

CHAPTER 1076

INTERNAL REVENUE CODE REFERENCES UPDATE — GENERATION SKIPPING TRANSFER AND ESTATE TAXES REPEAL

H.F. 2435

AN ACT relating to taxation by updating the Code references to the Internal Revenue Code, providing for the repeal of the generation skipping transfer tax and Iowa estate tax, and including effective date and retroactive applicability provisions.

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

DIVISION I INTERNAL REVENUE CODE REFERENCES

Section 1. Section 15.335, subsection 7, paragraph b, Code 2014, is amended to read as follows:

b. For purposes of this section, “*Internal Revenue Code*” means the Internal Revenue Code in effect on January 1, 2013, and as amended by the American Taxpayer Relief Act of 2012, Pub. L. No. 112-240 2014.

Sec. 2. Section 422.3, subsection 5, Code 2014, is amended to read as follows:

5. “*Internal Revenue Code*” means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 2013, and as amended by the American Taxpayer Relief Act of 2012, Pub. L. No. 112-240 2014.

Sec. 3. Section 422.10, subsection 3, paragraph b, Code 2014, is amended to read as follows:

b. For purposes of this section, “*Internal Revenue Code*” means the Internal Revenue Code in effect on January 1, 2013, and as amended by the American Taxpayer Relief Act of 2012, Pub. L. No. 112-240 2014.

Sec. 4. Section 422.32, subsection 1, paragraph g, Code 2014, is amended to read as follows:

g. “*Internal Revenue Code*” means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 2013, and as amended by the American Taxpayer Relief Act of 2012, Pub. L. No. 112-240 2014.

Sec. 5. Section 422.33, subsection 5, paragraph e, subparagraph (2), Code 2014, is amended to read as follows:

(2) For purposes of this subsection, “*Internal Revenue Code*” means the Internal Revenue Code in effect on January 1, 2013, and as amended by the American Taxpayer Relief Act of 2012, Pub. L. No. 112-240 2014.

Sec. 6. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 7. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 2013, for tax years beginning on or after that date.

DIVISION II REPEAL OF GENERATION SKIPPING TRANSFER TAX AND IOWA ESTATE TAX

Sec. 8. Section 12.71, subsection 8, Code 2014, is amended to read as follows:

8. Bonds issued under the provisions of this section are declared to be issued for a general public and governmental purpose and all bonds issued under this section shall be exempt

from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 9. Section 12.80, subsection 3, Code 2014, is amended to read as follows:

3. Bonds issued under this section are declared to be issued for an essential public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 10. Section 12.81, subsection 8, Code 2014, is amended to read as follows:

8. Bonds issued under the provisions of this section are declared to be issued for a general public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 11. Section 12.87, subsection 8, Code 2014, is amended to read as follows:

8. Any bonds issued and sold under the provisions of this section are declared to be issued and sold for an essential public and governmental purpose, and all bonds issued and sold under this section except as otherwise provided in any trust indentures, resolutions, or other instruments authorizing their issuance shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 12. Section 12.91, subsection 9, Code 2014, is amended to read as follows:

9. Bonds issued under the provisions of this section are declared to be issued for a general public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 13. Section 16.177, subsection 8, Code 2014, is amended to read as follows:

8. Bonds issued under this section are declared to be issued for an essential public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 14. Section 321.47, subsection 2, Code 2014, is amended to read as follows:

2. The persons entitled under the laws of descent and distribution of an intestate's property to the possession and ownership of a vehicle owned in whole or in part by a decedent, upon filing an affidavit stating the name and date of death of the decedent, the right to possession and ownership of the persons filing the affidavit, and that there has been no administration of the decedent's estate, which instrument shall also contain an agreement to indemnify creditors of the decedent who would be entitled to levy execution upon the motor vehicle to the extent of the value of the motor vehicle, are entitled upon fulfilling the other requirements of this chapter, to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to it. If a decedent dies testate, and either the will is not probated or is admitted to probate without administration, the persons entitled to the possession and ownership of a vehicle owned in whole or in part by the decedent may file an affidavit and, upon fulfilling the other requirements of this chapter, are entitled to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to the vehicle. The affidavit shall contain the same information and indemnity agreement as is required in cases of intestacy pursuant to this section. A requirement of chapter 450 ~~or 451~~ shall not be considered satisfied by the filing of the affidavit provided for in this section. If, from the records in the office of the county treasurer, there appear to be any liens on the vehicle, the certificate of title shall contain a statement of the liens unless the application is accompanied by proper evidence of their satisfaction or extinction. Evidence of extinction may consist of, but is not limited to, an affidavit of the applicant stating that a security interest was foreclosed as provided in chapter 554, article 9, part 6. The department shall waive the certificate of title fee and surcharge required under sections 321.20, 321.20A,

321.23, 321.46, 321.52, and 321.52A if the person entitled to possession and ownership of a vehicle, as provided in this subsection, is the surviving spouse of a decedent.

Sec. 15. Section 421.60, subsection 2, paragraph c, subparagraph (1), Code 2014, is amended to read as follows:

(1) If the notice of assessment or denial of a claim for refund relates to a tax return filed pursuant to section 422.14 or chapter 450, ~~450A, or 451~~, by the taxpayer which designates an individual as an authorized representative of the taxpayer with respect to that return, or if a power of attorney has been filed with the department by the taxpayer which designates an individual as an authorized representative of the taxpayer with respect to any tax that is included in the notice of assessment or denial of a claim for refund, a copy of the notice together with any additional information required to be sent to the taxpayer shall be sent to the authorized representative as well.

Sec. 16. Section 450.7, subsection 2, unnumbered paragraph 1, Code 2014, is amended to read as follows:

Notice of the lien is not required to be recorded. The rights of the state under the lien have priority over all subsequent mortgages, purchases, or judgment creditors; and a conveyance after the decedent's death of the property subject to a lien does not discharge the property except as otherwise provided in this chapter. However, if additional tax is determined to be owing under this chapter ~~or chapter 451~~ after the lien has been released under paragraph "a" or "b", the lien does not have priority over subsequent mortgages, purchases, or judgment creditors unless notice of the lien is recorded in the office of the recorder of the county where the estate is probated, or where the property is located if the estate has not been administered. The department of revenue may release the lien by filing in the office of the clerk of the court in the county where the property is located, the decedent owner died, or the estate is pending or was administered, one of the following:

Sec. 17. Section 450.68, subsection 1, paragraph b, Code 2014, is amended to read as follows:

b. Federal tax returns, copies of returns, return information as defined in section 6103(b) of the Internal Revenue Code, and state inheritance tax returns, which are required to be filed with the department for the enforcement of the inheritance ~~and estate~~ tax laws of this state, shall be deemed and held as confidential by the department. However, such returns or return information may be disclosed by the director to officers or employees of other state agencies, subject to the same confidentiality restrictions imposed on the officers and employees of the department.

Sec. 18. Section 455G.6, subsection 14, Code 2014, is amended to read as follows:

14. Bonds issued under the provisions of this section are declared to be issued for an essential public and governmental purpose and all bonds issued under this subchapter shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 19. Section 463C.12, subsection 8, Code 2014, is amended to read as follows:

8. Tax-exempt bonds issued by the authority in connection with the program, which are exempt from taxation for federal tax purposes, are also exempt from taxation by the state of Iowa and the interest on these bonds is exempt from state income taxes and state inheritance ~~and estate~~ taxes.

Sec. 20. Section 524.1406, subsection 3, paragraph a, Code 2014, is amended to read as follows:

a. Notwithstanding any contrary provision in chapter 490, division XIII, in determining the fair value of the shareholder's shares of a bank organized under this chapter or a bank holding company as defined in section 524.1801 in a transaction or event in which the shareholder is entitled to appraisal rights, due consideration shall be given to valuation factors recognized for federal ~~and state~~ estate tax purposes, including discounts for minority interests and discounts for lack of marketability. However, any payment made to

shareholders under section 490.1324 shall be in an amount not less than the stockholders' equity in the bank disclosed in its last statement of condition filed under section 524.220 or the total equity capital of the bank holding company disclosed in the most recent report filed by the bank holding company with the board of governors of the federal reserve system, divided by the number of shares outstanding.

Sec. 21. Section 633.3, subsections 4 and 8, Code 2014, are amended to read as follows:

4. *Charges* — includes costs of administration, funeral expenses, cost of monument, and federal ~~and state~~ estate taxes.

8. *Costs of administration* — includes court costs, fiduciary's fees, attorney fees, all appraisers' fees, premiums on corporate surety bonds, statutory allowance for support of surviving spouse and children, cost of continuation of abstracts of title, recording fees, transfer fees, transfer taxes, agents' fees allowed by order of court, interest expense, including but not limited to interest payable on extension of federal ~~and state~~ estate tax, and all other fees and expenses allowed by order of court in connection with the administration of the estate. Court costs shall include expenses of selling property.

Sec. 22. Section 633.436, subsection 1, unnumbered paragraph 1, Code 2014, is amended to read as follows:

Except as provided in sections 633.211 and 633.212, shares of the distributees shall abate, for the payment of debts and charges, federal ~~and state~~ estate taxes, legacies, the shares of children born or adopted after the making of a will, or the share of the surviving spouse who elects to take against the will, without any preference or priority as between real and personal property, in the following order:

Sec. 23. Section 633.449, Code 2014, is amended to read as follows:

633.449 Payment of federal estate taxes.

All federal estate taxes, distinguished from state inheritance ~~and estate~~ taxes, owing by the estate of a decedent shall be paid from the property of the estate, unless the will of the decedent, or other trust instrument, provides expressly to the contrary.

Sec. 24. Section 633A.4703, unnumbered paragraph 1, Code 2014, is amended to read as follows:

Except as otherwise provided by the governing instrument, where necessary to abate shares of the beneficiaries of a trust for the payment of debts and charges, federal ~~and state~~ estate taxes, bequests, the share of the surviving spouse who takes an elective share, and the shares of children born or adopted after the execution of the trust, abatement shall occur in the following order:

Sec. 25. REPEAL. Chapters 450A and 451, Code 2014, are repealed.

Approved April 3, 2014