

CHAPTER 97  
SALES AND USE TAX

S. F. 488

AN ACT relating to the state sales and use tax by providing penalties for violations, allowing annual filing and establishing a waiting period before a revoked permit may be restored.

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

Section 1. Section four hundred twenty-two point fifty-one (422.51), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. If it is reasonably expected, as determined by rules prescribed by the director, that a retailer's annual tax liability will not exceed one hundred twenty dollars for a calendar year, the retailer may request and the director may grant permission, in lieu of the quarterly filing requirement of subsection one (1) of this section and the remitting requirements of section four hundred twenty-two point fifty-two (422.52) of the Code, to file the return required under this section and remit the sales tax due on a calendar year basis. The return and tax are due and payable no later than January thirty-first following each calendar year in which the retailer carried on business.

Sec. 2. Section four hundred twenty-two point fifty-three (422.53), subsection five (5), Code 1979, is amended to read as follows:

5. Whenever the holder of a permit fails to comply with any of the provisions of this division or any orders or rules of the department prescribed and adopted under this division, the director upon hearing after giving ten days' notice of the time and place of the hearing to show cause why ~~his~~ the permit should not be revoked, may revoke the permit. The director shall also have the power to restore ~~licenses~~ permits after such revocation. The director shall promulgate rules setting forth the period of time a retailer must wait before a permit may be restored or a new permit may be issued. The waiting period shall not exceed ninety days from the date of the revocation of the permit.

Sec. 3. Section four hundred twenty-two point fifty-eight (422.58), subsections one (1), two (2), and three (3), Code 1979, are amended to read as follows:

1. If any person fails to file a permit holders monthly tax deposit or a return with the department of revenue on or before the due date, unless it is shown that such failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the monthly tax deposit or return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which such failure continues, not exceeding twenty-five percent in the aggregate. If any person or permit holder fails to remit at

least ninety percent of the tax due with the filing of the monthly tax deposit or return on or before the due date, or ~~fails-to-pay-any-amount~~ pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent on the tax due, unless it is shown that such failure was due to reasonable cause. In case of willful failure to file a return, willful filing of a false return or willful filing of a false or fraudulent return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a monthly tax deposit or return and failure to pay at least ninety percent of the tax due or required on the monthly tax deposit or return, the penalty provision for failure to file shall be in lieu of the penalty provision for failure to pay at least ninety percent of the tax due or required on the monthly tax deposit or return. The taxpayer shall also pay interest on the tax or additional tax at the rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the monthly tax deposit or return was required to be filed. Such penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this division. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this division.

2. Any person who shall knowingly sell tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, and communication service at retail, or engage in the rendering, furnishing, or performing services enumerated in section 422.43, in this state ~~after the person's license shall have been revoked, or~~ without procuring a ~~license within sixty days after the effective date of this division~~ permit, as provided in section 422.53, or who shall violate the provisions of section 422.49, and the officers of any corporation who shall so act, shall be guilty of a simple misdemeanor.

Any person who shall knowingly sell tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, and communication service at retail, or engage in the rendering, furnishing, or performing services enumerated in section four hundred twenty-two point forty-three (422.43), of the Code, in this state after the person's license shall have been revoked and before it has been restored as provided in section two (2) of this Act and the officers of any corporation who shall so act shall be guilty of a serious misdemeanor.

3. Any person ~~required to make, render, sign, or certify any return or supplementary return, who makes~~ who willfully attempts to evade a tax imposed by this division or the payment thereof or any person who makes or causes to be made any false or fraudulent return with intent to defeat or evade the assessment required by law to be made, tax imposed by this division or the payment thereof shall be guilty of a ~~class-B felony~~ felony fraudulent practice.

Sec. 4. Section four hundred twenty-two point fifty-eight (422.58), Code 1979, is amended by adding the following new subsections:

NEW SUBSECTION. A person required to pay a tax, or to make, sign, or file a return or supplemental return, who willfully makes a false or fraudulent return, or willfully fails to pay at least ninety percent of the tax or make, sign, or file the return, at the time required by law, is guilty of a fraudulent practice.

NEW SUBSECTION. For purposes of determining the place of trial, the situs of an offense specified in this section is in the county of the residence of the person charged with the offense, unless the person is a nonresident of this state or the residence of the person cannot be established, in which event the situs of the offense is in Polk county.

NEW SUBSECTION. A prosecution for an offense specified in this section shall be commenced within six years after its commission.

Sec. 5. Section four hundred twenty-three point eighteen (423.18), Code 1979, is amended by striking the section and inserting in lieu thereof the following:

423.18 OFFENSES--PENALTIES--LIMITATIONS.

1. If a person fails to file a return with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the monthly tax deposit or return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the monthly tax deposit or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the tax due, unless it is shown that the failure was due to reasonable cause. In case of willful failure to file a return, willfully filing a false return, or willfully filing a false or fraudulent return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a monthly tax deposit or return and failure to pay at least ninety percent of the tax due or required on the monthly tax deposit or return, the penalty provision for failure to file is in lieu of the penalty provision for failure to pay at least ninety percent of the tax due or required on the monthly tax deposit or return. The taxpayer shall also pay interest on the tax or additional tax at the rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the monthly tax deposit or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this chapter.

2. A person who willfully attempts in any manner to evade a tax imposed by this chapter or the payment of ninety percent thereof, or a person who makes or causes to be made any false or fraudulent return with intent to evade the tax imposed by this chapter or the payment of ninety percent thereof is guilty of a fraudulent practice.

3. A person required to pay tax, or to make, sign or file a return, or supplemental return, who willfully makes a false or fraudulent return, or make, sign or file the return, at the time required by law, is guilty of a fraudulent practice.

4. For purposes of determining the place of trial, the situs of an offense specified in this section is in the county of the residence of the person charged with the offense, unless that person is a nonresident of this state or the residence of that person can\*not be established, in which event the situs of the offense is in Polk county.

5. A prosecution for an offense specified in this section shall be commenced within six years after its commission.

Sec. 6. Sections four hundred twenty-three point nineteen (423.19) and four hundred twenty-three point twenty (423.20), Code 1979, are repealed.

Sec. 7. This Act is effective January first following its enactment.

Approved June 1, 1979

\*According to enrolled Act

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## CHAPTER 98 MOTOR FUEL TAX CREDITS

S. F. 9

AN ACT relating to motor fuel tax credits.

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

Section 1. Section four hundred twenty-two point one hundred ten (422.110), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

In lieu of the fuel tax refund provided in sections 324.17 to 324.19, each person or corporation subject to taxation under divisions II or III of this chapter, except those persons or corporations licensed under sections 324.4 or 324.36, may elect to receive an income tax credit for tax years beginning on or after January 1, 1975. The person or corporation which elects to receive an income tax credit shall cancel its refund permit obtained under section 324.18 within thirty days after the first day of its tax year. For the purposes of this section the term "person" includes a person claiming a tax credit based upon the person's pro rata share of the earnings from a partnership or corporation which corporation or partnership as a business entity is not subject to a tax under divisions two (II) or three (III) of this chapter as a partnership or corporation. When the election to receive