

FINAL REPORT
TAXATION SUBCOMMITTEE
OF THE
STANDING COMMITTEES ON WAYS AND MEANS

December 17, 1974

The Taxation Subcommittee was established in 1974 with the following membership:

Senator Roger J. Shaff
Senator Warren E. Curtis
Senator Joan Orr
Senator Norman Rodgers
Senator Forrest V. Schwengels
Representative Norman Roorda
Representative Norman P. Dunlap
Representative Sonja Egenes
Representative Emil J. Husak
Representative Jay Mennenga

At the first meeting on July 11, 1974, Senator Shaff was elected Chairman and Representative Roorda Vice Chairman of the Subcommittee. The Subcommittee reviewed the Resolutions which were assigned to it by the Legislative Council for possible study, including HCR 114 relating to inheritance and estate tax, HCR 147 relating to mobile homes tax, HCR 151 relating to computerized revenue statistics, SCR 137 relating to tax loopholes and a progressive income tax, and HCR 150 relating to the corporate income tax.

The Subcommittee met with Dr. Marvin Julius and some of his associates from Iowa State University, and with Dr. Gerald Barnard and his associate, Dr. Joseph A. Swanson, of the University of Iowa, in an effort to determine what type of tax research is being done and what might be done to improve the state's processes for making revenue projections. Mr. Gerald D. Bair, then Deputy Director of the Department of Revenue, also spoke to the Subcommittee offering assistance, and the Subcommittee reviewed various taxation questions which were of particular interest to members.

On August 28 the Subcommittee held its second meeting and talked with the State Comptroller, Mr. Marvin Selden, about the concept of an economic projections committee which might be composed of legislative and executive members of state government, representatives from the universities, and representatives from business interests.

The Subcommittee toured the Revenue Department at this meeting, reviewed problems relating to mobile home taxation, and received the legislative recommendations of the Iowa State Association of Assessors.

The third meeting of the Taxation Subcommittee was held on November 7, 1974. The Subcommittee received further suggestions from Mr. Selden regarding formation of an economic projections committee for the state, reviewed proposals submitted by the assessors' association, considered a proposal by the Iowa Federation of the National Association of Retired Federal Employees to exempt a portion of civil service retirement benefits from the state income tax, reviewed proposals submitted by the Department of Revenue, and met with Mr. Eugene F. Corrigan, Executive Director of the Multistate Tax Commission, and with representatives from the Committee on State Taxation of the Council of State Chambers of Commerce who are opposed to the Multistate Tax Commission.

The final Subcommittee meeting was held on December 3, 1974. After a brief discussion of the problems which have developed in administering the Act providing property tax relief to the elderly and disabled, Chairman Shaff indicated that he will ask the Senate Ways and Means Committee to work on these problems.

After further consultation with representatives of the retired federal employees association, the Subcommittee voted to request that further research be conducted on the association proposal to exempt a portion of federal civil service retirement benefits, in order to determine how to best correlate the exemption with the present exemption of Social Security retirement benefits, and that a bill be drafted and submitted to the Senate and House Ways and Means Committees without recommendation. The bill will utilize the Social Security age limits and a maximum exemption based upon the maximum amount of Social Security benefits.

The Subcommittee voted that the concept of an Economic Advisory Committee, as proposed in the attached draft prepared by State Comptroller Marvin Selden, be recommended to the General Assembly, with the exceptions that the Committee include the chairmen and ranking members of the Senate and House Ways and Means and Appropriations Committees, the Legislative Fiscal Director, and the State Comptroller as nonvoting participants in addition to the six proposed members, that the Committee be a part of the Legislative Fiscal Director's office, and that a two-thirds majority vote of the Senate be required to confirm the members appointed by the governor.

Acting Director of Revenue Gerald D. Bair presented to the Subcommittee a review of the various considerations involved in membership in the Multistate Tax Commission and adoption of the Multistate Tax Compact, and suggested that a change in the tax laws such as would be provided by adoption of the Compact should be accomplished by direct action of the legislature rather than by joining an organization.

The Subcommittee voted to recommend preparation and submission to the Senate and House Ways and Means Committees of all of the legislative proposals submitted by the Department of Revenue, and to request that the Committees give first

consideration to the need to update the Code references to the Internal Revenue Code to January 1, 1975, in order to incorporate recent changes in federal law which increase from \$2500 to \$7500 the amount of private retirement plan contributions which may be deducted. The Revenue Department proposals are generally administrative and probably noncontroversial, except for the revision of motor fuel tax law, which will be prepared more fully and submitted by the Department at a later date. A copy of the complete summary of Department proposals is attached.

The Subcommittee asked for preparation of a bill to extend property tax relief for the elderly or disabled to widows (or surviving spouses) at age fifty-five or over, but did not agree to recommend passage of this bill.

In response to the presentation from the Legislative Committee of the Iowa State Association of Assessors, the Subcommittee completed its agenda by voting to recommend preparation and passage of bills to accomplish the following:

1. Move chapter 409 (Plats) to Title XIV of the Code which contains other county laws, and permit either the auditors or the assessors to determine when to order plats made for assessment and taxation purposes. (H.F. 1368, Sixty-fifth General Assembly, 1974 Session.)

2. Require valuing of tax-exempt property only for organizations which must file to obtain the tax exemption. (S.F. 109, Sixty-fifth General Assembly, 1973 Session.)

3. Repeal sections 159.11 and 159.12 which require the assessor to take the U.S.D.A. Farm Crop Census Report, since assessors no longer visit each farm annually to assess personal property.

4. Require full disclosure on all real estate transfers, to facilitate preparation of sales ratio determinations by the Department of Revenue.

PROPOSAL

Section 1. There is created an Economic Advisory Committee of the state, for the purpose of providing leadership and direction for studies and analysis in policies which affect the economic well being of the state.

Section 2. The Committee shall be a part of the office of Planning and Programming of the state, which agency shall provide staff, administration and the executive secretary to the Committee.

Section 3. The Committee shall be composed of six members. Three of the members shall be persons who are on the faculty of a university or college staff, and whose major field of education is economics. Three of the members shall be persons whose occupation or position is in Industry, Business or Labor in the broad field of economics.

The members shall be appointed by the Governor and shall serve at his pleasure. Said appointments shall be confirmed by a majority of the Senate.

Section 4. The purpose of this Committee shall be to encourage, direct, and review studies which have or could have broad economic impact to the state or to specific areas of the state. The studies may include, but not be limited to such specifics as marketing of state agricultural products, economic impact of certain tax proposals or programs, effects of specific training or educational programs on the state's labor force, or effects of federal programs or directives on the state's economy.

The Committee shall meet no less than quarterly to review any studies made or anticipated to be made, and to develop a response to the study. Said studies and responses will be made and mailed to the Governor and to all members of the General Assembly.

As directed, the Committee shall provide specific studies for the General Assembly upon request from the President of the Senate, Speaker of the House, or chairperson of either the Senate or House Ways and Means Committee or the Appropriations Committee. Status of said studies so directed shall be made at each quarterly meeting of the Committee in writing to the requesting person.

LEGISLATIVE PROPOSALS

DEPARTMENT OF REVENUE

Revised and Submitted

12-3-74

ADMINISTRATION

1. Judicial Review of the State Board of Tax Review: The State Board of Tax Review hears all taxpayer appeals of decisions made by the Director of Revenue. The Board may uphold or reverse the decision of the Director. If the Director's decision is upheld the taxpayer may appeal to the courts, but if the Director's decision is reversed by the board, he has no right of appeal to the courts. Chapter 421 of the Code of Iowa should be amended to give the Director of Revenue the same right of appeals of decisions of the State Board of Tax Review as is established for other appeals under the 1974 Administrative Procedures Act. This change would also clarify the rights of taxpayers as to appeals of the Board's decisions.

CIGARETTE

1. Clarify Legislative Intent on Issuing Cigarette Permits to Business Not in Iowa: Amend certain sections of Chapter 98 to clarify the law regarding the issuing of state permits to persons not having a place of business within Iowa. This question is currently in the courts for the interpretation of legislative intent. It is our contention that under the express language of the statutes, a person whose distributing and stamping operations are out of Iowa does not fit the statutory definition of distributor and therefore cannot qualify for a distributor's permit. Our bill would establish that a person must have a "place of business" within Iowa to receive a cigarette tax permit. Only foreign taxpayers would be affected and they could comply by establishing a place of business within Iowa. Administration of the tax would be enhanced by this interpretation since taxpayers would be more accessible and out-of-state audits would be eliminated.
2. Redefine Cigarette: Amend Section 98.1(1) and (2) to redefine the term "cigarette" so that tobacco substitutes or synthetics are included and so that references to federal stamps or tokens, which are no longer required to be attached to a package, are deleted. Also references to cigarette papers and tubes should be deleted since no tax is imposed on these items and the amount of revenue that could be collected is infinitesimal.

3. Handling Seized Cigarettes: Amend Section 98.32(5) to change the procedures for handling cigarettes seized because of violations. The present law requires the department to furnish stamps to be affixed to each package of cigarettes before they can be sold at public auction. This has two disadvantages; first, the highest bid may not be sufficient to cover the cost of tax stamps and, second, an odd number of tax stamps if furnished by the department causes inventory and other record keeping problems. Also, there may be no bids and the present law does not allow for other disposition if no bids are received. Under this proposal, cigarettes, without stamps, will be sold to the highest licensed bidder. It will be left up to the successful bidder to affix the required stamps. If no bids are received, or the quantity of cigarettes to be sold is insufficient to warrant a sale, the cigarettes may be disposed of by the director.
4. Sale and Exchange of Cigarette Stamps: Amend Section 98.8 to update the provisions for the sale of cigarette stamps. Nearly all cigarette stamps are now sold in rolls of thirty thousand (30,000) stamps and they are produced with a flap to fit stamping machines. It is impractical to sell partial rolls or sheets of one hundred stamps. We would establish minimums of unbroken rolls (30,000 stamps) or books of one thousand stamps. We also would eliminate the provision for invoicing of stamp purchases. Time is of the essence in shipping stamps to distributors and the invoicing of the purchases is unnecessary, extra work for the department. The order blank along with the remittance from the purchaser can be used as the invoice.

Finally, we would eliminate provisions for exchanging stamps in favor of only refunds on unused stamps. Exchanging stamps is impractical because of rolls to fit machines. Refunds for unused stamps and selling new stamps in unbroken rolls will aid inventory control and other record keeping.

INCOME TAX
(Individual, Corporation, and Franchise Taxes)

1. Incorporate 1974 Internal Revenue Code Changes into Iowa Tax Law: Update the references to the Internal Revenue Code in Sections 422.4(17), 422.32(4), and 422.61(4) of the Iowa Code to include amendments to January 1, 1975, in the Internal Revenue Code. It will be necessary to have this update enacted immediately and be effective for tax years beginning on or after January 1, 1974, so that the federal change relating to deductions allowed for a qualified pension plan may be used for both state and federal tax purposes. Failure to enact this change could result in a high degree of taxpayer non-compliance as well as tax underpayment or overpayment by some taxpayers.
2. Clarify Legislative Intent of "Delivered" Sales: Amend Section 422.33(1) by equating "delivered" sales with "destination" sales. This proposal clarifies the legislative intent of the term "delivered" according to the interpretation made by the Department. This interpretation prevents any foreign corporation from escaping Iowa's tax by passing title to goods outside the state.
3. Uniform Penalty and Interest Rates and Making Non-Waiver of Penalty Same As Federal: Amend Sections 422.16(9) and 422.28 to place the interest rates on an equivalent percentage with other provisions of the Code pertaining to sales and use tax, income tax, motor vehicle fuel tax and the chain store tax. Also amend Section 422.16(11), paragraph c, to make the Iowa

law regarding non-waiver of penalty for underpayment of estimated tax consistent with the federal provisions. The rate of penalty, however, is set at nine percent, rather than the federal six percent, to be uniform with our other tax law provisions.

4. Enable Director to Require Withholding Bond: Amend Section 422.16 by adding a new subsection which would enable the Director to require a bond of nonresident or temporary resident withholding agents. Some withholding tax is lost annually from such agents who collect the tax from their employees and then fail to remit the tax to the department. The withholding agent is personally liable for the tax, however, if the agent leaves the state this liability is unenforceable. The types of businesses usually causing withholding problems are construction companies, restaurants, service groups (tax preparers, leasing companies, window washing firms, and printing companies), and manufacturers.
5. 52-53 Week Filing Year: Authorize the filing of an Iowa income tax return on a 52-53 week year, in conformity with provisions in the Internal Revenue Code, by amending Section 422.4(5). Also establish the beginning and ending of such a period for purposes of administration as the first day of a month and the last day of a month.

INHERITANCE TAX

1. Allow Department to Grant an Inheritance Tax Refund: Amend Section 450.94 so that the department may grant a claim for refund. Under the current law, refunds of inheritance taxes can only be made through a court order, which is a complicated, time consuming and expensive process. Under this bill a claim for refund would be made under procedures similar to that for income tax refunds. If the taxpayer did not agree with a department redetermination, the taxpayer would have the right of appeal to the director and then to the courts under provisions for appeal set out in Section 450.59.
2. Final Inheritance Tax Return: Amend Section 450.53 to provide for the filing of a final inheritance tax return. The present final return is apparently accepted by custom. A revision of this customary final return is contemplated so the authority for such a return should be defined by law. The amendment also provides for the submission of other documents the Director may require. These might include such documents as copies of contracts or death certificates. A copy of the federal estate tax return is also required to be filed at the time the final return is submitted. One additional change also made in this section is that a taxpayer is required to file a supplemental inheritance tax return at the time the taxpayer receives any deferred interest on which the tax was deferred. Currently it is left to the Department to find these taxpayers and collect the tax.

3. Uniformity of Appraisal Objections and Tax Due Dates: Section 450.35 of the Code should be amended to change the twenty day period in which objections to appraisals must be filed to forty-five days. This section would then conform to the forty-five day objection period specified in Section 450.31 of the Code. In addition, the Iowa estate tax should be amended in Section 451.6 of the Code, to make the tax due within fifteen months after the death of the decedent. This would make the filing period for the estate tax uniform with the fifteen month filing period specified for the inheritance tax in Section 450.6 of the Code. The estate tax is currently due within eighteen months of the death of the decedent as was the inheritance tax until 1971.

MOTOR FUEL

Comprehensive Changes in Administration of Motor Fuel Tax: Provide a comprehensive bill to amend various sections of Chapter 324 of the Code. Among the revisions will be:

1. A definition of aviation gasoline and procedures for administering tax collected on aviation gasoline;
2. Provisions to better administer and enforce the actions of special fuel distributors and brokers of fuels;
3. Provisions for the reporting of receipt, disbursement, and inventories of fuels by refineries and marine or pipeline terminals located in this state;
4. To clarify the procedures for excise tax refunds and to apply a penalty on such refunds erroneously claimed and paid; and
5. To clarify the unlawful acts section so that prosecutions of violators may be carried out by county attorneys.

PROPERTY TAX

1. Extend Audit Period for Military and Homestead Credit Claims:
Amend Sections 426A.6 and 425.7(3) to extend the period during which the Department can audit claims for military service tax exemptions and for homestead tax credits to 24 months from July first of the year in which the claims were filed. This would make the audit period for these credits consistent with that allowed for personal property tax credits. Currently homestead and military claims must be audited within one year of certification to the department which is usually made in January. Thus this amendment would provide about six additional months for auditing these claims. This would allow a more thorough audit and thus improve the administration of the tax credits.
2. Raise Equipment and Tool Exemption to Full Value: Amend Sections 427.1(16) to correct an omission in the full value assessment bill (S.F. 1272, 65th G.A., 1974 Session). The \$300 exemption for equipment and tools should be changed to \$1,111 so taxpayers will not lose the value of this exemption as a result of a conversion to full value assessments. This could be accomplished administratively, but any confusion can be eliminated by correcting the omission in the law.
3. Change Date for Notification of Changes in Assessment: Amend Section 441.23 to provide that taxpayers be notified of a change in assessment by April fifteenth, rather than April first. The present date of April first is in conflict with dates in Sections 441.28 and 441.49 which require that assessments be completed by April fifteenth. It is a source of

confusion among assessors that notifications must be made before the assessments need to be completed. Changing the notification date would coordinate the assessment and notification deadlines and would have little effect upon taxpayers.

4. Repeal Obsolete Reporting Requirements for Abstracts: Amend Section 441.45(4) to repeal the requirement that livestock be reported on assessors' abstracts of assessment submitted to the Department of Revenue, since the property tax on livestock was repealed in 1973 making such a reporting requirement obsolete. Also, subsection 5 of Section 441.45 should be struck since it refers to the reporting of property subject to taxation under Section 429.2 which has been repealed.