

or foster care payments in accordance with a court order or an assessment of foster care liability for the twelve months preceding the proposed setoff and has regularly made delinquent child support or foster care payments during those twelve months, the child support or foster care recovery unit shall notify the department of revenue and finance not to set off the debt against the debtor's income tax refund or rebate. If a debtor has made all current repayment of public assistance in accordance with a court order or voluntary repayment agreement for the twelve months preceding the proposed setoff and has regularly made delinquent payments during those twelve months, the office of investigations division of the department of inspections and appeals shall notify the department of revenue and finance not to set off the debt against the debtor's income tax refund or rebate. The department of revenue and finance shall refund any balance of the income tax refund or rebate to the debtor. The department of revenue and finance shall periodically transfer the amount set off to the child support recovery unit, the foster care recovery unit, or the office of investigations division of the department of inspections and appeals. If the debtor gives timely written notice of intent to contest the claim the department of revenue and finance shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The child support recovery unit, the foster care recovery unit, or the office of investigations division of the department of inspections and appeals shall notify the debtor in writing upon completion of setoff.

Sec. 3. Section 421.17, subsection 26, Code 1989, is amended to read as follows:

26. To provide that in the case of multiple claims to payments filed under subsections 21, 23, 25, and 29 that priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21, next priority shall be given to claims filed by the college aid commission under subsection 23, next priority shall be given to claims filed by the office of investigations division of the department of inspections and appeals under subsection 21, next priority shall be given to claims filed by a clerk of the district court under subsection 25, and last priority shall be given to claims filed by other state agencies under subsection 29. In the case of multiple claims under subsection 29, priority shall be determined in accordance with rules to be established by the director.

Approved May 29, 1989

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## CHAPTER 251

### STATE AND LOCAL TAXES

*S.F. 154*

**AN ACT** relating to the state's cigarette and tobacco products tax; fuel tax; withholding tax; corporate and personal income tax; sales, services and use tax; franchise tax; hotel and motel tax; property tax exemptions; and inheritance and estate taxes; and providing a penalty.

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

Section 1. Section 98.22, subsection 1, Code 1989, is amended to read as follows:

1. If a person holding a permit issued by the department under this division, including a retailer permit for railway car, has willfully violated section 98.2, the department shall revoke the permit upon notice and hearing. If the person violates any other provision of this division, or a rule adopted under this division, or is substantially delinquent in the payment of a tax administered by the department or the interest or penalty on the tax, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or

penalty on the tax, administered by the department, the department may revoke the permit issued to the person, after giving the permit holder an opportunity to be heard upon ten days' written notice stating the reason for the contemplated revocation and the time and place at which the person may appear and be heard. ~~The hearing shall be held in the county of the permit holder's place of business, or in a county in or through which it transacts business. The hearing before the department may be held at a site in the state as the department may direct.~~ The notice shall be given by mailing a copy to the permit holder's place of business as it appears on the application for a permit. If, upon hearing, the department finds that the violation has occurred, the department may revoke the permit.

Sec. 2. Section 98.37, Code 1989, is amended to read as follows:

**98.37 CERTAIN OFFENSES AND PENALTIES PROVIDED.**

A person who violates a provision of this division is guilty of a ~~simple misdemeanor~~ fraudulent practice unless otherwise provided in this division.

Sec. 3. Section 98.44, subsection 3, Code 1989, is amended to read as follows:

3. A person without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers, may make application for a license as a distributor, be granted such a license by the director, and thereafter be subject to all the provisions of this division and entitled to act as a licensed distributor, ~~provided the person files proof with the person's application that the person has appointed the secretary of state for the service of process relating to any matter or issue arising under this division. A foreign corporation applying for a distributor's license need not qualify as such if it files the proof of appointment of the secretary of state for service of process as provided in this subdivision.~~

Sec. 4. Section 324.4, unnumbered paragraph 2, Code 1989, is amended to read as follows:

~~A license shall not be issued if the applicant is a foreign corporation, unless it is at the time properly qualified under the laws of this state to do business in this state.~~ The department may deny the issuance of a license to an applicant who is substantially delinquent in the payment of a tax due, or the interest or penalty on the tax, administered by the department. If the applicant is a partnership, a license may be denied if a partner owes any delinquent tax, ~~penalty or interest, or penalty.~~ If the applicant is a corporation, a license may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, interest, or penalty of the applicant corporation.

Sec. 5. Section 324.17, subsection 7, Code 1989, is amended to read as follows:

7. A refund shall not be paid with respect to motor fuel or special fuel purchased more than ~~three~~ four calendar months prior to the date the claim was filed with the department.

Sec. 6. Section 324.36, subsection 2, Code 1989, is amended to read as follows:

2. APPLICATION. Application for a special fuel dealer's license or a special fuel user's license shall be made to the department. A special fuel dealer's license or a special fuel user's license, whichever is applicable, shall be required for each separate place of business or location where special fuels are regularly delivered or placed into the fuel supply tank of a motor vehicle or aircraft. However, if a special fuel dealer also operates one or more bulk plants from which the distribution of a special fuel is primarily by tank vehicle, the special fuel dealer need not obtain a separate license for any of these plants not provided with fixed equipment designed for fueling vehicles or aircraft. Upon written application and at the discretion of the director, a special fuel user whose business operations require mobile special fuel storage may obtain a single special fuel user's license to be issued to the user's permanent principal place of business. Upon written application and at the discretion of the director, a special fuel dealer may be issued a special license to dispense fuel from a tankwagon into the fuel supply tank of a motor vehicle. The special license shall be issued for the dealer's place of business and all of the provisions of this division apply to the dispensing of fuel from tankwagons. A special fuel dealer is not required to obtain a special license to dispense fuel from a tankwagon into the fuel supply tank of an aircraft.

Sec. 7. Section 324.65, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The appropriate state agency shall not remit any part of a penalty for delinquent payment ~~where~~ if the delinquency results from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn. However, if it appears as a result of an investigation ~~or from a preponderance of the evidence adduced at a hearing~~ that there has been a deliberate attempt on the part of a licensee or other person to evade payment of fuel taxes there shall be added to the assessment against the offending person and collected a penalty of seventy-five percent of the tax due. ~~Any A~~ report required of licensees or persons operating under ~~divisions I, II and division III~~, upon which no tax ~~may~~ be is due, is subject to a penalty of ten dollars if the report is not timely filed with the ~~appropriate state agency~~ state department of transportation.

Sec. 8. Section 324.67, Code 1989, is amended to read as follows:

**324.67 LIMITATION ON COLLECTION PROCEEDINGS.**

An action or other proceeding shall not be maintained to enforce collection of any amount of fuel tax, penalty, or interest over and above the amount shown to be due by reports filed by a licensee except upon an assessment by the department of revenue and finance as authorized in this chapter. ~~No An~~ assessment shall not be made covering any a period beyond three years prior to the date of assessment except that the period for the examination and determination of the correct amount of tax is 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.

Sec. 9. Section 324.68, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If a licensee files a false report of the data or information required by this chapter, or fails, refuses, or neglects to file a report required by this chapter, or to pay the full amount of fuel tax as required by this chapter, or is substantially delinquent in paying a tax due, owing, and administered by the department of revenue and finance, and interest and penalty if appropriate, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the licensee corporation, or interest or penalty on the tax, administered by the department, then after ten days' written notice by mail directed to the last known address of the licensee setting a time and place at which the licensee may appear and show cause why the license should not be canceled, and if the licensee fails to appear or if upon the hearing it is shown ~~by a preponderance of the evidence that the failure licensee failed~~ to correctly report or pay ~~was with intent to evade~~ the tax, the appropriate state agency may cancel the license and shall notify the licensee of the cancellation by mail to the licensee's last known address.

Sec. 10. NEW SECTION. 421.10 APPEAL PERIOD — DENIAL OF TAXPAYER'S CLAIM.

The appeal period for revision of assessment of tax, interest, and penalties set out under section 98.29, 98.46, 324.64, 422.28, or 422.54 applies to appeals to notices from the department denying changes in filing methods, denying refund claims, and denying portions of refund claims for the tax covered by that section.

Sec. 11. Section 422.5, subsection 1, paragraph k, unnumbered paragraph 4, Code 1989, is amended to read as follows:

In the case of a resident, including a resident estate or trust, the state's apportioned share of the state alternative minimum tax is one hundred percent of the state alternative minimum tax computed in this subsection. In the case of a nonresident, including a nonresident estate or trust, or an individual, estate, or trust that is domiciled in the state for less than the entire tax year, the state's apportioned share of the state alternative minimum tax is the amount of tax computed under this subsection, reduced by the applicable credits in sections 422.10, ~~422.11, 422.11A, and through~~ 422.12 and this result multiplied by a fraction with a numerator of the sum of state net income allocated to Iowa as determined in section 422.8, subsection 2, plus tax preference items, adjustments, and losses under subparagraph (1) attributable to

Iowa and with a denominator of the sum of total net income computed under section 422.7 plus all tax preference items, adjustments, and losses under subparagraph (1). In computing this fraction, those items excludable under subparagraph (1) shall not be used in computing the tax preference items. Married taxpayers electing to file separate returns or separately on a combined return must allocate the minimum tax computed in this subsection in the proportion that each spouse's respective preference items, adjustments, and losses under subparagraph (1) bear to the combined preference items, adjustments, and losses under subparagraph (1) of both spouses.

Sec. 12. Section 422.6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The tax imposed by section 422.5 less the ~~credits~~ credit allowed under section 422.10, ~~section 422.11~~, and the personal exemption credit allowed under section 422.12 apply to and are a charge against estates and trusts with respect to their taxable income, and the rates are the same as those applicable to individuals. The fiduciary shall make the return of income for the estate or trust for which the fiduciary acts, whether the income is taxable to the estate or trust or to the beneficiaries.

Sec. 13. Section 422.7, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The term "net income" means the adjusted gross income before the net operating loss deduction as properly computed for federal income tax purposes under the Internal Revenue Code, with the following adjustments:

Sec. 14. Section 422.11A, Code 1989, is amended to read as follows:

422.11A NEW JOBS TAX CREDIT.

The taxes imposed under this division, less credits allowed under sections 422.10, ~~422.11~~ and 422.12, shall be reduced by a new jobs tax credit. An industry which has entered into an agreement under chapter 280B and which has increased its base employment level by at least ten percent within the time set in the agreement or, in the case of an industry without a base employment level, adds new jobs within the time set in the agreement is entitled to this new jobs tax credit for the tax year selected by the industry. In determining if the industry has increased its base employment level by ten percent or added new jobs, only those new jobs directly resulting from the project covered by the agreement and those directly related to those new jobs shall be counted. The amount of this credit is equal to the product of six percent of the taxable wages upon which an employer is required to contribute to the state unemployment compensation fund, as defined in section 96.19, subsection 20, times the number of new jobs existing in the tax year that directly result from the project covered by the agreement or new jobs that directly result from those new jobs. The tax year chosen by the industry shall either begin or end during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. An individual may claim the new jobs tax credit allowed a partnership, subchapter S corporation, or estate or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a ~~the~~ partnership, subchapter S corporation, or estate or trust. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten tax years or until depleted, whichever is the earlier. For purposes of this section, "agreement", "industry", "new job" and "project" mean the same as defined in section 280B.2 and "base employment level" means the number of full-time jobs an industry employs at the plant site which is covered by an agreement under chapter 280B on the date of that agreement.

Sec. 15. Section 422.13, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

1. Every A resident and or nonresident of this state shall make and sign a return, signed in accordance with forms and rules prescribed by the director, if any of the following are applicable:

Sec. 16. Section 422.14, subsection 1, Code 1989, is amended to read as follows:

1. ~~Every~~ A fiduciary subject to taxation under the provisions of this division, as provided in section 422.6, shall make and sign a return, signed in accordance with forms and rules prescribed by the director, for the individual, estate, or trust for whom or for which the fiduciary acts, if the taxable income thereof amounts to six hundred dollars or more. A nonresident fiduciary shall file a copy of the federal income tax return for the current tax year with the return required by this section.

Sec. 17. Section 422.16, subsection 11, paragraph a, Code 1989, is amended to read as follows:

a. ~~Every~~ A person or married couple filing a return shall make estimated tax payments if the person's or couple's Iowa income tax attributable to income other than wages subject to withholding can reasonably be expected to amount to fifty dollars or more for the taxable year, except that, in the cases of farmers and fishermen, the exceptions provided in the Internal Revenue Code with respect to making estimated payments apply. The estimated tax shall be paid in quarterly installments. The first installment shall be paid on or before the last day of the fourth month of the taxpayer's tax year for which the estimated payments apply. The other installments shall be paid on or before ~~June 30, September 30, and January 31~~ the last day of the sixth month of the tax year, the last day of the ninth month of the tax year, and the last day of the first month after the tax year. However, at the election of the person or married couple, ~~any~~ an installment of the estimated tax may be paid prior to the date prescribed for its payment. If a person or married couple filing a return has reason to believe that the person's or couple's Iowa income tax may increase or decrease, either for purposes of meeting the requirement to make estimated tax payments or for the purpose of increasing or decreasing estimated tax payments, the person or married couple shall increase or decrease any subsequent estimated tax payments accordingly.

Sec. 18. Section 422.16, subsection 14, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the withholding agent fails to file the bond as requested by the director to secure collection of the tax, the withholding agent is subject to penalty for failure to file the bond. The penalty is equal to fifteen percent of the tax the withholding agent is required to withhold on an annual basis. However, the penalty shall not exceed five thousand dollars.

Sec. 19. Section 422.25, subsection 7, Code 1989, is amended to read as follows:

7. The periods of limitation provided by this section may be extended by the taxpayer by signing a waiver agreement to be provided by the department. ~~Such~~ The agreement shall stipulate the period of extension and the year or years to which ~~such~~ the extension applies. It shall ~~further~~ provide that a claim for refund may be filed by the taxpayer at any time during the period of extension. ~~In consideration of such agreement, interest due in excess of thirty-six months on either a tax deficiency or tax refund shall be waived.~~

Sec. 20. Section 422.33, subsection 1, Code 1989, is amended to read as follows:

1. A tax is hereby imposed annually upon each corporation organized under the laws of this state, and upon ~~every~~ each foreign corporation doing business in this state, or deriving income from sources within this state, annually in an amount computed by applying the following rates of taxation to the net income received by the corporation during the income year:

a. On the first twenty-five thousand dollars of taxable income, or any part thereof, the rate of six percent.

b. On taxable income between twenty-five thousand dollars and one hundred thousand dollars or any part thereof, the rate of eight percent.

c. On taxable income between one hundred thousand dollars and two hundred fifty thousand dollars or any part thereof, the rate of ten percent.

d. On taxable income of two hundred fifty thousand dollars or more, the rate of twelve percent.

"Income from sources within this state" means income from real or tangible property located or having a situs in this state.

Sec. 21. Section 422.33, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If the trade or business of the corporation is carried on entirely within the state, the tax shall be imposed on the entire net income, but if the trade or business is carried on partly within and partly without the state or if income is derived from sources partly within and partly without the state, the tax shall be imposed only on the portion of the net income reasonably attributable to the trade or business or sources within the state, with the net income attributable to the state to be determined as follows:

Sec. 22. Section 422.33, subsection 6, Code 1989, is amended by striking the subsection.

Sec. 23. Section 422.36, subsection 1, Code 1989, is amended to read as follows:

1. Every A corporation shall make a return and the same return shall be signed by the president or other duly authorized officer in accordance with forms and rules prescribed by the director. Before a corporation shall be is dissolved and its assets distributed it shall make a return for any settlement of the tax for any income earned in the income year up to its final date of dissolution.

Sec. 24. Section 422.51, subsection 3, Code 1989, is amended to read as follows:

3. Returns shall be signed by the retailer or the retailer's duly authorized agent, and must be duly certified by the retailer to be correct in accordance with forms and rules prescribed by the director.

Sec. 25. Section 422.52, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If an amount of tax represented by a retailer to a consumer or user as constituting tax due is computed upon gross receipts that are not taxable or the amount represented is in excess of the actual taxable amount and the amount represented is actually paid by the consumer or user to the retailer, the excess amount of tax paid shall be returned to the consumer or user upon notification to the retailer by the department or by the consumer or user that an excess payment exists. If the retailer fails to make a return, the amount which the consumer or user has paid to the retailer shall be remitted by the retailer to the department.

Sec. 26. Section 422.85, Code 1989, is amended to read as follows:

**422.85 DECLARATION AND PAYMENT IMPOSITION OF ESTIMATED TAX.**

Every A taxpayer subject to the tax imposed by sections 422.33 and 422.60 shall file a declaration make payments of estimated tax for the taxable year if the amount of tax payable, less credits, can reasonably be expected to be more than one thousand dollars for the taxable year. For purposes of this division, "estimated tax" means the amount which the taxpayer estimates to be the tax due and payable under division III or V of this chapter for the taxable year. If during the first quarter of the taxable year it is determined that the taxpayer's tax liability for the taxable year will exceed one thousand dollars, the declaration of estimated tax shall be filed on or before the last day of the fourth month of the taxable year. If after the last day of the third month and before the first day of the sixth month of the taxable year it is determined that the taxpayer's tax liability for the taxable year will exceed one thousand dollars, the declaration of estimated tax shall be filed on or before the last day of the sixth month of the taxable year. If after the last day of the fifth month and before the first day of the ninth month of the taxable year it is determined that the taxpayer's tax liability for the taxable year will exceed one thousand dollars, the declaration of estimated tax shall be filed on or before the last day of the ninth month of the taxable year. If after the last day of the eighth month and before the first day of the twelfth month of the taxable year it is determined that the taxpayer's tax liability for the taxable year will exceed one thousand dollars, the declaration of estimated tax shall be filed on or before the last day of the taxable year.

Sec. 27. Section 422.86, Code 1989, is amended to read as follows:

## 422.86 PAYMENT OF ESTIMATED TAX.

A taxpayer required to file a declaration of pay estimated tax under section 422.85 shall pay the estimated tax in accordance with the following schedule:

1. If the declaration of estimated tax is filed it is first determined that the estimated tax will be greater than one thousand dollars on or before the last day of the fourth month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the filing of the declaration not later than the last day of the fourth month of the taxable year. The second and third installments shall be paid not later than the last day of the sixth and ninth months of the taxable year, and the final installment shall be paid on or before the last day of the taxable year.

2. If the declaration of estimated tax is timely filed it is first determined that the estimated tax will be greater than one thousand dollars after the last day of the fourth month but not later than the last day of the sixth month of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid at the time of the filing of the declaration not later than the last day of the sixth month of the taxable year. The second installment shall be paid on or before the last day of the ninth month of the taxable year and the third installment shall be paid on or before the last day of the taxable year.

3. If the declaration of estimated tax is timely filed it is first determined that the estimated tax will be greater than one thousand dollars after the last day of the sixth month ~~and not~~ after but not later than the last day of the ninth month of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid at the time of the filing of the declaration not later than the last day of the ninth month and the second installment shall be paid on or before the last day of the taxable year.

4. If the declaration of estimated tax is timely filed it is first determined that the estimated tax will be greater than one thousand dollars after the last day of the ninth month of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration on or before the last day of the taxable year.

5. If the declaration of estimated tax is not filed as required under section 422.85, all installments of estimated tax which would have been payable on or before such time shall be paid at the time the declaration of estimated tax is filed. The remaining installments of estimated tax, if any, shall be paid at the time and in the amounts in which they would have been payable if the declaration had been timely filed.

5. If an amendment to a declaration is filed, after paying any installment of estimated tax, the taxpayer makes a new estimate, the remaining installments shall be ratably adjusted to reflect the increase or decrease in the estimated tax by reason of such amendment.

Sec. 28. Section 422.91, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Any amount of estimated tax paid on a declaration of estimated tax shall be is a credit against the amount of tax due on a final, completed return, and any overpayment of five dollars or more shall be refunded to the taxpayer with interest, the interest to begin to accrue on the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest, at the rate established under section 421.7, and the return ~~shall constitute~~ constitutes a claim for refund for this purpose. Amounts less than five dollars shall be refunded to the taxpayer only upon written application in accordance with section 422.73, ~~but~~ and only if the application is filed within twelve months after the due date for the return.

Sec. 29. Section 422.92, Code 1989, is amended to read as follows:

## 422.92 ADMINISTRATION.

A taxpayer having a taxable year of less than twelve months shall file a declaration of pay estimated tax under rules adopted by the director. The director shall adopt rules relating to the filing of amended declarations and payments of estimated tax by taxpayers having a taxable year of less than twelve months. The director shall also adopt rules to permit a taxpayer to amend a declaration of estimated tax.

Sec. 30. Section 422A.1, unnumbered paragraph 7, Code 1989, is amended to read as follows:

The tax herein levied shall be in addition to any state sales tax imposed under section 422.43. ~~The provisions of sections~~ Sections 422.25, subsection 4, 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67, 422.68, 422.69, subsection 1, and 422.70 to 422.75, consistent with the provisions of this chapter, shall apply with respect to the taxes authorized under this chapter, in the same manner and with the same effect as if the hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding the provisions of this paragraph, the director shall provide for only quarterly filing of returns as prescribed in section 422.51 and for other than quarterly filing of returns as prescribed in section 422.51, subsection 2. Further, ~~the~~ The director may require all persons, as defined in section 422.42, who are engaged in the business of deriving gross receipts subject to tax under this chapter, to register with the department.

Sec. 31. Section 423.13, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~Each~~ A permit holder required or authorized, pursuant to section 423.9 or 423.10, to collect or pay the tax imposed, shall remit to the department the amount of tax, on or before the last day of the month following each calendar quarterly period. However, a retailer who collects or owes more than fifteen hundred dollars in use taxes in a month shall deposit with the department or in a depository authorized by law and designated by the director, the amount collected or owed, with a deposit form for the month as prescribed by the director. The deposit form is due on or before the twentieth day of the month following the month of collection, except a deposit is not required for the third month of the calendar quarter, and the total quarterly amount, less the amounts deposited for the first two months of the quarter, is due with the quarterly report on the last day of the month following the month of collection. At that time, the retailer shall file with the department a return for the preceding quarterly period in the form prescribed by the director showing the sales price of the tangible personal property sold by the retailer during the preceding quarterly period, the use of which is subject to the tax imposed by this chapter, and other information the director deems necessary for the proper administration of this chapter. The return shall be accompanied by a remittance of the tax for the period covered by the return. If necessary in order to ensure payment to the state of the tax, the director may in any or all cases require returns and payments to be made for other than quarterly periods. The director may, upon request and a proper showing of necessity, grant an extension of time not to exceed thirty days for making any return and payment. Returns shall be signed, in accordance with forms and rules prescribed by the director, by the retailer or the retailer's duly authorized agent, and shall be certified by the retailer or agent to be correct.

Sec. 32. Section 423.13, Code 1989, is amended by adding after unnumbered paragraph 1 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If it is reasonably expected, as determined by rules prescribed by the director, that a retailer's annual use tax liability will not exceed one hundred twenty dollars for a calendar year, the retailer may request and the director may grant permission to the retailer, in lieu of the quarterly filing and remitting requirements of the first paragraph of this section, to file the return required by and remit the use tax due under this section on a calendar year basis. The return and tax are due and payable no later than January 31 following each calendar year in which the retailer carries on business.

Sec. 33. Section 425.7, subsection 3, Code 1989, is amended to read as follows:

3. If the director of revenue and finance determines that ~~any~~ a claim for homestead credit has been allowed by any the board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within ~~twenty-four~~ thirty-six months from July 1 of the year in which the claim is allowed, set aside the allowance. Notice of the disallowance shall be given to the county auditor of the county in which the claim has been improperly granted and a written notice of the disallowance shall also be addressed to the claimant at the claimant's last known address. The claimant or the board of supervisors



may seek judicial review of the action of the director of revenue and finance in accordance with the Iowa administrative procedure Act.

PARAGRAPH DIVIDED. ~~In any case where~~ If a claim is so disallowed by the director of revenue and finance and a petition for judicial review is not filed with respect to the disallowance, any amounts of credits allowed and paid from the homestead credit fund including the penalty, if any, become a lien upon the property on which credit was originally granted, if still in the hands of the claimant, and not in the hands of a bona fide purchaser, and any amount so erroneously paid including the penalty, if any, shall be collected by the county treasurer in the same manner as other taxes and the collections shall be returned to the department of revenue and finance and credited to the homestead credit fund. The director of revenue and finance may institute legal proceedings against a homestead credit claimant for the collection of all payments made on disallowed credits and the penalty, if any. If a homestead credit is disallowed and the claimant failed to give written notice to the assessor as required by section 425.2 when the property ceased to be used as a homestead by the claimant, a civil penalty equal to fifty percent of the amount of the disallowed credit is assessed against the claimant.

Sec. 34. Section 426A.6, Code 1989, is amended to read as follows:

426A.6 SETTING ASIDE ALLOWANCE.

If the director of revenue and finance determines that ~~any~~ a claim for military service tax exemption has been allowed by ~~any~~ a board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within ~~twenty-four~~ thirty-six months from July 1 of the year in which the claim is allowed, set aside the allowance. Notice of the disallowance shall be given to the county auditor of the county in which the claim has been improperly granted and a written notice of the disallowance shall also be addressed to the claimant at the claimant's last known address. The claimant or the board of supervisors may seek judicial review of the action of the director of revenue and finance in accordance with chapter 17A. ~~In any case, where~~ If a claim is so disallowed by the director of revenue and finance and a petition for judicial review is not filed with respect to the disallowance, ~~any amounts of the~~ credits allowed and paid from the general fund of the state become a lien upon the property on which the credit was originally granted, if still in the hands of the claimant, and not in the hands of a bona fide purchaser, ~~and any the~~ amount so erroneously paid shall be collected by the county treasurer in the same manner as other taxes, and the collections shall be returned to the department of revenue and finance and credited to the general fund of the state. The director of revenue and finance may institute legal proceedings against a military service tax exemption claimant for the collection of all payments made on disallowed exemptions.

Sec. 35. Section 442.15, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The school district income surtax ~~shall be~~ is imposed on the state individual income tax for the calendar year during which the school's budget year begins, or for a taxpayer's fiscal year ending during the second half of that calendar year or the first half of the succeeding calendar year, and ~~shall be~~ is imposed on all individuals residing in the school district on the last day of the applicable tax year. As used in this section, "state individual income tax" means the tax computed under section 422.5, less the deductions allowed in sections 422.10, ~~422.11~~ and 422.12.

Sec. 36. Section 450.22, Code 1989, is amended to read as follows:

450.22 ADMINISTRATION AVOIDED.

When the heirs or persons entitled to inherit the property of an estate subject to tax under this chapter, desire to avoid the appointment of a personal representative as provided in section 450.21, and in all instances where real estate is involved and there are no regular probate proceedings ~~are not had~~, they or one of them shall file under oath the inventories required by section 633.361 and the required reports, and perform all the duties required by this chapter of the personal representative, and file the inheritance tax return. However, this section

~~does not apply and a return is not required even though real estate is part of the assets subject to tax under this chapter, if all of the assets are held in joint tenancy with right of survivorship between husband and wife alone. Proceedings~~ When this section applies, proceedings for the collection of the tax when a personal representative is not appointed, shall conform as nearly as ~~may be to the provisions of possible to proceedings under~~ this chapter in other cases.

Sec. 37. Section 451.5, Code 1989, is amended to read as follows:

451.5 DUTY OF PERSONAL REPRESENTATIVE.

~~It shall be the duty of the~~ The personal representative of every a decedent whose estate may be subject to the tax imposed by this chapter, ~~to shall~~ shall file in the office of the director of revenue and finance, ~~within twelve months on or before the last day of the ninth month~~ after the death of ~~such~~ the decedent, duplicate copies of the estate tax return provided for in the federal estate tax Act, and in like manner, duplicate copies of all supplemental or amended returns; ~~and the value.~~ The values of all items included in the gross estate, as shown by ~~such those~~ those returns, or supplemental or amended returns, shall be ~~taken and~~ considered as the values of ~~such those~~ those items for the purposes of this chapter; ~~and in.~~ In case of any revaluation or correction of valuation of ~~any such any of those~~ any of those items, either by ~~such~~ supplemental or amended returns, or by the federal commissioner of internal revenue, or by ~~any an~~ an appellate tribunal by which the ~~same may be value is~~ value is finally determined, ~~such the corrected values shall be taken and~~ considered as the values of ~~such those~~ those items for the purposes of this chapter.

Sec. 38. Section 422.11, Code 1989, is repealed.

Sec. 39. Section 10 of this Act applies to notices from the department denying changes in filing methods, denying refund claims, and denying portions of refund claims issued after the effective date of this Act.

Sec. 40. Sections 13, 20 and 21 of this Act are retroactive to January 1, 1989, for tax years beginning on or after that date.

Sec. 41. Sections 17, 18, 26, 27, 28, and 29 of this Act are effective January 1, 1990, for tax years beginning on or after that date.

Sec. 42. Section 36 of this Act is retroactive to January 1, 1988, for estates of decedents dying on or after that date.

Sec. 43. Section 37 of this Act is effective July 1, 1989, for estates of decedents dying on or after that date.

Approved May 29, 1989

**CHAPTER 252**

## ALCOHOLIC BEVERAGES REGULATION

H.F. 758

**AN ACT** permitting forfeiture of the penal bond when a class "E" liquor licensee violates the bootlegging law; permitting claims against penal bonds for failure or refusal to pay an alcoholic beverage control tax when due, establishing an administrative appeals process for disputed tax assessments, permitting the administrator to compromise disputed tax assessments, and permitting imposition of civil penalties on wholesalers for violations of law and administrative rules; and relating to coupons or rebates as incentives to purchase wine.

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

Section 1. Section 123.37, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The administrator may compromise and settle doubtful and disputed claims for taxes imposed under this chapter or for taxes of doubtful collectibility, notwithstanding section 19.9. The administrator may enter into informal settlements pursuant to section 17A.10 to compromise and settle doubtful and disputed claims for taxes imposed under this chapter. The administrator may make a claim under a licensee's or permittee's penal bond for taxes of doubtful collectibility. Whenever a compromise or settlement is made, the administrator shall make a complete record of the case showing the tax assessed, reports and audits, if any, the licensee's or permittee's grounds for dispute or contest, together with all evidence of the dispute or contest, and the amounts, conditions, and settlement or compromise of the dispute or contest.

NEW UNNUMBERED PARAGRAPH. A licensee or permittee who disputes the amount of tax imposed must pay all tax and penalty pertaining to the disputed tax liability prior to appealing the disputed tax liability to the administrator.

NEW UNNUMBERED PARAGRAPH. The administrator shall adopt rules establishing procedures for payment of disputed taxes imposed under this chapter. If it is determined that the tax is not due in whole or in part, the division shall promptly refund the part of the tax payment which is determined not to be due.

NEW UNNUMBERED PARAGRAPH. Any party aggrieved by a decision of the administrator under this section may appeal the decision to the division's hearing board.

Sec. 2. Section 123.50, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. In addition to any other penalties imposed under this chapter, the division shall assess a civil penalty up to the amount of five thousand dollars upon a class "E" liquor control licensee when the class "E" liquor license is revoked for a violation of section 123.59. Failure to pay the civil penalty as required under this subsection shall result in forfeiture of the bond to the division.

Sec. 3. Section 123.135, subsection 5, Code 1989, is amended to read as follows:

5. Notwithstanding any other penalties provided by this chapter, any holder of a certificate of compliance or any class "A" permit holder who ~~shall violate any of the provisions of~~ violates this section shall be chapter or the rules adopted pursuant to this chapter is subject to a civil fine not to exceed one thousand dollars or suspension of the holder's certificate or permit for a period not to exceed one year, or both such civil fine and suspension. Civil fines imposed under this section shall be collected and retained by the division.

Sec. 4. Section 123.180, subsection 6, Code 1989, is amended to read as follows:

6. Regardless of any other penalties provided by this chapter, any holder of a certificate of compliance relating to wine, or a class "A" or retail wine permittee or retail liquor licensee, who violates any of the provisions of this section chapter or the rules adopted pursuant to