

CHAPTER 116**TAX ADMINISTRATION AND RELATED MATTERS***H.F. 715*

AN ACT relating to the administration of the tax and related laws by the department of revenue and finance, including administration of state individual income, corporate income, sales and use, franchise, hotel and motel, environmental protection charge on petroleum diminution, property, cigarette and tobacco products, and inheritance taxes, local option taxes, and including effective and retroactive applicability date provisions.

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

Section 1. Section 15.331A, subsection 2, Code 2001, is amended to read as follows:

2. The eligible business or a supporting business shall, not more than ~~six months~~ one year after project completion, make application to the department for any refund of the amount of the taxes paid pursuant to chapter 422 or 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the eligible business or supporting business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the eligible business or a supporting business in accordance with this section shall not be denied by reason of a limitation provision set forth in chapter 421, 422, or 423.

Sec. 2. Section 404.4, unnumbered paragraph 2, Code 2001, is amended to read as follows:

An application shall be filed for each new exemption claimed. The first application for an exemption shall be filed by the owner of the property with the governing body of the city or county in which the property is located by February 1 of the assessment year for which the exemption is first claimed, but not later than the year in which all improvements included in the project are first assessed for taxation, unless, upon the request of the owner at any time, the governing body of the city or county provides by resolution that the owner may file an application by February 1 of any other assessment year selected by the governing body in which case the exemption is allowed for the number of years remaining in the exemption schedule selected. The application shall contain, but not be limited to, the following information: The nature of the improvement, its cost, the estimated or actual date of completion, the tenants that occupied the owner's building on the date the city or county adopted the resolution referred to in section 404.2, subsection 1, and which exemption in section 404.3 or in the different schedule, if one has been adopted, will be elected.

Sec. 3. Section 421.17, subsection 16, Code 2001, is amended to read as follows:

16. To call upon ~~any a~~ a state ~~department~~ agency or institution for technical advice and data which may be of value in connection with the work of ~~assessment and taxation~~ the department.

Sec. 4. Section 421.17, subsection 22A, Code 2001, is amended to read as follows:

22A. To develop, modify, or contract with vendors to create or administer systems or programs which identify nonfilers of returns or nonpayers of taxes administered by the department. Fees for services, reimbursements, costs incurred by the department, or other remuneration ~~paid under contract~~ may be funded from the amount of tax, penalty, or interest, ~~or fees~~ actually collected and shall be paid only after the amount is collected. An amount is appropriated from the amount of tax, penalty, and interest, ~~and fees~~ actually collected, not to exceed the amount collected, which is sufficient to pay for services, reimbursement, costs incurred by the department, or other remuneration pursuant to this subsection. Vendors

entering into a contract with the department pursuant to this subsection are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information. The director shall report annually to the legislative fiscal bureau and the chairpersons and ranking members of the ways and means committees on the amount of costs incurred and paid during the previous fiscal year pursuant to this subsection.

Sec. 5. Section 421B.2, subsection 6, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this chapter, a person who does not meet the definition of retailer or wholesaler but who is engaged in the business of selling cigarettes in this state to a retailer or final consumer shall be considered a retailer and subject to the minimum pricing requirements of this chapter.

Sec. 6. Section 422.7, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 36. Add, to the extent not already included, income from the sale of obligations of the state and its political subdivisions. Income from the sale of these obligations is exempt from the taxes imposed by this division only if the law authorizing these obligations specifically exempts the income from the sale from the state individual income tax.

Sec. 7. Section 422.35, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 18. Add, to the extent not already included, income from the sale of obligations of the state and its political divisions. Income from the sale of these obligations is exempt from the taxes imposed by this division only if the law authorizing these obligations specifically exempts the income from the sale from the state corporate income tax.

Sec. 8. Section 422.47, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 9. Section 422.53, subsection 3, Code 2001, is amended to read as follows:

3. The department shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated or a place of relocation within the state if the ownership remains the same.

Sec. 10. Section 422.61, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. Notwithstanding sections 262.41 and 262.51, or any other provisions of law, income from obligations of the state and its political subdivisions and franchise taxes paid or accrued under this division during the taxable year shall be added. Income from sales of obligations of the state and its political subdivisions and interest and dividend income from these obligations are exempt from the taxes imposed by this division only if the law authorizing the obligations specifically exempts the income from the sale and interest and dividend income from the state franchise tax.

Sec. 11. Section 422.110, unnumbered paragraph 1, Code 2001, is amended to read as follows:

In lieu of the fuel tax refund provided in section 452A.17, a person or corporation subject to taxation under divisions II or III of this chapter may elect to receive an income tax credit. The person or corporation which elects to receive an income tax credit shall cancel its refund permit obtained under section 452A.18 within thirty days after the first day of its tax year or the permit becomes invalid at that time. For the purposes of this section, "person" includes a person claiming a tax credit based upon the person's pro rata share of the earnings from a partnership, limited liability company, or corporation which is not subject to a tax under division II or III of this chapter as a partnership, limited liability company, or corporation. If the election to receive an income tax credit has been made, it remains effective for at least one tax year, and for subsequent tax years unless a change is requested and

a new refund permit applied for within thirty days after the first day of the person's or corporation's tax year. The income tax credit shall be the amount of the Iowa fuel tax paid on fuel purchased by the person or corporation and is subject to the conditions provided in section 452A.17 with the exception that the income tax credit is not available for refunds relating to casualty losses, transport diversions, pumping credits, blending errors, idle time, power takeoffs, reefer units, and exports by ~~eligible purchasers~~ distributors.

Sec. 12. Section 422A.1, Code 2001, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the hotel and motel tax, the county auditor shall give written notice by sending a copy of the abstract of votes from the favorable election to the director of revenue and finance.

Sec. 13. Section 422B.8, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. However, a person required to collect state retail sales tax under chapter 422, division IV, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Sec. 14. Section 422B.9, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. A local sales and services tax shall be imposed either January 1 or July 1 following the notification of the director of revenue and finance but not sooner than ninety days following the favorable election. However, a jurisdiction which has voted to continue imposition of the tax may impose that tax without repeal of the prior tax.

Sec. 15. Section 422B.11, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. The claim is filed on forms provided by the department and is filed within ~~six months~~ one year of the date the tax is paid.

Sec. 16. Section 422E.3, subsection 2, Code 2001, is amended to read as follows:

2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment, and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

Sec. 17. Section 423.4, subsection 4, Code 2001, is amended to read as follows:

4. ~~Tangible personal property, the~~ The gross receipts from the sale of or rental of tangible personal property or from the rendering, furnishing, or performing of services which are exempted from the retail sales tax by the terms of section 422.45, except subsection 4 and subsection 6 of section 422.45 as it relates to the sale of vehicles subject to registration or subject only to the issuance of a certificate of title and as it relates to aircraft subject to registration under section 328.20.

Sec. 18. Section 424.10, subsection 2, Code 2001, is amended to read as follows:

2. If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the return is required by notice from the department, the department shall determine the amount of charge due from information as the department may be able to obtain and, if necessary, may estimate the charge on the basis of external indices or factors. The department shall give notice of the determination to the person liable for the charge. The determination shall fix the charge unless the person against whom it is assessed shall, within sixty days after the date of the notice of the determination, apply to the director for a hearing or unless the ~~taxpayer~~ person against whom it is assessed contests the determination by paying the ~~tax~~ charge, interest, and penalty and timely filing a claim for refund. At the hearing evidence may be offered to support the determination or to prove that it is incorrect. After the hearing the director shall give notice of the decision to the person liable for the charge.

If a depositor's, receiver's, or other person's challenge relates to the diminution rate, the burden of proof upon the challenger shall only be satisfied by clear and convincing evidence.

Sec. 19. Section 424.13, subsection 2, Code 2001, is amended to read as follows:

2. For cause and upon a showing by the director that collection of the ~~tax~~ charge in dispute is in doubt, the court may order the petitioner to file with the clerk a bond for the use

of the respondent, with sureties approved by the clerk, in the amount of ~~tax~~ the charge appealed from, conditioned that the petitioner shall perform the orders of the court.

Sec. 20. Section 427.1, subsection 16, Code 2001, is amended to read as follows:

16. REVOKING OR MODIFYING EXEMPTION. Any taxpayer or any taxing district may make application to the director of revenue and finance for revocation or modification for any exemption, based upon alleged violations of this chapter. The director of revenue and finance may also on the director's own motion set aside or modify any exemption which has been granted upon property for which exemption is claimed under this chapter. The director of revenue and finance shall give notice by mail to the taxpayer or taxing district applicant and to the societies or organizations claiming an exemption upon property, exemption of which is questioned before or by the director of revenue and finance, and shall hold a hearing prior to issuing any order for revocation or modification. An order made by the director of revenue and finance revoking or modifying an exemption shall be applicable to the tax year commencing with the tax year in which the application is made to the director ~~of revenue and finance~~ or the tax year commencing with the tax year in which the director's own motion is filed. An order made by the director of revenue and finance revoking or modifying an exemption is subject to judicial review in accordance with chapter 17A, the Iowa administrative procedure Act. Notwithstanding the terms of that Act, petitions for judicial review may be filed in the district court having jurisdiction in the county in which the property is located, and must be filed within thirty days after any order revoking or modifying an exemption is made by the director of revenue and finance.

Sec. 21. Section 427A.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Notwithstanding the definition of "attached" in subsection 2, property is not "attached" if it is a fixture used for cooking, refrigeration, or freezing of value-added agricultural products, used in value-added agricultural processing or used in direct support of value-added agricultural processing. For purposes of this subsection, "direct support" includes storage by public refrigerated warehouses for processors of value-added agricultural products. Such fixtures shall not be considered "attached" whether owned directly by the processor or warehouse operator or by another who leases the fixture to the processor or warehouse operator. This subsection shall not apply to fixtures used primarily for retail sale or display.

Sec. 22. Section 427B.19A, subsection 2, Code 2001, is amended to read as follows:

2. If an amount appropriated for a fiscal year is insufficient to pay all claims as a result of action by the general assembly limiting the amount appropriated to the fund, the director shall prorate the disbursements from the fund to the county treasurers and shall notify the county auditors of the pro rata percentage on or before September 30.

Sec. 23. Section 427B.19B, Code 2001, is amended to read as follows:

427B.19B GUARANTEE OF STATE REPLACEMENT FUNDS.

For the fiscal years beginning July 1, 1996, and ending June 30, 2006, if the industrial machinery, equipment and computers property tax replacement fund is insufficient to pay in full the total of the amounts certified to the director of revenue and finance as a result of action by the general assembly limiting the amount appropriated to the fund, the director shall compute for each county the difference between the total of all replacement claims for each taxing district within the county and the amount paid to the county treasurer for disbursement to each taxing district in the county. The assessor, for the assessment year for which taxes are due and payable in the fiscal year for which a sufficient appropriation was not made as a result of action by the general assembly limiting the amount appropriated to the fund, shall revalue all industrial machinery, equipment and computers described in section 427B.17, subsections 2 and 3, in the county at a percentage of net acquisition cost which will yield from each taxing district its shortfall and the property shall be assessed and taxed in such manner for taxes due and payable in the following fiscal year in addition

to being assessed and taxed in the applicable manner under section 427B.17. When conducting the revaluation, the assessor shall increase the percentage of net acquisition cost of such property by the same percentage point. Property tax dollar amounts certified pursuant to this section shall not be considered property tax dollars certified for purposes of the property tax limitation in chapter 444.

Sec. 24. Section 450.10, subsection 4, Code 2001, is amended to read as follows:

4. When the property or any interest ~~therein~~ in property or income ~~therefrom~~ from property, taxable under ~~the provisions of this chapter~~, passes to any firm, corporation, or society organized for profit ~~either under the laws of this state or of any other state, territory, province or country~~, including fraternal and social organizations which do not qualify for exemption under sections 170(c) and 2055 of the Internal Revenue Code, the rate of tax imposed shall be as follows:

Fifteen percent on the entire amount so passing.

Sec. 25. Section 453A.2, subsection 4, Code 2001, is amended to read as follows:

4. The Iowa department of public health, a county health department, a city health department, or a city may directly enforce this section in district court and initiate proceedings pursuant to section 453A.22 before a permit-issuing authority which issued the permit against a permit holder violating this section.

Sec. 26. Section 499B.11, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 27. IMPLEMENTATION OF ACT. Section 25B.7 does not apply to the exemption provided in new subsection 3A of section 427A.1 as enacted in this Act.

Sec. 28. EFFECTIVE AND APPLICABILITY DATES.

1. The sections of this Act amending Code sections 422.7, 422.35, and 422.61, relating to income exemptions, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 2001, for tax years beginning on or after that date.

2. The section of this Act amending Code section 450.10, relating to property passing to certain types of legal entities, takes effect July 1, 2001, for estates of decedents dying on or after that date.

3. The section of this Act amending section 427A.1, relating to fixtures used in value-added agricultural processing, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2000, for assessment years beginning on or after that date.

Approved May 3, 2001

CHAPTER 117
APPEALS FROM JUVENILE COURT
S.F. 392

AN ACT relating to appeals filed in juvenile court proceedings.

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

Section 1. Section 232.133, subsections 1 and 2, Code 2001, are amended to read as follows:

1. An interested party aggrieved by an order or decree of the juvenile court may appeal