

in Adel, Iowa, and in the Cherokee Daily Times, a newspaper published in Cherokee, Iowa.

Approved April 27, 1978

I hereby certify that the foregoing Act, Senate File 2056, was published in the Dallas County News, Adel, Iowa on May 3, 1978, and in the Cherokee Daily Times, Cherokee, Iowa on May 3, 1978.

MELVIN D. SYNHORST, *Secretary of State*

## CHAPTER 1142

### SALES TAX EXEMPTIONS

S. F. 2173

AN ACT providing for exemption certificates for exempt purchases under the sales tax law, relating to casual sales and assigning responsibility for the tax on nonexempt purchases subject to penalties provided by law.

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

Section 1. Section four hundred twenty-two point forty-two (422.42), Code 1977, is amended by striking subsection twelve (12) and inserting in lieu thereof the following:

12. "Casual sales" means:

a. Sales of a nonrecurring nature of tangible personal property by the owner, if the seller, at the time of the sale, is not engaged for profit in the business of selling tangible personal property or services taxed under section four hundred twenty-two point forty-three (422.43) of the Code.

b. The sale of all or substantially all of the tangible personal property held or used by a retailer in the course of the retailer's trade or business for which the retailer is required to hold a sales tax permit when the retailer sells or otherwise transfers the trade or business to another person who shall engage in a similar trade or business.

Sec. 2. Section four hundred twenty-two point forty-seven (422.47), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The department shall issue exemption certificates in such form as the director may require to assist retailers in properly accounting for non-taxable sales of tangible personal property or services to buyers for purposes of resale or for processing.

The sales tax liability for all sales of tangible personal property and all sales of services shall be upon the seller

unless the seller takes in good faith from the purchaser a valid exemption certificate stating under penalties for perjury that the purchase is for resale or for processing and is not a retail sale as defined in section four hundred twenty-two point forty-two (422.42), subsection three (3), of the Code. Where the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser shall be solely liable for the taxes and shall remit said taxes directly to the department and sections four hundred twenty-two point fifty (422.50), four hundred twenty-two point fifty-one (422.51), four hundred twenty-two point fifty-two (422.52), four hundred twenty-two point fifty-four (422.54), four hundred twenty-two point fifty-five (422.55), four hundred twenty-two point fifty-six (422.56), four hundred twenty-two point fifty-seven (422.57), four hundred twenty-two point fifty-eight (422.58), and four hundred twenty-two point fifty-nine (422.59) of the Code shall apply to such purchaser.

a. A valid exemption certificate is an exemption certificate as required and supplied by the department, which is complete and correct according to the requirements of the director.

b. A valid exemption certificate is taken in good faith by the seller when the seller has exercised that caution and diligence which honest persons of ordinary prudence would exercise in handling their own business affairs, and includes an honesty of intention and freedom from knowledge of circumstances which ought to put one upon inquiry as to the facts. In order for a seller to take a valid exemption certificate in good faith, he or she must exercise reasonable prudence to determine the facts supporting the valid exemption certificate, and if any facts upon such certificate would lead a reasonable person to further inquiry, then such inquiry must be made with an honest intent to discover the facts.

c. The certificate shall state that there is no penalty for perjury if the purchaser has completed the certificate in good faith based upon the facts known at the time of its completion. If the circumstances should change and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser shall

be liable solely for the taxes and shall remit said taxes directly to the department in accordance with this subsection.

Sec. 3. This Act is effective January 1, 1979.

Approved May 10, 1978

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CHAPTER 1143  
SALES AND USE TAXES

S. F. 2066

AN ACT to exempt from the sales and use tax admission fees to amusements, fairs, and athletic events of elementary and secondary schools, the storage of goods except raw agricultural products, the rental of prosthetic, orthotic, and orthopedic devices, the sale of draft horses to be used as draft horses, certain vehicles which are purchased for lease outside the state, and tangible personal property which becomes an integral part of certain vehicles manufactured for lease outside the state, and to provide for the refund of sales and use taxes paid on purchases by municipally owned solid waste facilities and other public agencies.

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

Section 1. Section four hundred twenty-two point forty-three (422.43), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

There is hereby imposed a tax of three percent upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this division, sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of gas, electricity, water, heat, and communication service, including the gross receipts from such sales by any municipal corporation furnishing gas, electricity, water, heat, and communication service to the public in its proprietary capacity, except as otherwise provided in this division, when sold at retail in the state to consumers or users; and a like rate of tax