

Sec. 10. Section 421.38, subsection 1, Code 1991, is amended to read as follows:

1. **THREE MONTHS LIMIT.** A claim shall not be allowed by the department of revenue and finance if the claim is presented after the lapse of three months from its accrual. However, claims this time limit is subject to the following exceptions:

a. Claims by state employees for benefits pursuant to chapters 85, 85A, and 86 are subject to limitations provided in those chapters.

b. Claims for medical assistance payments authorized under chapter 249A are subject to the time limits imposed by rule adopted by the department.

Sec. 11. **LEGISLATIVE INTENT.** Nothing in this Act is intended by the general assembly to be the provision of a fair and equitable funding formula specified in 1985 Iowa Acts, chapter 249, section 9. Nothing in this Act shall be construed, is intended, or shall imply a claim of entitlement to any programs or services specified in section 225C.28.

Approved May 10, 1991

CHAPTER 159

TAX ADMINISTRATION — DEPARTMENT OF REVENUE AND FINANCE

S.F. 356

AN ACT relating to the procedures, confidentiality, penalties, refunds, and nonsubstantive changes for taxes administered by the department of revenue and finance, relating to refunds of the environmental protection charge, and providing effective dates.

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

Section 1. Section 257.21, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The instructional support income surtax shall be 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 and after the date the board adopts a resolution to participate in the program or the first half of the succeeding calendar year, and shall be 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~~ taxes computed under section 422.5, less the ~~deductions~~ credits allowed in sections ~~422.10 through 422.11A, 422.11B, 422.11C, 422.12, and 422.12B.~~

Sec. 2. Section 324.65, unnumbered paragraph 2, Code 1991, is amended to read as follows:

~~The appropriate state agency shall not remit any part of a penalty for delinquent payment 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.~~ A report required of licensees or persons operating under division III, upon which no tax is due, is subject to a penalty of ten dollars if the report is not timely filed with the state department of transportation.

Sec. 3. Section 421.17, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 32. To ensure that persons employed under contract, other than officers or employees of the state, who provide assistance in administration of tax laws and who are directly under contract or who are involved in any way with work under the contract and who have access to confidential information are subject to applicable requirements and penalties of tax information confidentiality laws of the state regarding all tax return, return information, or investigative or audit information that may be required to be divulged in order to carry out the duties specified under the contract.

Sec. 4. Section 421.27, subsection 4, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The penalties imposed under this ~~section~~ subsection are not subject to waiver.

Sec. 5. Section 421.27, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If a person fails to remit at least ninety percent of the tax required to be shown due by the time an extension for further time to file a return is made, there shall be added to the tax shown due or required to be shown due a penalty of ten percent of the tax due.

Sec. 6. Section 421.27, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. If a person fails to remit payment of taxes in the form required by the rules of the director, there shall be added to the amount of the tax a penalty of five percent of the amount of tax shown due or required to be shown due. The penalty imposed by this subsection shall be waived if the taxpayer did not receive notification of the requirement to remit tax payments electronically or if the electronic transmission of the payment was not in a format or by means specified by the director and the payment was made before the taxpayer was notified of the requirement to remit tax payments electronically.

Sec. 7. Section 422.5, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

However, the tax shall not be imposed on a resident or nonresident whose net income, as defined in section 422.7, is seven thousand five hundred dollars or less in the case of married persons filing jointly or filing separately on a combined return, unmarried heads of household, and surviving spouses or five thousand dollars or less in the case of all other persons; but in the event that the payment of tax under this division would reduce the net income to less than seven thousand five hundred dollars or five thousand dollars as applicable, then the tax shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of seven thousand five hundred dollars or five thousand dollars as applicable. The preceding sentence does not apply to estates or trusts. For the purpose of this subsection, the entire net income, including any part of the net income not allocated to Iowa, shall be taken into account. For purposes of this subsection, net income includes all amounts of pensions or other retirement income received from any source which is not taxable under this division as a result of the government pension exclusions in section 422.7, or any other state law. If the combined net income of a husband and wife exceeds seven thousand five hundred dollars, neither of them shall receive the benefit of this subsection, and it is immaterial whether they file a joint return or separate returns. However, if a husband and wife file separate returns and have a combined net income of seven thousand five hundred dollars or less, neither spouse shall receive the benefit of this paragraph, if one spouse has a net operating loss and elects to carry back or carry forward the loss as provided in section 422.9, subsection 3. A person who is claimed as a dependent by another person as defined in section 422.12 shall not receive the benefit of this subsection if the person claiming the dependent has net income exceeding seven thousand five hundred dollars or five thousand dollars as applicable or the person claiming the dependent and the person's spouse have combined net income exceeding seven thousand five hundred dollars or five thousand dollars as applicable.

Sec. 8. Section 422.6, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The tax imposed by section 422.5 less the ~~credit~~ credits allowed under ~~section~~ sections 422.10, 422.11A, 422.11B, and 422.11C, 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. 9. Section 422.9, subsection 2, paragraph f, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Add the amount the taxpayer has paid to others, not to exceed one thousand dollars for each dependent in grades kindergarten through twelve, for tuition and textbooks of each dependent in attending an elementary or secondary school situated in Iowa, which school is accredited or approved under section 256.11, which is not operated for profit, and which adheres to the provisions of the United States federal Civil Rights Act of 1964 and chapter 601A. As used in this lettered paragraph, "textbooks" means books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state and does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to inculcate those tenets, doctrines, or worship, and does not include books or materials for extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or programs of a similar nature. The deduction in this paragraph does not apply to a taxpayer whose adjusted gross net income, as properly computed for federal state tax purposes, is forty-five thousand dollars or more. In the case where the taxpayer is married, whether filing jointly or separately, the deduction does not apply if the combined adjusted gross net income of the taxpayer and spouse is forty-five thousand dollars or more.

Sec. 10. Section 422.10, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Any credit in excess of the tax liability imposed by section 422.5 less personal exemption and child care the credits provided in section allowed under sections 422.11A, 422.11C, 422.12, and 422.12B for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

Sec. 11. Section 422.11A, Code 1991, is amended to read as follows:

422.11A NEW JOBS TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections 422.10 and 422.12 and 422.12B, 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 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. 12. Section 422.11C, subsection 1, Code 1991, is amended to read as follows:

1. The taxes imposed under this division less the credits allowed under sections 422.10, 422.11A, 422.11B, 422.12, and 422.12B, shall be reduced by a seed capital credit. An individual

may claim the seed capital 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 partnership, subchapter S corporation, or estate or trust.

Sec. 13. Section 422.12, subsection 2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

For those who do not itemize their ~~deduction~~ deductions, a tuition credit equal to five percent of the first one thousand dollars which the taxpayer has paid to others for each dependent in grades kindergarten through twelve, for tuition and textbooks of each dependent in attending an elementary or secondary school situated in Iowa, which school is accredited or approved under section 256.11, which is not operated for profit, and which adheres to the provisions of the United States federal Civil Rights Act of 1964 and chapter 601A. As used in this subsection, "textbooks" means books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state and does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to inculcate those tenets, doctrines, or worship, and does not include books or materials for extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or programs of a similar nature. Notwithstanding any other provision, all other credits allowed under ~~section 422.10 through sections 422.12 and 422.12B~~ shall be deducted before the tuition credit under this subsection. The credit in this subsection does not apply to a taxpayer whose adjusted gross net income, as properly computed for federal state tax purposes, is forty-five thousand dollars or more. In the case where the taxpayer is married, whether filing jointly or separately, the credit does not apply if the combined adjusted gross net income of the taxpayer and spouse is forty-five thousand dollars or more.

Sec. 14. Section 422.12B, subsection 1, Code 1991, is amended to read as follows:

1. The taxes imposed under this division, less the credits allowed under ~~sections 422.10 through section 422.12~~, shall be reduced by an earned income credit equal to six and one-half percent of the federal earned income credit received by the taxpayer under section 32(b) of the Internal Revenue Code. Any credit in excess of the tax liability is nonrefundable.

Sec. 15. Section 422.12C, subsections 1 and 3, Code 1991, are amended to read as follows:

1. The taxes imposed under this division, less the credits allowed under ~~sections 422.10 through 422.11A, 422.11B, 422.11C, 422.12, and 422.12B~~ shall be reduced by a child and dependent care credit equal to the following percentages of the federal child and dependent care credit provided in section 21 of the Internal Revenue Code:

- a. For a taxpayer with an adjusted gross net income of less than ten thousand dollars, seventy-five percent.
- b. For a taxpayer with an adjusted gross net income of ten thousand dollars or more but less than twenty thousand dollars, sixty-five percent.
- c. For a taxpayer with an adjusted gross net income of twenty thousand dollars or more but less than twenty-five thousand dollars, fifty-five percent.
- d. For a taxpayer with an adjusted gross net income of twenty-five thousand dollars or more but less than thirty-five thousand dollars, fifty percent.
- e. For a taxpayer with an adjusted gross net income of thirty-five thousand dollars or more but less than forty thousand dollars, forty percent.
- f. For a taxpayer with an adjusted gross net income of forty thousand dollars or more but less than forty-five thousand dollars, thirty percent.
- g. For a taxpayer with an adjusted gross net income of forty-five thousand dollars or more but less than fifty thousand dollars, twenty percent.
- h. For a taxpayer with an adjusted gross net income of fifty thousand dollars or more, ten percent.

3. Married taxpayers who have filed joint federal returns electing to file separate returns or to file separately on a combined return form must determine the child and dependent care credit under subsection 1 based upon their combined adjusted gross net income and allocate the total credit amount to each spouse in the proportion that each spouse's respective adjusted gross net income bears to the total combined adjusted gross net income. Nonresidents or part-year residents of Iowa must determine their Iowa child and dependent care credit in the ratio of their Iowa source net income to their all source net income. Nonresidents or part-year residents who are married and elect to file separate returns or to file separately on a combined return form must allocate the Iowa child and dependent care credit between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income of the taxpayers.

Sec. 16. Section 422.20, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Unless otherwise expressly permitted by section 421.17, subsections 21, 22, 23, 25, and 29, and 32, sections 252B.9, 324.63, 421.19, 421.28, and 422.72, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

Sec. 17. Section 422.21, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Returns shall be in the form the director prescribes, and shall be filed with the department on or before the last day of the fourth month after the expiration of the tax year ~~except that~~. However, co-operative associations as defined in section 6072(d) of the Internal Revenue Code shall file their returns on or before the fifteenth day of the ninth month following the close of the taxable year and nonprofit corporations subject to the unrelated business income tax imposed by section 422.33, subsection 1A, shall file their returns on or before the fifteenth day of the fifth month following the close of the taxable year. If, under the Internal Revenue Code, a corporation is required to file a return covering a tax period of less than twelve months, the state return shall be for the same period and is due forty-five days after the due date of the federal tax return, excluding any extension of time to file. In case of sickness, absence, or other disability, or if good cause exists, the director may allow further time for filing returns. The director shall cause to be prepared blank forms for the returns and shall cause them to be distributed throughout the state and to be furnished upon application, but failure to receive or secure the form does not relieve the taxpayer from the obligation of making a return that is required. The department may as far as consistent with the Code draft income tax forms to conform to the income tax forms of the internal revenue department of the United States government. Each return by a taxpayer upon whom a tax is imposed by section 422.5 shall show the county of the residence of the taxpayer.

Sec. 18. Section 422.43, subsection 11, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The following enumerated services are subject to the tax imposed on gross taxable services: Alteration and garment repair; armored car; automobile repair; battery, tire and allied; investment counseling; service charges of all financial institutions; barber and beauty; boat repair; car wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; rental of tangible personal property, except mobile homes which are tangible personal property; excavating and grading; farm implement repair of all kinds; flying service; furniture, rug, upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pipe fitting and plumbing; wood preparation; licensed executive search agencies; private employment agencies, excluding

services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; sewing and stitching; shoe repair and shoeshine; storage warehousing of raw agricultural products; telephone answering service; test laboratories, except tests on humans or animals; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing; pay television; campgrounds; carpet and upholstery cleaning; gun and camera repair; janitorial and building maintenance or cleaning; lawn care, landscaping and tree trimming and removal; pet grooming; reflexology; security and detective services; tanning beds or salons; and water conditioning and softening.

Sec. 19. Section 422.45, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 46. The gross receipts from the sale of property which the seller transfers to a carrier for shipment to a point outside of Iowa, places in the United States mail or parcel post directed to a point outside of Iowa, or transports to a point outside of Iowa by means of the seller's own vehicles, and which is not thereafter returned to a point within Iowa, except solely in the course of interstate commerce or transportation. This exemption shall not apply if the purchaser, consumer, or their agent, other than a carrier, takes physical possession of the property in Iowa.

Sec. 20. Section 422.72, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Unless otherwise expressly permitted by section 421.17, subsections 21, 22, 23, 25, and 29, and 32, sections 252B.9, 324.63, 421.19, 421.28, and 422.20, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

Sec. 21. NEW SECTION. 423.27 PENALTY FOR WILLFUL FAILURE TO PAY TAX.

A person who willfully makes a false statement in regard to the purchase price of a vehicle subject to taxation under section 423.7 with the intent to evade the payment of tax shall be assessed a penalty of seventy-five percent of the amount of tax unpaid and required to be paid on the actual purchase price less trade-in allowance.

Sec. 22. Section 442.15, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The school district income surtax 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 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~~ taxes computed under section 422.5, less the ~~deductions~~ credits allowed in sections ~~422.10 and 422.11A, 422.11B, 422.11C, 422.12, and 422.12B.~~

Sec. 23. Section 450.9, subsection 1, Code 1991, is amended to read as follows:

1. Surviving spouse, ~~one hundred twenty thousand dollars~~ the entire amount of property, interest in property, and income.

Sec. 24. Section 450.9, unnumbered paragraph 2, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 25. Section 450.10, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

When ~~such~~ the property, interest, or income passes to the ~~wife or the husband of the deceased, grantor, donor, or vendor, or to the father or mother, or to any a child or lineal descendant of such the decedent, grantor, donor, or vendor,~~ including a legally adopted child or illegitimate child entitled to inherit under the laws of this state, the tax imposed shall be on the

individual share so passing in excess of the exemptions herein allowed and shall be as follows:

Sec. 26. Section 450.10, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

When the property or any interest therein in property or income therefrom from property, taxable under the provisions of this chapter, passes to any a person not included in subsections 1, and 2, hereof and 7, the rate of tax imposed on the individual share so passing shall be as follows:

Sec. 27. Section 450.10, subsection 7, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

7. Property, interest in property, or income passing to the surviving spouse is not taxable under this section.

Sec. 28. Section 450.94, subsection 3, Code 1991, is amended to read as follows:

3. If the amount paid is greater than the correct tax, penalty, and interest due, the department shall refund the excess, with interest after sixty days from the date of payment. Interest shall be computed at the rate in effect under section 421.7, under the rules prescribed by the director counting each fraction of a month as an entire month and the interest shall begin to accrue on the first day of the second calendar month following the date of payment or on the date the return was due to be filed or was filed, whichever is the latest. However, the director shall not allow a claim for refund or credit that has not been filed with the department within three years after the tax payment upon which a refund or credit is claimed became due, or one year after the tax payment was made, whichever time is later. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within thirty days from the postmark date of the notice of determination of tax, penalty, and interest due or refund owing. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty and interest or refund due, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 450.59 within sixty days after the postmark date of the notice of the director's decision.

Sec. 29. Section 455G.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. For purposes of payment of refunds of the environmental protection charge under section 424.15 by the department of revenue and finance, the treasurer of state shall allocate to the department of revenue and finance the total amount budgeted by the fund's board for environmental protection charge refunds. Any unused funds shall be remitted to the treasurer of state.

Sec. 30. Sections 1 and 22 of this Act are retroactive to January 1, 1990, for tax years beginning on or after that date.

Sec. 31. Sections 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, and 17 of this Act are retroactive to January 1, 1991, for tax years beginning on or after that date.

Sec. 32. Section 6 of this Act is effective July 1, 1991, for tax payments due on or after that date.

Sec. 33. Section 7 of this Act is retroactive to January 1, 1989, for tax years beginning on or after that date.

Sec. 34. Section 28 of this Act is effective July 1, 1991, for estates of decedents dying on or after that date.

Sec. 35. Sections 23, 24, 25, 26, and 27 of this Act are retroactive to January 1, 1988, for estates of decedents dying on or after that date.

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