

Reprint rec'd 4/15

SENATE FILE 2153

BY COMMITTEE ON WAYS AND MEANS
(FORMERLY SSB 2025)
Approved 2/10 (p. 266)

FILED FEB 10 1982

Passed Senate, Date 4-14-82 (p. 1200) Passed House, Date 4-24-82 (p. 1775)

Vote: Ayes 45 Nays 1 Vote: Ayes 92 Nays 5

Approved May 21, 1982

A BILL FOR

1 An Act relating to the state sales, services, and use taxes by
2 exempting from the taxes linotype, lithographic-offset plates,
3 photoengraved plates, and other base materials used as
4 carriers for light-sensitive emulsions and making it
5 retroactive.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 422.45, Code 1981, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. The gross receipts from the sales of
4 linotype, lithographic-offset plates, photoengraved plates,
5 engravings, negatives, color separations, typesetting, or
6 any other base material used as a carrier for light-sensitive
7 emulsions to be used to complete a finished product for sale
8 at retail.

9 Sec. 2. This Act is retroactive to July 1, 1971.

10 EXPLANATION

11 The bill exempts from the state sales, services, and use
12 tax linotype, lithographic-offset plates, photoengraved plates,
13 and other such materials used as a carrier for light-sensitive
14 emulsions to be used to complete a finished product for sale
15 at retail.

16 The bill takes effect July 1 following enactment and is
17 retroactive to July 1, 1971.

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S-5581

1 Amend Senate File 2153 as follows:

2 1. Page 1, by striking lines 1 through 9 and
3 inserting in lieu thereof the following:

4 "Section 1. Section 422.42, subsection 3,
5 unnumbered paragraph 1, Code 1981, is amended to read
6 as follows:

7 "Retail sale" or "sale at retail" means the sale
8 to a consumer or to any person for any purpose, other
9 than for processing or for resale of tangible personal
10 property or taxable services, or for resale of tangible
11 personal property in connection with taxable services,
12 and the sale of gas, electricity, water, and
13 communication service to retail consumers or users,
14 but does not include commercial fertilizer or
15 agricultural limestone or materials, but not tools
16 or equipment, which are to be used in disease control,
17 weed control, insect control or health promotion of
18 plants or livestock produced as part of agricultural
19 production for market, or electricity or steam or
20 any taxable service when purchased and used in the
21 processing of tangible personal property intended
22 to be sold ultimately at retail.

23 PARAGRAPH DIVIDED. Tangible personal property
24 is sold for processing within the meaning of this
25 subsection only when it is intended that such property
26 shall by means of fabrication, compounding,
27 manufacturing, or germination become an integral part
28 of other tangible personal property intended to be
29 sold ultimately at retail, or shall be consumed as
30 fuel in creating heat, power, or steam for processing
31 including grain drying or for generating electric
32 current, or consumed in implements of husbandry engaged
33 in agricultural production, or such property is a
34 chemical, solvent, sorbent, or reagent, which is
35 directly used and is consumed, dissipated, or depleted,
36 in processing personal property which is intended
37 to be sold ultimately at retail, and which may not
38 become a component or integral part of the finished
39 product, or any material necessary to the printing
40 process whether or not consumed, dissipated, or
41 depleted in that process, including, but not limited
42 to, linotype, lithographic-offset plates, photoengraved
43 plates, engravings, negatives, color separations,
44 typesetting, image modulators, or any other base
45 material used as a carrier for light-sensitive
46 emulsions to be used to complete a finished product
47 for sale at retail. The distribution to the public
48 of free newspapers or shoppers guides shall be deemed
49 a retail sale for purposes of the processing exemption.
50 Sec. 2. Section 423.1, subsection 1, unnumbered

1 paragraph 1, Code 1981, is amended to read as follows:

2 "Use" means and includes the exercise by any person
3 of any right or power over tangible personal property
4 incident to the ownership of that property, except
5 that it shall not include processing, or the sale
6 of that property in the regular course of business.
7 Property used in "processing" within the meaning of
8 this subsection shall mean and include (a) any tangible
9 personal property including containers which it is
10 intended shall, by means of fabrication, compounding,
11 manufacturing, or germination, become an integral
12 part of other tangible personal property intended
13 to be sold ultimately at retail, (b) fuel which is
14 consumed in creating power, heat, or steam for
15 processing or for generating electric current, or
16 (c) chemicals, solvents, sorbents, or reagents, which
17 are directly used and are consumed, dissipated, or
18 depleted in processing personal property, which is
19 intended to be sold ultimately at retail, and which
20 may not become a component or integral part of the
21 finished product, or (d) any material necessary to
22 the printing process whether or not consumed,
23 dissipated, or depleted in that process, including,
24 but not limited to, linotype, lithographic-offset
25 plates, photoengraved plates, engravings, negatives,
26 color separations, typesetting, image modulators or
27 any other base material used as a carrier for light-
28 sensitive emulsions to be used to complete a finished
29 product for sale at retail. The distribution to the
30 public of free newspapers or shoppers guides shall
31 be deemed a retail sale for purposes of the processing
32 exemption."

33 2. Title page, line 2, by striking the words
34 "exempting from the taxes" and inserting in lieu
35 thereof the words "providing that property sold or
36 used within the meaning of the processing exemption
37 includes".

38 3. By renumbering as necessary.

S-5581 FILED & ADOPTED

BY ARTHUR A. SMALL, JR.

APRIL 14, 1982 *as amended by 5583*
(p. 1200)

S-5142

1 Amend Senate File 2153 as follows:

2 1. Page 1, by striking lines 1 through 8 and
3 inserting in lieu thereof the following:

4 "Section 1. Section 422.42, subsection 3,
5 unnumbered paragraph 1, Code 1981, is amended to read
6 as follows:

7 "Retail sale" or "sale at retail" means the sale
8 to a consumer or to any person for any purpose, other
9 than for processing or for resale of tangible personal
10 property or taxable services, or for resale of tangible
11 personal property in connection with taxable services,
12 and the sale of gas, electricity, water, and
13 communication service to retail consumers or users,
14 but does not include commercial fertilizer or
15 agricultural limestone or materials, but not tools
16 or equipment, which are to be used in disease control,
17 weed control, insect control or health promotion of
18 plants or livestock produced as part of agricultural
19 production for market, or electricity or steam or
20 any taxable service when purchased and used in the
21 processing of tangible personal property intended
22 to be sold ultimately at retail.

23 PARAGRAPH DIVIDED. Tangible personal property
24 is sold for processing within the meaning of this
25 subsection only when it is intended that such property
26 shall by means of fabrication, compounding,
27 manufacturing, or germination become an integral part
28 of other tangible personal property intended to be
29 sold ultimately at retail, or shall be consumed as
30 fuel in creating heat, power, or steam for processing
31 including grain drying or for generating electric
32 current, or consumed in implements of husbandry engaged
33 in agricultural production, or such property is a
34 chemical, solvent, sorbent, or reagent, which is
35 directly used and is consumed, dissipated, or depleted,
36 in processing personal property which is intended
37 to be sold ultimately at retail, and which may not
38 become a component or integral part of the finished
39 product, or are linotype, lithographic-offset plates,
40 photoengraved plates, engravings, negatives, color
41 separations, typesetting, or any other base material
42 used as a carrier for light-sensitive emulsions to
43 be used to complete a finished product for sale at
44 retail. The distribution to the public of free
45 newspapers or shoppers guides shall be deemed a retail
46 sale for purposes of the processing exemption.

47 Sec. 2. Section 423.1, subsection 1, unnumbered
48 paragraph 1, Code 1981, is amended to read as follows:

49 "Use" means and includes the exercise by any person
50 of any right or power over tangible personal property

1 incident to the ownership of that property, except
2 that it shall not include processing, or the sale
3 of that property in the regular course of business.
4 Property used in "processing" within the meaning of
5 this subsection shall mean and include (a) any tangible
6 personal property including containers which it is
7 intended shall, by means of fabrication, compounding,
8 manufacturing, or germination, become an integral
9 part of other tangible personal property intended
10 to be sold ultimately at retail, (b) fuel which is
11 consumed in creating power, heat, or steam for
12 processing or for generating electric current, ~~or~~
13 (c) chemicals, solvents, sorbents, or reagents, which
14 are directly used and are consumed, dissipated, or
15 depleted in processing personal property, which is
16 intended to be sold ultimately at retail, and which
17 may not become a component or integral part of the
18 finished product, or (d) linotype, lithographic-
19 offset plates, photoengraved plates, engravings,
20 negatives, color separations, typesetting, or any
21 other base material used as a carrier for light-
22 sensitive emulsions to be used to complete a finished
23 product or sale at retail. The distribution to the
24 public of free newspapers or shoppers guides shall
25 be deemed a retail sale for purposes of the processing
26 exemption."

27 2. Title page, line 2, by striking the words
28 "exempting from the taxes" and inserting in lieu
29 thereof the words "providing that property sold or
30 used within the meaning of the processing exemption
31 includes".

32 3. By renumbering as necessary.

S-5142 FILED

BY ARTHUR A. SMALL, JR.

FEBRUARY 22, 1982

nt/d 4/14 (p. 1199)

S-5583

1 Amend the Small amendment, S-5581, to Senate File
2 2153 as follows:

3 1. Page 2, line 32, by striking the quotation
4 mark.

5 2. Page 2, by inserting after line 32 the
6 following:

7 "Sec. 3. Claims for refunds as a result of this
8 Act for sales, services, and use taxes paid on
9 transactions occurring between July 1, 1971 and July
10 1, 1982 involving the printing process shall be filed
11 between July 1, 1982 and September 1, 1982.
12 Notwithstanding any other provision of law, the total
13 amount of refunds that shall be paid pursuant to this
14 section shall not exceed the sum of fifty thousand
15 dollars. If the total dollar amount of the allowable
16 claims for refunds exceed the sum of fifty thousand
17 dollars the director of revenue shall pro-rate the
18 fifty thousand dollars amongst the claimants of the
19 allowable claims by paying each claimant a percent
20 of the amount of the claimant's allowable claim equal
21 to the percent that fifty thousand dollars bears to
22 the total amount of all the allowable claims.

23 This section shall not be codified but shall be
24 contained in the session laws only.

25 Sec. 4. This Act is retroactive to July 1, 1971."

26 3. Page 2, by inserting after line 37, the
27 following:

28 "____. Title page, line 4, by inserting after the
29 word "emulsions" the words ", limiting the amount
30 of refunds allowable under this Act,."

S-5583 FILED & ADOPTED
APRIL 14, 1982 (p. 1199)

BY ARTHUR A. SMALL, JR.

1 Section 1. Section 422.42, subsection 3, unnumbered
2 paragraph 1, Code 1981, is amended to read as follows:

3 "Retail sale" or "sale at retail" means the sale to a
4 consumer or to any person for any purpose, other than for
5 processing or for resale of tangible personal property or
6 taxable services, or for resale of tangible personal property
7 in connection with taxable services, and the sale of gas,
8 electricity, water, and communication service to retail
9 consumers or users, but does not include commercial fertilizer
10 or agricultural limestone or materials, but not tools or
11 equipment, which are to be used in disease control, weed
12 control, insect control or health promotion of plants or
13 livestock produced as part of agricultural production for
14 market, or electricity or steam or any taxable service when
15 purchased and used in the processing of tangible personal
16 property intended to be sold ultimately at retail.

17 PARAGRAPH DIVIDED. Tangible personal property is sold
18 for processing within the meaning of this subsection only
19 when it is intended that such property shall by means of
20 fabrication, compounding, manufacturing, or germination become
21 an integral part of other tangible personal property intended
22 to be sold ultimately at retail, or shall be consumed as fuel
23 in creating heat, power, or steam for processing including
24 grain drying or for generating electric current, or consumed
25 in implements of husbandry engaged in agricultural production,
26 or such property is a chemical, solvent, sorbent, or reagent,
27 which is directly used and is consumed, dissipated, or
28 depleted, in processing personal property which is intended
29 to be sold ultimately at retail, and which may not become
30 a component or integral part of the finished product, or any
31 material necessary to the printing process whether or not
32 consumed, dissipated, or depleted in that process, including,
33 but not limited to, linotype, lithographic-offset plates,
34 photoengraved plates, engravings, negatives, color separations,
35 typesetting, image modulators, or any other base material

1 used as a carrier for light-sensitive emulsions to be used
2 to complete a finished product for sale at retail. The
3 distribution to the public of free newspapers or shoppers
4 guides shall be deemed a retail sale for purposes of the
5 processing exemption.

6 Sec. 2. Section 423.1, subsection 1, unnumbered paragraph
7 1, Code 1981, is amended to read as follows:

8 "Use" means and includes the exercise by any person of
9 any right or power over tangible personal property incident
10 to the ownership of that property, except that it shall not
11 include processing, or the sale of that property in the regular
12 course of business. Property used in "processing" within
13 the meaning of this subsection shall mean and include (a)
14 any tangible personal property including containers which
15 it is intended shall, by means of fabrication, compounding,
16 manufacturing, or germination, become an integral part of
17 other tangible personal property intended to be sold ultimately
18 at retail, (b) fuel which is consumed in creating power, heat,
19 or steam for processing or for generating electric current,
20 or (c) chemicals, solvents, sorbents, or reagents, which are
21 directly used and are consumed, dissipated, or depleted in
22 processing personal property, which is intended to be sold
23 ultimately at retail, and which may not become a component
24 or integral part of the finished product, or (d) any material
25 necessary to the printing process whether or not consumed,
26 dissipated, or depleted in that process, including, but not
27 limited to, linotype, lithographic-offset plates, photoengraved
28 plates, engravings, negatives, color separations, typesetting,
29 image modulators or any other base material used as a carrier
30 for light-sensitive emulsions to be used to complete a finished
31 product for sale at retail. The distribution to the public
32 of free newspapers or shoppers guides shall be deemed a retail
33 sale for purposes of the processing exemption.

34 Sec. 3. Claims for refunds as a result of this Act for
35 sales, services, and use taxes paid on transactions occurring

1 between July 1, 1971 and July 1, 1982 involving the printing
2 process shall be filed between July 1, 1982 and September
3 1, 1982. Notwithstanding any other provision of law, the
4 total amount of refunds that shall be paid pursuant to this
5 section shall not exceed the sum of fifty thousand dollars.
6 If the total dollar amount of the allowable claims for refunds
7 exceed the sum of fifty thousand dollars the director of
8 revenue shall pro-rate the fifty thousand dollars amongst
9 the claimants of the allowable claims by paying each claimant
10 a percent of the amount of the claimant's allowable claim
11 equal to the percent that fifty thousand dollars bears to
12 the total amount of all the allowable claims.

13 This section shall not be codified but shall be contained
14 in the session laws only.

15 Sec. 4. This Act is retroactive to July 1, 1971.

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H-5939

- 1 Amend Senate File 2153 as amended, passed and
 2 reprinted by the Senate, as follows:
 3 1. Page 1, by striking line 1 through page 2,
 4 line 33, and inserting in lieu thereof the following:
 5 "Section 1. Section 422.45, Code 1981, is amended
 6 by adding the following new subsection:
 7 NEW SUBSECTION. The gross receipts from the sales
 8 of lithographic-offset plates, photoengraved plates,
 9 engravings, negatives, color separations, the end
 10 products of image modulation, or any other base
 11 material used as a carrier for light-sensitive
 12 emulsions to be used to complete a finished product
 13 for sale at retail."
 14 2. Title page, by striking lines 2 and 3 and
 15 inserting in lieu thereof the words "exempting from
 16 the taxes the end products of image modulation,
 17 lithographic-offset".
 18 3. By renumbering as necessary.

H-5939 FILED APRIL 22, 1982 BY COMMITTEE ON WAYS & MEANS
Adopted as amended by 6021 SCHNEKLOTH of Scott, Chair
4/24 (p. 1774)

SENATE FILE 2153

H-6021

- 1 Amend the committee amendment, H-5939, to Senate
 2 File 2153, as amended, passed and reprinted by the
 3 Senate, as follows:
 4 1. Page 1, line 7, by inserting after the word
 5 "sales" the words "by a trade shop to a printer".
 6 2. Page 1, line 12, by inserting after the word
 7 "used" the words "by the printer".
 8 3. Page 1, line 13, by inserting after the word
 9 "retail." the words "For purposes of this subsection,
 10 "trade shop" means a business which is not normally
 11 engaged in printing and which sells supplies to
 12 printers, including but not limited to, lithographic-
 13 offset plates, photoengraved plates, engravings,
 14 negatives, color separations, end products of image
 15 modulation, or other base material used as a carrier
 16 for light-sensitive emulsions."
 17 4. Page 1, line 16, by inserting after the word
 18 "taxes" the words "sales by trade shops to printers
 19 of".

H-6021 FILED
 APRIL 23, 1982

BY HUMMEL of Benton
 NORLAND of Worth

Adopted 4/24 (p. 1773)

STATE OF IOWA
F I S C A L N O T ERequest No. 82-378

In compliance with a written request received April 23, 19 82, there is hereby submitted a Fiscal Note for H-5939 to H-6021 to S.F. 2153 pursuant to Joint Rule 16. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature, upon request.

Amendment H-6021 to committee amendment H-5939 to S.F. 2153 provides that sales by a trade shop to a printer of lithographic-offset plates, photoengraved plates, engravings, negatives, color separations, end-products of image modulation, or any other base material used as a carrier for light-sensitive emulsions which are to be used to complete a finished product for sale at retail by the printer from sales, use and service tax. It further provides a definition of "trade shop" to mean a business which is not normally engaged in printing and which sells supplies to printers, including but not limited to, lithographic-offset plates, photoengraved plates, engravings, negatives, color separations, end products of image modulation, or any other base material used as a carrier for light-sensitive emulsions. The title of the bill is amended accordingly.

Viewing H-6021 to H-5939 to S.F. 2153, the total fiscal effect is a one-time cost of a maximum of \$50,000 for claims for refund and an approximate annual cost to the state of \$35,000 in lost sales, use, and service tax revenues.

Source: Citizens' Aide/Ombudsman's Office
Department of Revenue

FILED APRIL 23, 1982

BY GERRY RANKIN, Fiscal Director

STATE OF IOWA
F I S C A L N O T ERequest No. 82-378

In compliance with a written request received April 23, 19 82, there is hereby submitted a Fiscal Note for H-5939 to H-6021 to S.F. 2153 pursuant to Joint Rule 16. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature, upon request.

Amendment H-6021 to committee amendment H-5939 to S.F. 2153 provides that sales by a trade shop to a printer of lithographic-offset plates, photoengraved plates, engravings, negatives, color separations, end-products of image modulation, or any other base material used as a carrier for light-sensitive emulsions which are to be used to complete a finished product for sale at retail by the printer from sales, use and service tax. It further provides a definition of "trade shop" to mean a business which is not normally engaged in printing and which sells supplies to printers, including but not limited to, lithographic-offset plates, photoengraved plates, engravings, negatives, color separations, end products of image modulation, or any other base material used as a carrier for light-sensitive emulsions. The title of the bill is amended accordingly.

Viewing H-6021 to H-5939 to S.F. 2153, the total fiscal effect is a one-time cost of a maximum of \$50,000 for claims for refund and an approximate annual cost to the state of \$35,000 in lost sales, use, and service tax revenues.

Source: Citizens' Aide/Ombudsman's Office
Department of Revenue

FILED APRIL 23, 1982

BY GERRY RANKIN, Fiscal Director

SENATE FILE 2153

H-6021

1 Amend the committee amendment, H-5939, to Senate
2 File 2153, as amended, passed and reprinted by the
3 Senate, as follows:
4 1. Page 1, line 7, by inserting after the word
5 "sales" the words "by a trade shop to a printer".
6 2. Page 1, line 12, by inserting after the word
7 "used" the words "by the printer".
8 3. Page 1, line 13, by inserting after the word
9 "retail." the words "For purposes of this subsection,
10 "trade shop" means a business which is not normally
11 engaged in printing and which sells supplies to
12 printers, including but not limited to, lithographic-
13 offset plates, photoengraved plates, engravings,
14 negatives, color separations, end products of image
15 modulation, or other base material used as a carrier
16 for light-sensitive emulsions."
17 4. Page 1, line 16, by inserting after the word
18 "taxes" the words "sales by trade shops to printers
19 of".

H-6021 FILED
APRIL 23, 1982

BY HUMMEL of Benton
NORLAND of Worth

Adopted 4/24/82 (1773)
SENATE FILE 2153

H-6056

1 Amend Senate File 2153, as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 3, by inserting after line 12, the
4 following:
5 "Any rules or written pronouncements interpreting
6 the revenue laws that were made by the Director of
7 Revenue or by the director of any division of the
8 Department of Revenue prior to the effective date of
9 the Iowa Administrative Procedure Act shall be deemed
10 to have been and continue to be in full force and
11 effect until reversed, repealed or modified in
12 accordance with the provisions of the Administrative
13 Procedure Act or by law."

H-6056 FILED
APRIL 24, 1982
ADOPTED (*1774*)

BY SCHNEKLOTH of Scott
SCHROEDER of Pottawattamie
CHIODO of Polk

SENATE FILE 2153

H-6060

1 Amend Senate File 2153 as amended, passed and
2 reprinted by the Senate as follows:
3 1. Title page, line 1, by inserting after the word
4 "state" the words "revenue regulations,".

H-6060 FILED APRIL 24, 1982
ADOPTED BY UNANIMOUS CONSENT (*1774*) BY HUMMEL of Benton

HOUSE AMENDMENT TO SENATE FILE 2153

S-5797

1 Amend Senate File 2153, as amended, passed and
reprinted by the Senate, as follows:

3 1. Page 1, by striking line 1 through page 2,
4 line 33, and inserting in lieu thereof the following:
5 "Section 1. Section 422.45, Code 1981, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. The gross receipts from the sales
8 by a trade shop to a printer of lithographic-offset
9 plates, photoengraved plates, engravings, negatives,
10 color separations, the end products of image
11 modulation, or any other base material used as a
12 carrier for light-sensitive emulsions to be used by
13 the printer to complete a finished product for sale
14 at retail. For purposes of this subsection, "trade
15 shop" means a business which is not normally engaged
16 in printing and which sells supplies to printers,
17 including but not limited to, lithographic-offset
18 plates, photoengraved plates, engravings, negatives,
19 color separations, end products of image modulation,
20 or other base material used as a carrier for light-
21 sensitive emulsions."

22 2. Page 3, by inserting after line 12, the
23 following:

24 "Any rules or written pronouncements interpreting
25 the revenue laws that were made by the Director of
26 Revenue or by the director of any division of the
27 Department of Revenue prior to the effective date
28 of the Iowa Administrative Procedure Act shall be
29 deemed to have been and continue to be in full force
30 and effect until reversed, repealed or modified in
31 accordance with the provisions of the Administrative
32 Procedure Act or by law."

33 3. Title page, line 1, by inserting after the
34 word "state" the words "revenue regulations,".

35 4. Title page, by striking lines 2 and 3 and
36 inserting in lieu thereof the words "exempting from
37 the taxes sales by trade shops to printers of the
38 end products of image modulation, lithographic-offset".

39 5. Renumbering as necessary.

S-5797 FILED
APRIL 24, 1982

RECEIVED FROM THE HOUSE

Senate concurred 4/24 (p 1450)



ROBERT D. RAY
GOVERNOR

Office of the Governor

STATE CAPITOL
DES MOINES, IOWA 50319

May 21, 1982

The Honorable Mary Jane Odell
Secretary of State
State Capitol Building
L O C A L

Dear Madam Secretary:

X I am enclosing Senate File 2153, an act relating to the state revenue regulations, sales, services and use taxes by exempting from the taxes sales by trade shops to printers of the end products of image modulation, lithographic-offset plates, photo-engraved plates, and other base materials used as carriers for light-sensitive emulsions, limiting the amount of refunds allowable under this act, and making it retroactive, which, in accordance with Article III, Section 16, Constitution of the state of Iowa, I hereby disapprove and transmit to the Secretary of State.

Senate File 2153 provides a sales tax exemption for certain photographic materials used by printers to complete a finished product for retail sale. The bill is made retroactive to allow for refunds for taxes paid on these materials since 1971 and puts a \$50,000 limit on total allowable refunds. In addition, the bill includes an enigmatic provision which makes effective as law written pronouncements on any revenue laws made by the Director or a division director of the Department of Revenue prior to 1975, so long as those pronouncements have not been modified by a rule or statute.

The merits of the sections of the bill granting the sales tax exemption for printers are not questioned here: the exemption would appear to provide for appropriate tax treatment of materials used in the processing of a retail product. It is the uncertain and potentially adverse impact of the provision relating to revenue pronouncements that gives rise to the disapproval of this bill.

The provision in Senate File 2153 relating to Department of Revenue written pronouncements was offered in the House of Representatives during the final hours of the session and received little debate on its implications or merits. A question did

The Honorable Mary Jane Odell
Page 2
May 21, 1982

arise regarding the provision's germaneness to the bill. It was ruled to be outside of the scope of the bill, but a suspension of the rules and an amendment broadening the title resulted in the addition of the provision to Senate File 2153.

The nongermane ruling is an indication that the subjects covered in the amendment are outside of the scope of the sales, service and use tax issue in Senate File 2153. And, the amendment to the title broadened the description of the subjects covered in the bill to include all revenue regulations. These facts, in combination with the language of the amendment, make it apparent that Senate File 2153 applies to all taxes administered by the Department.

Moreover, Section 3 of the bill makes the entire act retroactive to 1971. Therefore, House File 2153 may result in legal contests over any tax paid since 1971 if the payment of that tax runs contrary to the written advice given by the Director or a division director of the Department of Revenue which has not since been modified by law or rule.

Senate File 2153 thus raises several important questions.

1. Does the law require the refunding of a tax if its payment was based upon erroneous advice? And conversely, would a taxpayer be required to pay back taxes to the state if its nonpayment were based upon erroneous advice?

These questions relate to the common law doctrine of equitable estoppel whereby the state can be estopped from collecting back taxes when a taxpayer, in good faith, relies on the Department's information in deciding not to pay the taxes. This doctrine has never been used by the courts in Iowa and applies only to interest and penalties associated with disputed taxes in states where it is in effect. Senate File 2153 appears to statutorily adopt the doctrine of equitable estoppel in Iowa and may even go beyond it by requiring the refunding of the tax itself, in addition to the interest and penalties.

If the legislature desires to adopt the doctrine of equitable estoppel as Iowa tax law, it should make this major policy change only after fully debating its implications and revenue consequences. Moreover, the legislature should carefully draft the statute to reasonably limit its applicability.

May 21, 1982

2. Could Senate File 2153 be interpreted to affect only specific taxpayers who received written pronouncements from the Department or could it affect entire classes of taxpayers in similar situations, even if they were unaware of the written pronouncement? If it is determined to affect an entire class, the bill may result in a substantial drain on the state treasury at a time when the state budget is constrained. If it does not apply to a class of taxpayers, Senate File 2153 may treat taxpayers inequitably by providing tax benefits or penalties only to those who receive written advice from the Department.
3. Are there unknown impacts of the bill? The Department wrote the first manual on the formula used for valuation of agricultural land in the early '70s. The Department has, since the adoption of the Administrative Procedures Act in 1975, substantially revised the manual without adopting the revisions in the administrative rules process. Therefore, the Department's equalization orders, which are based on the revised manual, could be challenged as a result of this bill. That is an example of but one possible impact; there are undoubtedly many others that are, as yet, unknown.
4. Does the legislature wish to retroactively give to the Department the authority to determine what is and what is not taxable? Senate File 2153 effectively gives the sanction of law to any interpretation of tax law written by the Director or division directors of the Department. That delegation of taxing authority to the Executive Branch runs contrary to the historic function of the legislature to make tax laws.

In short, the revenue regulation provisions in Senate File 2153 raise a number of serious questions. Answers to these questions will come only through costly and time-consuming litigation. Instead, the legislature should re-examine these provisions next year so that the implications of the bill are debated and resolved.

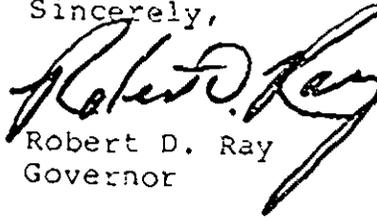
This veto is not to pass judgment on the other substantive sections of the bill. I recognize the legitimate concerns of the printing industry regarding the need to exempt processing materials from the sales tax. The Department of Revenue has informed me that the veto of this bill should not adversely affect printers

The Honorable Mary Jane Odell
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so long as the legislature takes action next year to provide the exemption. I urge the legislature to take prompt action next year to address the printer's tax concerns.

For the reasons enumerated in this letter, I hereby respectfully disapprove Senate File 2153.

Sincerely,



Robert D. Ray
Governor

RDR:cg

cc: Secretary of the Senate
Chief Clerk of the House

2 TOED

NEW SUBSECTION. The gross receipts from the sales by a trade shop to a printer of lithographic-offset plates, photoengraved plates, engravings, negatives, color separations, the end products of image modulation, or any other base material used as a carrier for light-sensitive emulsions to be used by the printer to complete a finished product for sale at retail. For purposes of this subsection, "trade shop" means a business which is not normally engaged in printing and which sells supplies to printers, including but not limited to, lithographic-offset plates, photoengraved plates, engravings, negatives, color separations, end products of image modulation, or other base material used as a carrier for light-sensitive emulsions.

SENATE FILE 2153

AN ACT

RELATING TO THE STATE REVENUE REGULATIONS, SALES, SERVICES AND USE TAXES BY EXEMPTING FROM THE TAXES SALES BY TRADE SHOPS TO PRINTERS OF THE END PRODUCTS OF IMAGE MODULATION, LITHOGRAPHIC-OFFSET PLATES, PHOTOENGRAVED PLATES, AND OTHER BASE MATERIALS USED AS CARRIERS FOR LIGHT-SENSITIVE EMULSIONS, LIMITING THE AMOUNT OF REFUNDS ALLOWABLE UNDER THIS ACT, AND MAKING IT RETROACTIVE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 422.45, Code 1981, is amended by adding the following new subsection:

Sec. 2. Claims for refunds as a result of this Act for sales, services, and use taxes paid on transactions occurring between July 1, 1971 and July 1, 1982 involving the printing process shall be filed between July 1, 1982 and September 1, 1982. Notwithstanding any other provision of law, the total amount of refunds that shall be paid pursuant to this section shall not exceed the sum of fifty thousand dollars. If the total dollar amount of the allowable claims for refunds exceed the sum of fifty thousand dollars the director of revenue shall pro-rate the fifty thousand dollars amongst the claimants of the allowable claims by paying each claimant a percent of the amount of the claimant's allowable claim equal to the percent that fifty thousand dollars bears to the total amount of all the allowable claims.

Any rules or written pronouncements interpreting the revenue laws that were made by the Director of Revenue or by the director of any division of the Department of Revenue prior to the effective date of the Iowa Administrative Procedure Act shall be deemed to have been and continue to be in full force and effect until reversed, repealed or modified in accordance with the provisions of the Administrative Procedure Act or by law.

S.F. 2153

This section shall not be codified but shall be contained in the session laws only.

Sec. 3. This Act is retroactive to July 1, 1971.

TERRY E. BRANSTAD
President of the Senate

DELWYN STROMER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2153, Sixty-ninth General Assembly.

retro
Approved May 21, 1982

K. MARIE THAYER
Secretary of the Senate

ROBERT D. RAY
Governor