less than one dollar shall be refunded
 10 to the taxpayer only upon written application in accordance with section 422.74,
 11 but only if such application is filed within twelve months after the due date for
 12 the return. The ~~civil penalties method~~ *provided by the Internal Revenue Code of*
 13 *1954 for failure to file a declaration or for determining what shall be applicable to*
 14 *the addition to tax* for underpayment of the tax payable shall apply to persons
 15 required to file declarations and make payments of estimated tax under the
 16 provisions of this section *except the amount to be added to the tax for underpayment*
 17 *of estimated tax shall be an amount determined at the rate of three-fourths of one*
 18 *percent per month. This addition to tax specified for underpayment of the tax payable*
 19 *shall not be subject to waiver provisions relating to reasonable cause.* Underpayment
 20 of estimated tax shall be determined in the same manner as provided under the
 21 provisions of the Internal Revenue Code of 1954 and the exceptions therein
 22 provided shall also apply.

1 SEC. 3. Section four hundred twenty-two point twenty-eight (422.28), Code
 2 1975, is amended to read as follows:

3 **422.28 Revision of tax.** A taxpayer may appeal to the director for revision of
 4 the tax, interest or penalties assessed against him at any time within ninety days
 5 from the date of the notice of the assessment of tax, additional tax, interest or
 6 penalties. The director shall grant a hearing and if, upon the hearing, the director
 7 shall determine that the tax, interest or penalties are excessive or incorrect, the
 8 director shall revise them according to the law and the facts and adjust the
 9 computation of the tax, interest or penalties accordingly. The director shall notify
 10 the taxpayer by registered mail of the result of the hearing and shall refund to the
 11 taxpayer the amount, if any, paid in excess of the tax, interest or penalties found
 12 by the director to be due, with interest after sixty days from the date of payment
 13 by the taxpayer at ~~six percent per annum~~ *the rate of three-fourths of one percent per*
 14 *month or a fraction of a month.* The director may, on his own motion at any time,
 15 abate any portion of tax, interest or penalties which he determines is excessive in
 16 amount, or erroneously or illegally assessed. The director shall prepare quarterly
 17 reports, which shall be included in the annual statistical reports required under

18 section 422.75, summarizing each case in which an abatement of tax, interest or
 19 penalties was made under this section, but the report shall not disclose the
 20 identity of the taxpayer.

1 SEC. 4. Section four hundred twenty-two point fifty-eight (422.58), subsection
 2 one (1), Code 1975, is amended to read as follows:

3 1. If any person fails to file a permit holders monthly tax deposit or a return
 4 with the department of revenue on or before the due date, unless it is shown that
 5 such failure was due to reasonable cause, there shall be added to the amount
 6 required to be shown as tax on the *monthly tax deposit or return* five percent of
 7 the amount of the tax if the failure is for not more than one month, with an
 8 additional five percent for each additional month or fraction of a month during
 9 which such failure continues, not exceeding twenty-five percent in the aggregate.
 10 If any person or permit holder fails to remit the tax due with the filing of the
 11 *monthly tax deposit or return* on or before the due date, or fails to pay any amount
 12 of any tax required to be shown on the return, excepting the period between the
 13 completion of an examination of the books and records of a taxpayer and the
 14 giving of notice to the taxpayer that a tax or additional tax is due, there shall be
 15 added to the tax a penalty of five percent on the tax due, unless it is shown that
 16 such failure was due to reasonable cause. When penalties are applicable for
 17 failure to file a *monthly tax deposit or return* and failure to pay the tax due or
 18 required on the *monthly tax deposit or return*, the penalty provision for failure to
 19 file shall be in lieu of the penalty provision for failure to pay the tax due or
 20 required on the *monthly tax deposit or return*. The taxpayer shall also pay interest
 21 on the tax or additional tax at the rate of three-fourths of one percent per month
 22 counting each fraction of a month as an entire month, computed from the date
 23 the *monthly tax deposit or return* was required to be filed. Such penalty and
 24 interest shall be paid to the department and disposed of in the same manner as
 25 other receipts under this division. Unpaid penalties and interest may be enforced
 26 in the same manner as the tax imposed by this division.

Approved April 7, 1976

CHAPTER 1196

FUEL TAX AND INCOME TAX CREDIT

H. F. 1401

AN ACT to authorize the claim for a fuel tax credit claimed on certain state income tax returns filed when the claimant has failed to cancel the refund permit and making the Act retroactive.

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

1 SECTION 1. If in verifying the validity of a claim for a refund of fuel taxes
 2 through an income tax credit under section four hundred twenty-two point
 3 eighty-seven (422.87) of the Code for tax years beginning on or after
 4 January 1, 1975 and ending on or before December 31, 1976, the department
 5 discovers that all requirements of the law with respect to a refund of fuel taxes
 6 through an income tax credit have been complied with except for the provision of
 7 section four hundred twenty-two point eighty-six (422.86) of the Code requiring
 8 cancellation of the refund permit, the department may allow the income tax
 9 credit.