

H. 3/4/98 W. d means
H. 3/17/98 Do Pass

FILED FEB 23 1998

SENATE FILE 2288

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 2073)

(RS31)
Passed Senate, Date 3/3/98 Passed House, Date 3/23/98 (p.847)
Vote: Ayes 49 Nays 0 Vote: Ayes 98 Nays 1
Approved April 9, 1998

A BILL FOR

1 An Act relating to the sales and use tax on optional service or
2 warranty contracts and to the sales and use tax exemption on
3 certain computers, equipment, machinery, and fuel, relating to
4 the definition of manufacturer for purposes of the exemption,
5 and providing a retroactive applicability date.

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

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

S.F. 2288

1 Section 1. Section 422.43, subsection 6, Code Supplement
2 1997, is amended by adding the following new unnumbered
3 paragraph:

4 NEW UNNUMBERED PARAGRAPH. If the optional service or
5 warranty contract is a computer software maintenance or
6 support service contract and there is no separately stated fee
7 for the taxable personal property or for the nontaxable
8 service, the tax of five percent imposed by this subsection
9 shall be imposed on fifty percent of the gross receipts from
10 the sale of such contract. If the contract provides for
11 technical support services only, no tax shall be imposed under
12 this subsection. The provisions of this subsection also apply
13 to the tax imposed by chapter 423.

14 Sec. 2. Section 422.45, subsection 27, paragraph b, Code
15 Supplement 1997, is amended to read as follows:

16 b. The gross receipts from the sale of fuel used in
17 creating heat, power, steam, or for generating electrical
18 current, or from the sale of electricity, ~~directly and~~
19 primarily-used-in-processing-by-a-manufacturer consumed by
20 computers, machinery, or equipment used in an exempt manner
21 described in paragraph "a", subparagraph (1), (2), (3), (5),
22 or (6).

23 Sec. 3. Section 422.45, subsection 27, paragraph c, Code
24 Supplement 1997, is amended by adding the following new
25 subparagraph:

26 NEW SUBPARAGRAPH. (4) Vehicles subject to registration,
27 except vehicles subject to registration which are directly and
28 primarily used in recycling or reprocessing of waste products.

29 Sec. 4. Section 422.45, subsection 27, paragraph d,
30 subparagraph (4), Code Supplement 1997, is amended to read as
31 follows:

32 (4) "Manufacturer" means as defined in section 428.20, but
33 also includes contract manufacturers. A contract manufacturer
34 is a manufacturer that otherwise falls within the definition
35 of manufacturer under section 428.20, except that a contract

1 manufacturer does not sell the tangible personal property the
2 contract manufacturer processes on behalf of other
3 manufacturers. A business engaged in activities subsequent to
4 the extractive process of quarrying or mining, such as
5 crushing, washing, sizing, or blending of aggregate materials,
6 is a manufacturer with respect to these activities.

7 Sec. 5. Section 422.45, subsection 27, paragraph d, Code
8 Supplement 1997, is amended by adding the following new
9 subparagraph:

10 NEW SUBPARAGRAPH. (6) "Receipt or producing of raw
11 materials" means activities performed upon tangible personal
12 property only. With respect to raw materials produced from or
13 upon real estate, the receipt or producing of raw materials is
14 deemed to occur immediately following the severance of the raw
15 materials from the real estate.

16 Sec. 6. RETROACTIVE APPLICABILITY DATE. Sections 2, 3,
17 and 5 of this Act are retroactively effective July 1, 1997,
18 for sales and taxable uses occurring on or after that date.

19 EXPLANATION

20 This bill amends the statute on sales and services taxes
21 imposed on optional service or warranty contracts and amends
22 the statute which exempts sales of certain industrial
23 machinery, equipment, computers, fuel, and electricity from
24 tax. The bill provides that if there is no separately stated
25 fee for services on an optional service contract or warranty
26 contract, then the sales tax is imposed on 50 percent of the
27 gross receipts from the sale of the contract. It also expands
28 the exemption allowed to sales of fuel and electricity used in
29 computers, machinery, and equipment. The bill provides that
30 sales of vehicles subject to registration are not exempt
31 machinery or equipment sales unless the vehicles are directly
32 and primarily used in recycling or reprocessing of waste
33 products. The bill defines "receipt or producing of raw
34 materials" to confine the phrase to activities performed on
35 tangible personal property only.

1 The bill also exempts from state sales tax machinery and
2 equipment used in activities subsequent to extraction of
3 materials through mining or quarrying by adding a business
4 engaged in that activity to the definition of "manufacturer".

5 The sections of the bill relating to the fuel and
6 electricity exemption, to sales of vehicles subject to
7 registration, and to the definition of "receipt or producing
8 of raw materials" are retroactively effective to July 1, 1997.
9 The sections of the bill relating to sales and services taxes
10 on service and warranty contracts and to the definition of
11 "manufacturer" take effect July 1, 1998.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 2288
FISCAL NOTE

A fiscal note for Senate File 2288 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2288 amends the statute which exempts sales of certain industrial machinery, equipment, computers, fuel, and electricity from tax. It expands the exemption allowed to sales of fuel and electricity used in computers, machinery, and equipment. The Bill provides that sales of vehicles subject to registration are not exempt machinery or equipment sales unless the vehicles are directly and primarily used in recycling or reprocessing of waste products. The Bill also exempts from State sales tax machinery and equipment used in activities subsequent to extraction of materials through mining or quarrying by adding a business engaged in that activity to the definition of "manufacturer." The sections of the Bill relating to the definition of "manufacturer" and computer software maintenance or support contracts take effect July 1, 1998. All other portions of the Bill are retroactive to July 1, 1997.

ASSUMPTIONS

1. Iowa's portion of national economic activity is estimated at 1.0%.
2. Approximately 25.0% of Iowa economic activity from computer related services as defined by the U. S. Census Bureau is assumed to fall under the definition of "computer software maintenance or support service contract."
3. Approximately 21 firms statewide are engaged in quarrying or mining and have purchases of equipment falling under the definition of the Bill.

FISCAL EFFECT

The only provisions of the Bill having a fiscal effect are those provisions related to computer maintenance or support service contracts and the quarrying or mining provisions.

The fiscal effect of SF 2288 is a net decrease in revenue to the General Fund of \$1.0 million for FY 1999 and beyond. The fiscal effect is allocated as follows. The quarrying or mining provisions are expected to have an annual loss in sales tax revenues of approximately \$230,000 each year. This estimate is based upon approximately \$4.5 million in annual purchases.

The Section of the Bill relating to computer software maintenance or support service contracts is expected to result in sales tax revenue loss of approximately \$806,000 each year. This estimate is based upon \$129.0 million in total economic activity in computer related services, of which 25.0% is assumed to fit the definition in the Bill. The Bill would base the tax liability on 50.0% of the gross receipts from such a contract when there is no separate fee for the nontaxable service portion. Therefore, the total revenue loss is equal to \$129.0 million times 25.0% of activities meeting the Bill's

-2-

definition times 50.0% gross receipts times the sales tax rate of 5.0%. There would also be an indeterminate loss to local option sales tax under this Bill. The local option effect is indeterminable because it is not known in which jurisdictions these two activities occur.

SOURCES

U. S. Census Bureau Current Business Reports, 1995
Department of Revenue and Finance
Iowa Limestone Producers Association

(LSB 3775SV, LCS)

FILED MARCH 3, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

Ms Kibben
Douglas
Connolly

SSB 2073

Ways & Means
Succeeded By
SP HF 2288

SENATE FILE
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON DOUGLAS)

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

A BILL FOR

1 An Act relating to the sales and use tax exemption on certain
2 computers, equipment, machinery, and fuel, relating to the
3 definition of manufacturer for purposes of the exemption, and
4 providing a retroactive applicability date.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 Section 1. Section 422.45, subsection 27, paragraph b,
2 Code Supplement 1997, is amended to read as follows:

3 b. The gross receipts from the sale of fuel used in
4 creating heat, power, steam, or for generating electrical
5 current, or from the sale of electricity, ~~directly and~~
6 ~~primarily-used-in-processing-by-a-manufacturer~~ consumed by
7 computers, machinery, or equipment used in an exempt manner
8 described in paragraph "a", subparagraph (1), (2), (3), (5),
9 or (6).

10 Sec. 2. Section 422.45, subsection 27, paragraph c, Code
11 Supplement 1997, is amended by adding the following new
12 subparagraph:

13 NEW SUBPARAGRAPH. (4) Vehicles subject to registration,
14 except vehicles subject to registration which are directly and
15 primarily used in recycling or reprocessing of waste products.

16 Sec. 3. Section 422.45, subsection 27, paragraph d,
17 subparagraph (4), Code Supplement 1997, is amended to read as
18 follows:

19 (4) "Manufacturer" means as defined in section 428.20, but
20 also includes contract manufacturers. A contract manufacturer
21 is a manufacturer that otherwise falls within the definition
22 of manufacturer under section 428.20, except that a contract
23 manufacturer does not sell the tangible personal property the
24 contract manufacturer processes on behalf of other
25 manufacturers. A business engaged in activities subsequent to
26 the extractive process of quarrying or mining, such as
27 crushing, washing, sizing, or blending of aggregate materials,
28 is a manufacturer with respect to these activities.

29 Sec. 4. Section 422.45, subsection 27, paragraph d, Code
30 Supplement 1997, is amended by adding the following new
31 subparagraph:

32 NEW SUBPARAGRAPH. (6) "Receipt or producing of raw
33 materials" means activities performed upon tangible personal
34 property only. With respect to raw materials produced from or
35 upon real estate, the receipt or producing of raw materials is

1 deemed to occur immediately following the severance of the raw
2 materials from the real estate.

3 Sec. 5. RETROACTIVE APPLICABILITY DATE. Sections 1, 2,
4 and 4 of this Act are retroactively effective July 1, 1997,
5 for sales and taxable uses occurring on or after that date.

6 EXPLANATION

7 This bill amends the statute which exempts sales of certain
8 industrial machinery, equipment, computers, fuel, and
9 electricity from tax. It expands the exemption allowed to
10 sales of fuel and electricity used in computers, machinery,
11 and equipment. The bill provides that sales of vehicles
12 subject to registration are not exempt machinery or equipment
13 sales unless the vehicles are directly and primarily used in
14 recycling or reprocessing of waste products. The bill defines
15 "receipt or producing of raw materials" to confine the phrase
16 to activities performed on tangible personal property only.

17 The bill also exempts from state sales tax machinery and
18 equipment used in activities subsequent to extraction of
19 materials through mining or quarrying by adding a business
20 engaged in that activity to the definition of "manufacturer".

21 The sections of the bill relating to the fuel and
22 electricity exemption, to sales of vehicles subject to
23 registration, and to the definition of "receipt or producing
24 of raw materials" are retroactively effective to July 1, 1997.
25 The section of the bill relating to the definition of
26 "manufacturer" takes effect July 1, 1998.

27
28
29
30
31
32
33
34
35

SENATE FILE 2288

AN ACT

RELATING TO THE SALES AND USE TAX ON OPTIONAL SERVICE OR WARRANTY CONTRACTS AND TO THE SALES AND USE TAX EXEMPTION ON CERTAIN COMPUTERS, EQUIPMENT, MACHINERY, AND FUEL, RELATING TO THE DEFINITION OF MANUFACTURER FOR PURPOSES OF THE EXEMPTION, AND PROVIDING A RETROACTIVE APPLICABILITY DATE.

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

Section 1. Section 422.43, subsection 6, Code Supplement 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the optional service or warranty contract is a computer software maintenance or support service contract and there is no separately stated fee for the taxable personal property or for the nontaxable service, the tax of five percent imposed by this subsection shall be imposed on fifty percent of the gross receipts from the sale of such contract. If the contract provides for technical support services only, no tax shall be imposed under this subsection. The provisions of this subsection also apply to the tax imposed by chapter 423.

Sec. 2. Section 422.45, subsection 27, paragraph b, Code Supplement 1997, is amended to read as follows:

b. The gross receipts from the sale of fuel used in creating heat, power, steam, or for generating electrical current, or from the sale of electricity, directly and primarily used in processing by a manufacturer consumed by computers, machinery, or equipment used in an exempt manner described in paragraph "a", subparagraph (1), (2), (3), (5), or (6).

Sec. 3. Section 422.45, subsection 27, paragraph c, Code Supplement 1997, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) Vehicles subject to registration, except vehicles subject to registration which are directly and primarily used in recycling or reprocessing of waste products.

Sec. 4. Section 422.45, subsection 27, paragraph d, subparagraph (4), Code Supplement 1997, is amended to read as follows:

(4) "Manufacturer" means as defined in section 428.20, but also includes contract manufacturers. A contract manufacturer is a manufacturer that otherwise falls within the definition of manufacturer under section 428.20, except that a contract manufacturer does not sell the tangible personal property the contract manufacturer processes on behalf of other manufacturers. A business engaged in activities subsequent to the extractive process of quarrying or mining, such as crushing, washing, sizing, or blending of aggregate materials, is a manufacturer with respect to these activities.

Sec. 5. Section 422.45, subsection 27, paragraph d, Code Supplement 1997, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) "Receipt or producing of raw materials" means activities performed upon tangible personal property only. With respect to raw materials produced from or upon real estate, the receipt or producing of raw materials is deemed to occur immediately following the severance of the raw materials from the real estate.

Sec. 6. RETROACTIVE APPLICABILITY DATE. Sections 2, 3, and 5 of this Act are retroactively effective July 1, 1997, for sales and taxable uses occurring on or after that date.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2288, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved April 9, 1998

TERRY E. BRANSTAD
Governor