

CHAPTER 195**LOCAL OPTION SALES AND SERVICES TAX***H.F. 676*

AN ACT relating to the imposition and repeal of a local option sales and services tax and providing effective dates.

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

Section 1. In any county that is required to impose a local option sales and services tax on July 1, 1987, the board of supervisors shall not impose the local option sales and services tax, notwithstanding any contrary provision of chapter 422B, in an incorporated city area in which the tax is to be imposed upon receipt of a motion adopted by the governing body of that incorporated city area requesting the tax not be imposed. The board of supervisors shall not impose the local option sales and services tax if the motion was received prior to July 1, 1987.

Sec. 2. Section 1 of this Act is repealed July 1, 1987.

Sec. 3. This Act being deemed of immediate importance is effective upon enactment.

Approved June 4, 1987

CHAPTER 196**INCOME AND SALES TAX PROCEDURES***H.F. 682*

AN ACT relating to certain state taxes by allowing composite returns to be filed for nonresidents for income tax purposes and providing for fuel exemption certificates under the state sales, services, and use tax and providing an effective date.

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

Section 1. Section 422.13, Code 1987, is amended by adding the following new subsection: **NEW SUBSECTION. 5.** Notwithstanding subsections 1 through 4 and sections 422.15 and 422.36, a partnership, trust, or corporation whose stockholders are taxed on the corporation's income under the provisions of the Internal Revenue Code is entitled to request permission from the director to file a composite return for the nonresident partners, beneficiaries, and shareholders. The director may grant permission to file or require that a composite return be filed under the conditions deemed appropriate by the director. A partnership, trust, or corporation filing a composite return is liable for tax required to be shown due on the return. All powers of the director and requirements of the director apply to returns filed under this subsection, including but not limited to, the provisions of this division and division VI of this chapter.

Sec. 2. Section 422.47, subsection 3, paragraphs a and b, Code 1987, are amended to read as follows:

a. The department shall issue or the seller may separately provide exemption certificates in the form prescribed by the director to assist retailers in properly accounting for nontaxable sales of tangible personal property or services to purchasers for purposes of resale or for processing, except fuel consumed in processing.

b. The sales tax liability for all sales of tangible personal property and all sales of services is upon the seller and the purchaser 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 422.42, subsection 3, or unless the seller takes a fuel exemption certificate pursuant to subsection 4. If 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 is solely liable for the taxes and shall remit the taxes directly to the department and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 shall apply to the purchaser.

Sec. 3. Section 422.47, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. The department shall issue or the seller may separately provide fuel exemption certificates in the form prescribed by the director.

b. The seller may accept a completed fuel exemption certificate, as prepared by the purchaser, for five years unless the purchaser files a new completed exemption certificate. If the fuel is purchased tax free pursuant to a fuel exemption certificate which is taken by the seller, and the fuel is used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes, and shall remit the taxes directly to the department and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 shall apply to the purchaser.

c. The purchaser may apply to the department for its review of the fuel exemption certificate. In this event, the department shall review the fuel exemption certificate within twelve months from the date of application and determine the correct amount of the exemption. If the amount determined by the department is different than the amount that the purchaser claims is exempt, the department shall promptly notify the purchaser of the determination. Failure of the department to make a determination within twelve months from the date of application shall constitute a determination that the fuel exemption certificate is correct as submitted. A determination of exemption by the department is final unless the purchaser appeals to the director for a revision of the determination within thirty days after the postmark date of the notice of determination. The director shall grant a hearing, and upon the hearing the director shall determine the correct exemption and notify the purchaser of the decision by mail. The decision of the director is final unless the purchaser seeks judicial review of the director's decision under section 422.55 within thirty days after the postmark date of the notice of the director's decision. Unless there is a substantial change, the department shall not impose penalties pursuant to section 422.58, both retroactively to purchases made after the date of application and prospectively until the department gives notice to the purchaser that a tax or additional tax is due, for failure to remit any tax due which is in excess of a determination made under this section. A determination made by the department pursuant to this subsection does not constitute an audit for purposes of section 422.54.

d. If the circumstances change and the fuel is used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department in accordance with subsection 3.

e. The purchaser shall attach documentation to the fuel exemption certificate which is reasonably necessary to support the exemption for fuel consumed in processing. If the purchaser files a new exemption certificate with the seller, documentation shall not be required if the purchaser previously furnished the seller with this documentation and substantial change has not occurred since that documentation was furnished or if fuel consumed in processing is separately metered and billed by the seller.

f. In this section, "fuel" includes gas, electricity, water, heat, steam, and any other tangible personal property consumed in creating heat, power, or steam. In this section, "fuel consumed in processing" means fuel used or disposed of for processing including grain drying, for providing heat or cooling for livestock buildings or for generating electric current, or consumed in self-propelled implements of husbandry engaged in agricultural production. In this subsection, "fuel exemption certificate" means an exemption certificate given by the purchaser under penalty of perjury to assist retailers in properly accounting for nontaxable sales of fuel consumed in processing. In this subsection, "substantial change" means a change in the use or disposition of tangible personal property and services by the purchaser such that the purchaser pays less

than ninety percent of the purchaser's actual sales tax liability. A change includes a misstatement of facts in an application made pursuant to paragraph "c" or in a fuel exemption certificate.

Sec. 4. Section 422.52, subsection 6, paragraph a, Code 1987, is amended to read as follows:

a. If a purchaser fails to pay tax imposed by this division to the retailer required to collect the tax, then in addition to all of the rights, obligations, and remedies provided, the tax is payable by the purchaser directly to the department, and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58 and 422.59 apply to the purchaser. For failure, the retailer and purchaser are liable, unless the circumstances described in section 422.47, subsection 3, paragraphs paragraph "b" and or "e" or subsection 4, paragraph "b" or "d" are applicable.

Sec. 5. This Act takes effect on January 1, 1988. Any valid exemption certificate, as defined in section 422.47, subsection 3, Code 1987, given for fuel consumed in processing and accepted by a seller prior to the effective date of this Act shall be deemed a fuel exemption certificate, as defined in this Act, for five years from the date the seller accepts the valid exemption certificate, if that valid exemption certificate contains all information required by this Act to be in a fuel exemption certificate.

Approved June 4, 1987

CHAPTER 197

SANITARY DISTRICTS

H.F. 518

AN ACT relating to powers and duties of sanitary districts in relation to their operational procedures and financial arrangements, and providing an effective date.

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

Section 1. Section 358.13, Code 1987, is amended to read as follows:

358.13 ORDINANCES — PUBLICATION OR POSTING — TIME OF TAKING EFFECT.

All ordinances, resolutions, orders, rules, and regulations adopted by the board shall take effect five days from and after their adoption and publication. The publication thereof shall be by one publication in a newspaper published of general circulation in the district, or by posting copies thereof in five three public places within the district, or by other steps necessary to inform the public.

Sec. 2. Section 358.16, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The board of trustees may require connection to the sanitary sewer system established, maintained, or operated by the district from any adjacent property within the district, and require the installation of sanitary toilets or other sanitary sewage facilities and removal of other toilet and other sewage facilities on the property.

NEW UNNUMBERED PARAGRAPH. If the property owner does not perform an action required under the preceding paragraph within a reasonable time after notice and hearing, the board of trustees may perform the required action and assess the costs of the action against the property for collection in the same manner as a property tax. The notice shall state the nature of the action and the time within which the action is required to be performed by the property owner, state the date, time, and place where the property owner will be heard by the board of trustees for the purpose of stating why the intended action should not be required, and shall be given by certified mail to the property owner as shown on the records of the county auditor not less than four nor more than twenty days before the date of the hearing.

NEW UNNUMBERED PARAGRAPH. However, in the event of an emergency when the