

CHAPTER 134

LIMIT ON ASSESSMENT COMPUTATION OF TAXES

H. F. 470

AN ACT relating to the statute of limitations on assessment of the income and franchise taxes.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 422.25, subsection 1, Code 1981, is amended to read as follows:

1. Within three years after the return is filed or within three years after the return became due, including any extensions of time for filing, whichever time is the later, the department shall examine it and determine the correct amount of tax, and the amount so determined by the department shall be the tax, ~~provided that.~~ However if the taxpayer omits from income ~~such~~ an amount as will, under the Internal Revenue Code of 1954, extend the statute of limitations for assessment of federal tax to six years under ~~said Code~~ the federal law, the period for examination and determination ~~shall be~~ is six years. ~~Notwithstanding the periods~~ In addition to the applicable period of limitation for examination and determination ~~heretofore specified,~~ the department ~~shall have six months to~~ may make an examination and determination at any time within six months from the date of receipt by the department of written notice from the taxpayer of the final disposition of any matter ~~which occurred after the expiration of the applicable period of limitation specified in this section~~ between the taxpayer and the internal revenue service with respect to the particular tax year. In order to begin the running of the six-months' period, the notice shall be in writing in any form sufficient to inform the department of ~~such~~ the final disposition with respect to ~~such~~ that year, and a copy of the federal document showing the final disposition or final federal adjustments shall be attached to the notice. The period for examination and determination of the correct amount of tax ~~shall be~~ is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return. In lieu of the period of limitation for any prior year for which an overpayment of tax or an elimination or reduction of an underpayment of tax due for that prior year results from the carryback to ~~such~~ that prior year of a net operating loss or net capital loss, the period ~~shall be~~ is the period of limitation for the taxable year of the net operating loss or net capital loss which results in ~~such~~ the carryback. The burden of proof of additional tax owing under the six-year period, or unlimited period, ~~shall be~~ is on the department. If the tax found due is greater than the amount paid, the department shall compute the amount due, together with interest and penalties as provided in subsection 2, and shall notify the taxpayer by certified mail

of the total, which shall be computed as a sum certain if paid on or before the last day of the month in which the notice is postmarked, or on or before the last day of the following month if the notice is postmarked after the twentieth day of any month. The notice shall also inform the taxpayer of the additional interest and penalty which will be added to the total due if not paid on or before the last day of the applicable month.

Sec. 2. This Act is applicable for all tax years for which a final disposition of a taxpayer's federal income tax liability has not been resolved prior to the effective date of this Act.

Approved May 11, 1981

CHAPTER 135
TAXATION OF CAPITAL GAINS
S. F. 237

AN ACT providing for the allocation and apportionment of capital gains and losses for purposes of computing the state corporate income and franchise taxes and making the provisions retroactive.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 422.33, subsection 1, paragraph a, Code 1981, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. Nonbusiness capital gains and losses from the sale or other disposition of assets shall be allocated as follows:

Gains and losses from the sale or other disposition of real property located in this state are allocable to this state.

Gains and losses from the sale or other disposition of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale or disposition or if the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

Gains and losses from the sale or disposition of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

Sec. 2. Section 422.33, subsection 1, paragraph b, unnumbered paragraphs 2 through 5, Code 1981, are amended to read as follows:

(1) Business interest, dividends, rents, and royalties shall be reasonably apportioned within and without the state under rules adopted by the director ~~pursuant to chapter 17A.~~

(2) Capital gains and losses from the sale or other disposition of assets shall be apportioned to the state based upon the business activity ratio applicable to the year the gain or loss is determined if the corporation determines Iowa taxable income by a sales, gross receipts or other business