

Wm. W. Wood

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SENATE FILE 2092
BY HUTCHINS

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

A BILL FOR

1 An Act relating to the waiver of penalty and interest on the late
2 payment of income taxes withheld and sales, services, and use
3 taxes collected.

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

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S.F. 2092

1 Section 1. Section 422.16, subsection 10, paragraph b,
2 Code Supplement 1989, is amended to read as follows:

3 b. If any person or withholding agent fails to remit at
4 least ninety percent of the tax due with the filing of the
5 semimonthly, monthly, or quarterly deposit form on or before
6 the due date, or pays less than ninety percent of any tax
7 required to be shown on the semimonthly, monthly, or quarterly
8 deposit form, there shall be added to the tax a penalty of
9 fifteen percent of the amount of the tax due, except as
10 provided in section 421.27.

11 In the case of willful failure to file a semimonthly,
12 monthly, or quarterly deposit form with intent to evade tax or
13 willful filing of a false semimonthly, monthly, or quarterly
14 deposit form with intent to evade tax, in lieu of the penalty
15 otherwise provided in this paragraph, there is added to the
16 amount required to be shown as tax on the semimonthly,
17 monthly, or quarterly deposit form, seventy-five percent of
18 the amount of the tax. The taxpayer shall also pay interest,
19 except as provided in section 422.68, on the tax or additional
20 tax at the rate in effect under section 421.7, for each month
21 counting each fraction of a month as an entire month, computed
22 from the date the semimonthly, monthly, or quarterly deposit
23 form was required to be filed. The penalty and interest
24 become a part of the tax due from the withholding agent. The
25 penalty imposed under this subsection is not subject to
26 waiver, except as provided in section 422.68.

27 Sec. 2. Section 422.58, subsection 1, Code 1989, is
28 amended to read as follows:

29 1. If a person or permit holder fails to remit at least
30 ninety percent of the tax due with the filing of the
31 semimonthly or monthly tax deposit form or return on or before
32 the due date, or pays less than ninety percent of any tax
33 required to be shown on the return, excepting the period
34 between the completion of an examination of the books and
35 records of a taxpayer and the giving of notice to the taxpayer

1 that a tax or additional tax is due, there shall be added to
2 the tax a penalty of fifteen percent of the amount of the tax
3 due, except as provided in section 421.27. In case of willful
4 failure to file a semimonthly or monthly tax deposit form or
5 return, willful filing of a false semimonthly or monthly tax
6 deposit form or return or willful filing of a false or
7 fraudulent semimonthly or monthly tax deposit form or return
8 with intent to evade tax, in lieu of the penalty otherwise
9 provided in this subsection, there shall be added to the
10 amount required to be shown as tax on the semimonthly or
11 monthly tax deposit form or return seventy-five percent of the
12 amount of the tax. The taxpayer shall also pay interest,
13 except as provided in section 422.68, on the tax or additional
14 tax at the rate in effect under section 421.7 for each month
15 counting each fraction of a month as an entire month, computed
16 from the date the semimonthly or monthly tax deposit form or
17 return was required to be filed. The penalty and interest
18 shall be paid to the department and disposed of in the same
19 manner as other receipts under this division. Unpaid
20 penalties and interest may be enforced in the same manner as
21 the tax imposed by this division. The penalty imposed under
22 this subsection is not subject to waiver, except as provided
23 in section 422.68.

24 Sec. 3. Section 422.68, Code 1989, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 5. The director shall grant a waiver of
27 the penalty and interest to be assessed under section 422.16,
28 subsection 10, paragraph "b", section 422.58, subsection 1, or
29 section 423.18, subsection 1, against a person, withholding
30 agent, or permit holder who fails to remit at least ninety
31 percent of the tax due with the filing of the semimonthly,
32 monthly, or quarterly deposit form or return on or before the
33 due date, or pays less than ninety percent of any tax required
34 to be shown on the semimonthly, monthly, or quarterly deposit
35 form or return, under the following circumstances:

1 a. The full amount of tax due or required to be shown is
2 remitted with the deposit form or return not later than seven
3 days after the due date.

4 b. The person, withholding agent, or permit holder has not
5 received a waiver of penalty and interest under this
6 subsection at any time during the previous twelve months
7 ending on the due date for the remitting of the tax.

8 Sec. 4. Section 423.18, subsection 1, Code 1989, is
9 amended to read as follows:

10 1. If a person or permit holder fails to remit at least
11 ninety percent of the tax due with the filing of the monthly
12 deposit form or return on or before the due date, or pays less
13 than ninety percent of any tax required to be shown on the
14 monthly deposit form or return, excepting the period between
15 the completion of an examination of the books and records of a
16 taxpayer and the giving of notice to the taxpayer that a tax
17 or additional tax is due, there shall be added to the tax a
18 penalty of seven and one-half percent of the tax due, except
19 as provided in section 421.27. For tax due under section
20 423.9, the penalty ~~shall be~~ is fifteen percent. In case of
21 willful failure to file a monthly deposit form or return,
22 willfully filing a false monthly deposit form or return, or
23 willfully filing a false or fraudulent monthly deposit form or
24 return with intent to evade tax, in lieu of the penalty
25 otherwise provided in this subsection, there shall be added to
26 the amount required to be shown as tax on the monthly deposit
27 form or return seventy-five percent of the amount of the tax.
28 The taxpayer shall also pay interest, except as provided in
29 section 422.68, on the tax or additional tax at the rate in
30 effect under section 421.7, for each month counting each
31 fraction of a month as an entire month, computed from the date
32 the monthly deposit form or return was required to be filed.
33 The penalty and interest shall be paid to the department and
34 disposed of in the same manner as other receipts under this
35 chapter. Unpaid penalties and interest may be collected in

1 the same manner as the tax imposed by this chapter. The
2 penalty imposed under this subsection is not subject to
3 waiver, except as provided in section 422.68.

4 EXPLANATION

5 The bill provides for the director of the department of
6 revenue and finance to grant a withholding agent or sales,
7 services, and use tax permit holder a waiver of penalty and
8 interest resulting from the failure to pay at least 90 percent
9 of the income taxes withheld or sales, services, and use taxes
10 collected. The waiver of the penalty and interest will only
11 be granted if the full amount of the income taxes withheld or
12 sales, services, and use taxes collected are paid not more
13 than seven days after the due date and the withholding agent
14 or permit holder has not received the same waiver at any time
15 during the 12-month period ending with the due date for paying
16 the taxes.

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