

a. The Iowa net operating loss shall be carried back three taxable years or to the taxable year in which the corporation first commenced doing business in this state, whichever is later.

b. The Iowa net operating loss remaining after being carried back as required in paragraph a of this subsection or if not required to be carried back shall be carried forward seven taxable years.

c. If the election under section one hundred seventy-two b three E (172 (b) (3) (E)) of the Internal Revenue Code of 1954 is made, the Iowa net operating loss shall be carried forward seven taxable years.

d. No portion of a net operating loss which was sustained from that portion of the trade or business carried on outside the state of Iowa shall be deducted.

Sec. 6. The provisions of this Act are retroactive to January 1, 1978 for Iowa net operating losses sustained in tax years beginning on or after January 1, 1978 and to this extent the provisions of this Act are retroactive.

Sec. 7. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Waterloo Courier, a newspaper published in Waterloo, Iowa, and in the Fayette County Union, a newspaper published in West Union, Iowa.

Approved May 9, 1978

I hereby certify that the foregoing Act, Senate File 2210, was published in The Waterloo Courier, Waterloo, Iowa on May 19, 1978, and in the Fayette County Union, West Union, Iowa on May 18, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1140

INCOME TAX LIMITATIONS

H. F. 2132

AN ACT relating to the period of limitations during which determination of income tax due can be made and refunds can be claimed.

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

Section 1. Section four hundred twenty-two point twenty-five (422.25), subsection one (1), Code 1977, is amended to read as follows:

1. ~~As-seen-as-practicable-and-in-any-event-within~~ Within three years after the return is filed or within three years

after the return became due, including any extensions of time for filing, whichever time is the later, the department shall examine it and determine the correct amount of tax, and the amount so determined by the department shall be the tax; provided that if the taxpayer omits from income such an amount as will, under the Internal Revenue Code of 1954, extend the statute of limitations for assessment of federal tax to six years under said Code, the period for examination and determination shall be six years, and provided further that the period for examination and determination shall be unlimited in the case of a false or fraudulent return with intent to evade tax or in the case of failure to file a return.

Notwithstanding the periods of limitation for examination and determination heretofore specified, the department shall have six months to make an examination and determination from the date of receipt by the department of written notice from the taxpayer of the final disposition of any matter which occurred after the expiration of the applicable period of limitation specified in this section between the taxpayer and the internal revenue service with respect to the particular tax year. In order to begin the running of the six-months' period, the notice shall be in writing in any form sufficient to inform the department of such final disposition with respect to such year, and a copy of the federal document showing the final disposition or final federal adjustments shall be attached to the notice. The period for examination and determination of correct amount of tax shall be unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return. In lieu of the period of limitation for any prior year for which an overpayment of tax or an elimination or reduction of an underpayment of tax due for that prior year results from the carryback to such prior year of a net operating loss or net capital loss, the period shall be the period of limitation for the taxable year of the net operating loss or net capital loss which results in such carryback.

The burden of proof of additional tax owing under the six-year period, or unlimited period, shall be on the department. If the tax found due is greater than the amount paid, the department shall compute the amount due, together with interest and penalties as provided in subsection 2, and shall notify the taxpayer by certified mail of the total, which shall be a sum certain if paid on or before the last day of the month in which the notice is postmarked, or on or before the last

day of the following month if the notice is postmarked after the twentieth day of any month. The notice shall also inform the taxpayer of the additional interest and penalty which will be added to the total due if not paid on or before the last day of the applicable month.

Sec. 2. Section four hundred twenty-two point seventy-three (422.73), Code 1977, is amended to read as follows:

422.73 CORRECTION OF ERRORS.

1. If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of division four (IV) of this chapter or chapter four hundred twenty-three (423) of the Code, then such amount shall be credited against any tax due, or to become due, under this chapter from the person who made the erroneous payment, or such amount shall be refunded to such person by the department. ~~No~~ A claim for refund or credit that has not been filed with the department within five years after the tax payment upon which a refund or credit is claimed became due, or one year after such tax payment was made, whichever time is the later, shall not be allowed by the director. ~~Notwithstanding the period of limitation specified, the taxpayer shall have six months from the day of final disposition of any income tax controversy between the taxpayer and the internal revenue service with respect to the particular tax year or years to claim an income tax refund or credit, provided the taxpayer has notified the department of revenue of the existence of said income tax controversy within the five-year limitation period.~~

2. If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of divisions two (II), three (III) or five (V) of this chapter, then such amount shall be credited against any tax due, or to become due, under this chapter from the person who made the erroneous payment, or such amount shall be refunded to such person by the department. A claim for refund or credit that has not been filed with the department within three years after the return upon which a refund or credit claimed became due, or within one year after the payment of the tax upon which a refund or credit is claimed was made, whichever time is the later, shall not be allowed by the director; if, as a result of a carryback of a net operating loss or a net capital loss, the amount of tax in a prior period is reduced and an overpayment results,

the claim for refund or credit of the overpayment shall be filed with the department within the three years after the return for the taxable year of the net operating loss or net capital loss became due. Notwithstanding the period of limitation specified, the taxpayer shall have six months from the day of final disposition of any income tax matter between the taxpayer and the internal revenue service with respect to the particular tax year or years to claim an income tax refund or credit, provided the taxpayer has notified the department of revenue in writing no later than six months after the expiration of the three-year limitations period of the existence of such income tax matter.

Sec. 3. This Act is effective January 1, 1979 for tax years ending on or after January 1, 1979.

Approved March 17, 1978

CHAPTER 1141

CORPORATE NET INCOME TAX

S. F. 2056

AN ACT providing for the business and nonbusiness distinction in allocating and apportioning corporate net income for tax purposes and making the Act retroactive.

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

Section 1. Section four hundred twenty-two point thirty-two (422.32), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred nineteen (119), section nine (9), is amended by adding the following new subsections:

NEW SUBSECTION. "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

NEW SUBSECTION. "Nonbusiness income" means all income other than business income.

NEW SUBSECTION. "Commercial domicile" means the principal place from which the trade of business of the taxpayer is directed or managed.

NEW SUBSECTION. "Taxable in another state". For purposes