

FILED

SENATE FILE 141

Wagon and Means 2-7-73

Griffin, Chairman
Curtis
Rodgers

By BLOUIN, HILL, GLUBA, KINLEY,
KENNEDY, SCHABEN, COLEMAN, NOLIN,
PALMER, VAN GILST, DODERER, WILLIT
RODGERS, ROBINSON and MILLER of
Des Moines
(Small)

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

A BILL FOR

1 An Act relating to the corporation income tax.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
3 Section 1. Section four hundred twenty-two point thirty-
4 three (422.33), Code 1973, is amended by striking subsections
5 one (1) and two (2) and inserting in lieu thereof the follow-
6 ing new subsections:

7 1. NEW SUBSECTION. ALLOCATION OF BUSINESS INCOME. If
8 the trade or business of the taxpayer is carried on entirely
9 within the state, the tax shall be imposed on the entire net
10 income. Any taxpayer having income from business activity
11 which is taxable both within and without this state, other
12 than the rendering of purely personal services by an indi-
13 vidual, shall allocate and apportion his net income as pro-
14 vided in this section.

15 2. NEW SUBSECTION. DEFINITIONS. As used in this sec-
16 tion, unless the context otherwise requires:

17 a. "Business income" means income arising from transac-
18 tions and activity in the regular course of the taxpayer's
19 trade or business and includes income from tangible and in-
20 tangible property if the acquisition, management, and dispo-
21 sition of the property constitute integral parts of the
22 taxpayer's regular trade or business operations.

23 b. "Commercial domicile" means the principal place from
24 which the trade or business of the taxpayer is directed or
25 managed.

1 c. "Compensation" means wages, salaries, commissions,
2 and any other form of remuneration paid to employees for
3 personal services.

4 d. "Nonbusiness income" means all income other than busi-
5 ness income.

6 e. "Sales" means all gross receipts of the taxpayer not
7 allocated under subsections four (4) through eight (8) of
8 this section.

9 f. "State" means any state of the United States, the Dis-
10 trict of Columbia, the Commonwealth of Puerto Rico, any ter-
11 ritory or possession of the United States, and any foreign
12 country or political subdivision thereof.

13 3. NEW SUBSECTION. NONRESIDENT TAXPAYER. For purposes
14 of allocation and apportionment of income under this chapter,
15 a taxpayer is taxable in another state if:

16 a. In that state he is subject to a net income tax, a
17 franchise tax measured by net income, a franchise tax for
18 the privilege of doing business, or a corporate stock tax;
19 or

20 b. That state has jurisdiction to subject the taxpayer
21 to a net income tax regardless of whether, in fact, the state
22 does or does not.

23 4. NEW SUBSECTION. ALLOCATION OF CERTAIN ITEMS. Rents
24 and royalties from real or tangible personal property, capi-
25 tal gains, interest, dividends, or patent or copyright royalti-
26 ties, to the extent that they constitute nonbusiness income,
27 shall be allocated as provided in subsections five (5) through
28 eight (8) of this section.

29 5. NEW SUBSECTION. RENTS AND ROYALTIES.

30 a. Net rents and royalties from real property located
31 in this state are allocable to this state.

32 b. Net rents and royalties from tangible personal prop-
33 erty are allocable to this state:

34 (1) If and to the extent that the property is utilized
35 in this state; or

1 (2) In their entirety if the taxpayer's commercial domi-
2 cile is in this state and the taxpayer is not organized under
3 the laws of or taxable in the state in which the property
4 is utilized.

5 c. The extent of utilization of tangible personal prop-
6 erty in a state is determined by multiplying the rents and
7 royalties by a fraction, the numerator of which is the num-
8 ber of days of physical location of the property in the state
9 during the rental or royalty period in the taxable year and
10 the denominator of which is the number of days of physical
11 location of the property everywhere during all rental or roy-
12 alty periods in the taxable year. If the physical location
13 of the property during the rental or royalty period is un-
14 known or unascertainable by the taxpayer, tangible personal
15 property is utilized in the state in which the property was
16 located at the time the rental or royalty payer obtained pos-
17 session.

18 6. NEW SUBSECTION. PROPERTY--CAPITAL GAINS AND LOSSES.

19 a. Capital gains and losses from sales of real property
20 located in this state are allocable to this state.

21 b. Capital gains and losses from sales of tangible per-
22 sonal property are allocable to this state if:

23 (1) The property had a situs in this state at the time
24 of the sale; or

25 (2) The taxpayer's commercial domicile is in this state
26 and the taxpayer is not taxable in the state in which the
27 property had a situs.

28 c. Capital gains and losses from sales of intangible per-
29 sonal property are allocable to this state if the taxpayer's
30 commercial domicile is in this state.

31 7. NEW SUBSECTION. INTEREST AND DIVIDENDS. Interest
32 and dividends are allocable to this state if the taxpayer's
33 commercial domicile is in this state.

34 8. NEW SUBSECTION. PATENTS AND COPYRIGHTS.

35 a. Patent and copyright royalties are allocable to this

1 state:

2 (1) If and to the extent that the patent or copyright
3 is utilized by the taxpayer in this state; or

4 (2) If and to the extent that the patent or copyright
5 is utilized by the taxpayer in a state in which the taxpayer
6 is not taxable and the taxpayer's commercial domicile is in
7 this state.

8 b. A patent is utilized in a state to the extent that
9 it is employed in production, fabrication, manufacturing,
10 or other processing in the state or to the extent that a
11 patented product is produced in the state. If the basis of
12 receipts from patent royalties does not permit allocation
13 to states or if the accounting procedures do not reflect
14 states of utilization, the patent is utilized in the state
15 in which the taxpayer's commercial domicile is located.

16 c. A copyright is utilized in a state to the extent that
17 printing or other publication originates in the state. If
18 the basis of receipts from copyright royalties does not per-
19 mit allocation to states or if the accounting procedures do
20 not reflect states of utilization, the copyright is utilized
21 in the state in which the taxpayer's commercial domicile is
22 located.

23 9. NEW SUBSECTION. BUSINESS INCOME. All business in-
24 come shall be apportioned to this state by multiplying the
25 income by a fraction, the numerator of which is the property
26 factor plus the payroll factor plus the sales factor, and
27 the denominator of which is three.

28 10. NEW SUBSECTION. PROPERTY FACTOR. The property fac-
29 tor is a fraction, the numerator of which is the average value
30 of the taxpayer's real and tangible personal property owned
31 or rented and used in this state during the tax period and
32 the denominator of which is the average value of all the tax-
33 payer's real and tangible personal property owned or rented
34 and used during the tax period.

35 11. NEW SUBSECTION. PROPERTY OWNED AND RENTED. Prop-

1 erty owned by the taxpayer is valued at its original cost.
2 Property rented by the taxpayer is valued at eight times the
3 net annual rental rate. Net annual rental rate is the an-
4 nual rental rate paid by the taxpayer less any annual rental
5 rate received by the taxpayer from subrentals.

6 12. NEW SUBSECTION. AVERAGE VALUE OF PROPERTY. The
7 average value of property shall be determined by averaging
8 the values at the beginning and ending of the tax period, but
9 the director of revenue may require the averaging of monthly
10 values during the tax period if reasonably required to re-
11 flect properly the average value of the taxpayer's property.

12 13. NEW SUBSECTION. PAYROLL FACTOR. The payroll factor
13 is a fraction, the numerator of which is the total amount
14 paid in this state during the tax period by the taxpayer for
15 compensation, and the denominator of which is the total com-
16 pensation paid everywhere during the tax period.

17 14. NEW SUBSECTION. COMPENSATION. Compensation is paid
18 in this state if:

19 a. The individual's service is performed entirely within
20 the state; or

21 b. The individual's service is performed both within and
22 without the state, but the service performed without the state
23 is incidental to the individual's service within the state;
24 or

25 c. Some of the service is performed in the state and:

26 (1) The base of operations or, if there is no base of
27 operations, the place from which the service is directed or
28 controlled is in the state; or

29 (2) The base of operations or the place from which the
30 service is directed or controlled is not in any state in which
31 some part of the service is performed, but the individual's
32 residence is in this state.

33 15. NEW SUBSECTION. SALES FACTOR. The sales factor is
34 a fraction, the numerator of which is the total sales of the
35 taxpayer in this state during the tax period, and the denom-

1 inator of which is the total sales of the taxpayer everywhere
2 during the tax period.

3 16. NEW SUBSECTION. LOCAL SALES OF TANGIBLE PERSONAL
4 PROPERTY. Sales of tangible personal property are in this
5 state if:

6 a. The property is delivered or shipped to a purchaser,
7 other than the United States government, within this state
8 regardless of the f.o.b. point or other conditions of the
9 sale; or

10 b. The property is shipped from an office, store, ware-
11 house, factory, or other place of storage in this state and:

- 12 (1) The purchaser is the United States government; or
- 13 (2) The taxpayer is not taxable in the state of the pur-
14 chaser.

15 17. NEW SUBSECTION. OTHER SALES. Sales, other than sales
16 of tangible personal property, are in this state if:

17 (a) The income-producing activity is performed in this
18 state; or

19 (b) The income-producing activity is performed both in
20 and outside this state and a greater proportion of the income-
21 producing activity is performed in this state than in any
22 other state, based on costs of performance.

23 18. NEW SUBSECTION. ADDITIONAL METHODS OF DETERMINING
24 BUSINESS SITUS. If the allocation and apportionment provi-
25 sions of this section do not fairly represent the extent of
26 the taxpayer's business activity in this state, the taxpayer
27 may petition for or the director of revenue may require, in
28 respect to all or any part of the taxpayer's business activ-
29 ity, if reasonable:

- 30 (a) Separate accounting except to a unitary business;
- 31 (b) The exclusion of any one or more of the factors;
- 32 (c) The inclusion of one or more additional factors which
33 will fairly represent the taxpayer's business activity in
34 this state; or
- 35 (d) The employment of any other method to effectuate an

1 equitable allocation and apportionment of the taxpayer's in-
2 come.

3 EXPLANATION

4 This bill provides for the allocation of corporate income
5 on the basis of sales, property, and payroll. This will
6 change Iowa's present formula from a single-factor formula
7 to a three-factor formula.

8
9
10
11
12
13
14
15
16
17
18

SENATE FILE 141
FISCAL NOTE

Date prepared February 23, 1973

Requested by Senator Blouin.

Prepared in regard to S.F. 141 - An Act relating to the
corporation income tax. Following is the fiscal effect in
dollars of the legislative proposal as required by Senate Rule
31.

Senate File 141 creating a three-factor formula for
corporate income tax purposes would affect about 970 Iowa
based corporations and about 1,400 foreign corporations.
This estimate is based on information gathered from corporate
income tax returns filed for the fiscal year ended June 30,
1971.

The Department of Revenue is unable at this time to make
an estimate of the fiscal effect of S.F. 141. They indicate
an extensive study would be necessary to do so.

Source: Department of Revenue.

Filed
February 26, 1973

GERRY D. RANKIN
Legislative Fiscal Director

34
35

LSB 135
bk/jw/3