

Senate substituted 2/7 251 - 3/31

February 18, 1953
Passed on File.

jud 2/18 Rec. Passage 2/25

Senate File 251
By BEKMAN.

Passed Senate, Date.....
Vote: Ayes..... Nays.....
Passed House, Date.....
Vote: Ayes..... Nays.....
Approved

A BILL FOR

An Act to amend chapter four hundred twenty-two (422), Code 1950, relating to taxation and financial report of fiduciary of income from estates and trusts and relating to definition and taxation of income of non-residents.

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

1 Section 1. Section four hundred twenty-two point six
2 (422.6), Code 1950, is hereby amended by striking therefrom
3 subsection four (4) and enacting in lieu thereof the following:
4 "In cases under paragraphs d and e of subsection 1 of this
5 section, if the distribution of income of a resident estate or
6 trust is in the discretion of the fiduciary, either as to the
7 beneficiaries to whom payable or as to the amounts to which any
8 beneficiary is entitled, the amount of any income properly paid
9 or credited to any beneficiary during the taxable year shall be
10 deducted in computing the net income of the estate or trust and
11 the tax shall be imposed upon the estate or trust in the manner
12 provided in subsection 3 of this section 422.6, with respect to
13 any net income not so distributed. Any amount of income so
14 deducted in computing the net income of the estate or trust for

15 the taxable year shall be included in computing the net income
16 of the beneficiary for that taxable year. In all other cases
17 under paragraphs d and e of subsection 1 of section 422.6, the
18 tax shall not be paid by the fiduciary, but there shall be
19 included in computing the net income of each beneficiary his
20 distributive share whether distributed or not, of the net income
21 of the estate or trust for the taxable year or if his net
22 income for such taxable year is computed upon the basis of a
23 period different from that upon the basis of which the net
24 income of the estate or trust is computed, then his distributive
25 share of the net income of the estate or trust for any accounting
26 period of such estate or trust ending within the fiscal or
27 calendar year upon the basis of which such beneficiary's net
28 income is computed shall be accounted for on his return for that
29 fiscal or calendar year. Income which is to be distributed to
30 the beneficiaries periodically shall include income for the
31 taxable year of the estate or trust which, within the taxable
32 year, becomes payable to the legatees, heirs or beneficiaries."

1 Sec. 2. Section four hundred twenty-two point eight (422.8),
2 Code 1950, is hereby amended by striking therefrom subsection
3 three (3) and enacting in lieu thereof the following:

4 "Every individual taxable under this division who is a
5 beneficiary of an estate or trust shall include in his gross
6 income the distributive share of the net income of the estate or
7 trust received by him or distributable to him during the income
8 year, excepting that if the net income of the estate or trust was

9 taxable to the fiduciary under a provision of section 422.6 and
10 the fiduciary paid the tax thereon, the distributive share of such
11 net income received by the beneficiary or that was distributable
12 to him on which the tax was paid by the fiduciary, shall not be
13 included in the beneficiary's gross income. Unless otherwise
14 provided in the law, the will, the deed or other instrument
15 creating the estate, trust or fiduciary relation, the net income
16 of the estate or trust shall be deemed to be distributed or
17 distributable to the beneficiaries (including the fiduciary as a
18 beneficiary, in the case of income accumulated for future
19 distribution) ratably, in proportion to their respective
20 interests."

1 Sec. 3. Section four hundred twenty-two point eight (422.8),
2 Code 1950, is hereby amended by striking therefrom paragraph c
3 of subsection two (2) and enacting in lieu thereof the following:

4 "The value of property acquired by good faith, gift, bequest,
5 devise, or descent. Any such property shall not be regarded as a
6 capital asset for state income tax purposes at the time when
7 acquired by an individual, estate, or trust, if it was the stock
8 in trade or would ordinarily have been included in the inventory
9 of the person or estate from whom acquired if on hand at the
10 close of the taxable year that the transfer of such property
11 came in. The income from all property so acquired shall be
12 included in gross income of the person, estate or trust
13 receiving the property."

1 Sec. 4. Section four hundred twenty-two point eight (422.8),

2 Code 1950, is hereby amended by striking therefrom subsection
3 four (4) and enacting in lieu thereof the following:

4 "In the case of a nonresident the term 'gross income' shall
5 refer to such gross income, as herein defined, as is derived from
6 any property or property held in trust within this state, and
7 shall also refer to such gross income as is derived from any
8 business, trade or profession carried on within this state by
9 the nonresident, and shall also refer to such gross income as is
10 received by the nonresident as salary, wages, bonus, commissions
11 or other remuneration for personal services performed or sales
12 made within this state. The term 'gross income' shall not
13 include income received by a nonresident in the form of
14 annuities, interest on bank deposits, interest on bonds, notes
15 or other interest bearing obligations, or dividends from
16 corporations either foreign or domestic, whether received by
17 the nonresident directly or as beneficiary of a trust, except
18 to the extent to which the same shall be part of income received
19 by the nonresident from any business, trade, profession or
20 occupation carried on by him in this state that is subject to
21 the personal net income tax.

22 "If any income is received from a business, trade,
23 profession, or occupation carried on partly within and partly
24 without the state, only such portion of such income as is fairly
25 and equitably attributable to that part of the business, trade,
26 profession, or occupation carried on within the state of Iowa
27 shall be included within such gross income, and such allocation

28 shall be made under rules and regulations prescribed by the
29 commission, which shall, in any event, require the entire amount
30 of such income and allocation made, to be shown in the return
31 which said nonresident shall, and must, file pursuant to
32 sections 422.13 to 422.23, inclusive.”

1 Sec. 5. Section four hundred twenty-two point nine (422.9),
2 Code 1950, is hereby amended by striking therefrom subsection
3 seven (7) and enacting in lieu thereof the following:

4 “A nonresident shall be allowed the deductions provided
5 herein, excepting that the deductions provided in subsections
6 1 to 5, inclusive, shall be allowed to a nonresident only if, and
7 to the extent that, they are connected with income arising from
8 sources within this state and taxable under this division II of
9 the law; and further excepting that the deductions provided in
10 subsection 6 of this section shall be allowed to a nonresident in
11 amount only to the extent of the percentage of the ratio between
12 the nonresident's Iowa adjusted gross income and his adjusted
13 gross income from all sources, with the same limitation as
14 provided in said subsection 6. The proper apportionment and
15 allocation of the deductions with respect to income received from
16 a business, trade, profession or occupation carried on partly
17 within and partly without this state shall be determined under
18 rules and regulations to be prescribed by the commission.”

1 Sec. 6. Section four hundred twenty-two point sixteen (422.16),
2 Code 1950, is hereby amended by striking therefrom subsection one
3 (1) and enacting in lieu thereof the following:

4 "All withholding agents, as defined in subsection 14 of
5 section 422.4, shall deduct and withhold in each calendar year
6 from payments of all gross income, defined in subsection 4 of
7 section 422.8, made to any nonresident of this state or to the
8 agent of the nonresident, such amount of those payments as shall
9 be prescribed by rule or regulation of the commission, and such
10 withholdings for the state income tax made from nonresidents shall
11 be within forty-five days after the close of a calendar year
12 reported on forms prescribed by the commission and remitted to
13 the commission. There shall be exempt from such withholdings an
14 amount of income equal in each case to the amount of Iowa net
15 income of the nonresident on which the tax is equaled by the
16 personal exemption credit, taking into consideration the marital
17 status of the nonresident during the calendar year. The
18 commission also may take into consideration the number of
19 dependents of the nonresident in fixing the exemptions from such
20 withholdings. The maximum withholding tax rate shall be less
21 than the maximum personal net income tax rate fixed by the
22 legislature. The commission shall within sixty days after the
23 legislature fixes the personal net income tax rates and the
24 exemption credits or makes any change therein, proceed to make
25 an order fixing the withholding tax rates and exemptions in
26 conformity therewith."

1 Sec. 7. Section four hundred twenty-two point sixteen
2 (422.16), Code 1950, is hereby further amended by striking
3 therefrom subsection two (2) and enacting in lieu thereof the

4 following:

5 "Withholding agents shall make returns upon the basis of
6 each calendar year, and shall include therein such information
7 as the commission may require. A withholding agent may be
8 required by the commission to make a separate withholding
9 agent's return for every nonresident a portion of whose income
10 is required to be withheld under subsection 1 hereof."

1 Sec. 8. Section four hundred twenty-two point twenty-seven
2 (422.27), Code 1950, is hereby amended by striking therefrom
3 subsection one (1) and enacting in lieu thereof the following:

4 "No final report of a fiduciary acting in any matter where
5 administration was had upon real or personal property shall be
6 allowed by any court in this state until the fiduciary first
7 obtains from the commission and files in the matter an income
8 tax clearance certificate showing that there is no state income
9 tax due on the income of the estate or trust, or on the income
10 of the decedent, in the case of an estate for a deceased person,
11 or on the income of the ward, in the case of a guardianship
12 matter. In investigating into the matter and in issuing such a
13 certificate of acquittance, the commission shall be required to
14 take into consideration the period of time provided for in
15 subsection 2 of section 422.25, and shall not issue such a
16 certificate in any case where there is an unsatisfied lien for
17 any year that was filed under the provisions of section 422.26,
18 against any person, trust, or estate for which the fiduciary is
19 acting. The judge of said court in approving such final report

20 of the fiduciary shall find that such certificate from the
21 commission is on file in the matter and that all taxes imposed
22 by the provisions of this division upon the fiduciary have been
23 paid. If the fiduciary reports to the court that there is no
24 property in the estate or trust out of which to satisfy any
25 state income tax that may be due therefrom at such time, the
26 court shall thereupon direct the fiduciary to mail to the
27 commission a notice of the hearing of the final report, along
28 with a certified copy of the fiduciary's final report, via
29 United States Registered Mail, at least ten days before the
30 hearing date. Any proceeding docketed in a court of this state
31 under the provisions of section 450.22, shall not be complete
32 without there being filed therein an income tax clearance
33 certificate issued by the commission showing that there is no
34 state income tax due on the income of the decedent.

35 "In every case of a person who became deceased on or after
36 January 1, 1953, who either was a resident of this state or a
37 nonresident with taxable income from Iowa sources at the time of
38 death, it shall be the duty of the administrator or executor of
39 the decedent's estate, if administration is had thereon, and if
40 not, then it shall be the duty of the surviving spouse or next
41 of kin, to make and file for the decedent an individual state
42 income tax return for the portion of the year that death occurred
43 in, such return to be filed within the time required by section
44 422.21, regardless of whether the decedent had any income subject
45 to the Iowa tax for that tax year, and regardless of whether no

46 tax is due on such a return. Such return shall show an
47 accounting of income for the period of time that it covers, and
48 shall show the date of decedent's death and whether administration
49 is at that time being had in a court of this state on his estate,
50 and shall give the location of the court. Such return will
51 serve as a notice to the income tax division of the death of the
52 deceased person."

1 Amend Senate File 251 by striking all of section 3.
Filed
March 27, 1953.

By VEST.

