

**CHAPTER 1028****TAXATION OF INCOME, INHERITANCES, AND ESTATES***S.F. 2074*

**AN ACT** relating to the extension of the applicability of House File 689, enacted during the Second Extraordinary Session of the Seventy-second General Assembly during 1987, updating references to the Internal Revenue Code, providing for retroactive applicability, taxing unrelated business income of certain nonprofit organizations, striking obsolete provisions, and providing an effective date.

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

Section 1. Section 422.3, subsection 5, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

5. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 1988, whichever is applicable.

Sec. 2. Section 422.4, subsections 1, 4, 10, 11, 14, 17, and 18, Code Supplement 1987, are amended to read as follows:

1. The words "taxable income" mean the net income as defined in section 422.7 minus the deductions allowed by section 422.9, in the case of individuals; in the case of estates or trusts, the words "taxable income" mean the taxable income (without a deduction for personal exemption) as computed for federal income tax purposes under the Internal Revenue Code of 1954, but with the adjustments specified in section 422.7 plus the Iowa income tax deducted in computing ~~said the federal~~ taxable income and minus federal income taxes as provided in section 422.9.

4. The words "tax year" mean the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this division.

a. If a taxpayer has made the election provided by section 441, subsection "f", of the Internal Revenue Code of 1954, "tax year" means the annual period so elected, varying from fifty-two to fifty-three weeks.

b. If the effective date or the applicability of a provision of this division is expressed in terms of a tax year beginning, including, or ending with reference to a specified date which is the first or last day of a month, a tax year described in paragraph "a" of this subsection shall be treated as beginning with the first day of the calendar month beginning nearest to the first day of the tax year or as ending with the last day of the calendar month ending nearest to the last day of the tax year.

c. This subsection is effective for tax years ending on or after December 14, 1975.

10. The word "individual" means a natural person; and ~~where if~~ an individual is permitted to file as a corporation, under ~~the provisions of~~ the Internal Revenue Code of 1954, ~~such that~~ fictional status ~~shall is~~ not be recognized for purposes of this chapter, and ~~such the~~ individual's taxable income shall be computed as required under ~~the provisions of~~ the Internal Revenue Code of 1954 relating to individuals not filing as a corporation, with the adjustments allowed by this chapter.

11. ~~The term words~~ "head of household" ~~shall have~~ has the same meaning as provided by the Internal Revenue Code of 1954.

14. ~~The term word~~ "wages" ~~shall have~~ has the same meaning as provided by the Internal Revenue Code of 1954.

17. a. "Annual inflation factor" means an index, expressed as a percentage, determined by the department each year to reflect the purchasing power of the dollar as a result of inflation during the preceding calendar year. For the 1981 and subsequent calendar years, "annual inflation factor" means an index, expressed as a percentage, determined by the department by October 15 of the calendar year preceding the calendar year for which the factor is determined, to reflect which reflects the purchasing power of the dollar as a result of inflation during the fiscal year ending in the calendar year preceding the calendar year for which the factor is determined. In determining the annual inflation factor, the department shall use the annual percent change, but not less than zero percent, in the implicit price deflator for the gross national product computed for the whole calendar year or for the second quarter of the calendar year, in the case of the annual inflation factor for the 1981 and subsequent calendar years, by the bureau of economic analysis of the United States department of commerce and shall add two-fourths for the 1980 and subsequent calendar years one-half of that percent change to one hundred percent. The annual inflation factor for the 1979 calendar year is one hundred two point three percent. The annual inflation factor and the cumulative inflation factor shall each be expressed as a percentage rounded to the nearest one-tenth of one percent. The annual inflation factor shall not be less than one hundred percent.

b. "Cumulative inflation factor" means the product of the annual inflation factor for the 1978 1988 calendar year and all annual inflation factors for subsequent calendar years as determined pursuant to this subsection. The cumulative inflation factor applies to all tax years beginning on or after January 1 of the calendar year for which the latest annual inflation factor has been determined.

c. The annual inflation factor for the 1978 1988 calendar year is one hundred percent. Notwithstanding the computation of the annual inflation factor under paragraph "a", the annual inflation factor for the 1987 calendar year is one hundred percent.

d. Notwithstanding the computation of the annual inflation factor under paragraph "a" of this subsection, the annual inflation factor is one hundred percent for any calendar year in which the unobligated state general fund balance on June 30 as certified by the director of revenue and finance by September 10 of the fiscal year beginning in that calendar year is less than sixty million dollars. However, for the 1981 and subsequent calendar years, the annual inflation factor is one hundred percent for any calendar year if the unobligated state general fund balance on June 30 of the calendar year preceding the calendar year for which the factor is determined, as certified by the director of revenue and finance by October 10, is less than sixty million dollars.

18. For purposes of section 422.3, subsection 5, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

Sec. 3. Section 422.4, subsections 19 and 20, Code Supplement 1987, are amended to read as follows:

19. The definition of the Internal Revenue Code of 1954 in section 422.3, subsection 5, shall be interpreted to include provisions of the Tax Reform Act of 1986, Pub. L. No. 99-514 which amended the Internal Revenue Code of 1954, and the Revenue Act of 1987, Pub. L. No. 100-203, unless the context otherwise requires.

20. "Internal Revenue Code of 1986" means the Internal Revenue Code of 1954 as amended by the Tax Reform Act of 1986, Pub. L. No. 99-514 and the Revenue Act of 1987, Pub. L. No. 100-203.

Sec. 4. Section 422.4, subsections 19 and 20, Code Supplement 1987, are amended by striking the subsections.

Sec. 5. Section 422.5, subsection 1, Code Supplement 1987, is amended by striking the subsection.

Sec. 6. Section 422.5, subsection 1A, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

In lieu of subsection 1, a tax is imposed upon every resident and nonresident of the state which tax shall be levied, collected, and paid annually upon and with respect to the entire taxable income as defined in this division at rates as follows:

Sec. 7. Section 422.5, subsection 1A, paragraph k, subparagraph (1), Code Supplement 1987, is amended to read as follows:

(1) Add items of tax preference included in federal alternative minimum taxable income under section 57, except subsections (a)(1), (a)(2), and (a)(5), of the Internal Revenue Code of 1986, make the adjustments included in federal alternative minimum taxable income under section 56, except subsections (a)(4), (b)(1)(C)(iii), and (d), of the Internal Revenue Code of 1986, and add losses as required by section 58 of the Internal Revenue Code of 1986. In the case of an estate or trust, the items of tax preference, adjustments, and losses shall be apportioned between the estate or trust and the beneficiaries in accordance with rules prescribed by the director.

Sec. 8. Section 422.5, subsection 2, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

However, for married persons filing jointly or filing separately on a combined return, unmarried heads of household, and surviving spouses, references in this subsection and subsections 6 and 10 to five thousand dollars shall be interpreted to mean seven thousand five hundred dollars. In addition, if the married persons', filing jointly or filing separately on a combined return, unmarried head of household's, or surviving spouse's net income exceeds seven thousand five hundred dollars, the regular tax imposed under this division shall be the lesser of the maximum state individual income tax rate times the portion of the net income in excess of seven thousand five hundred dollars or the regular tax liability computed without regard to this sentence. Taxpayers electing to file separately shall compute the alternate tax described in this paragraph using the total net income of the husband and wife. However, the alternate tax described in this paragraph does not apply if one spouse elects to carry back or carry forward the loss as provided in section 422.9, subsection 3.

Sec. 9. Section 422.5, subsection 2, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following:

2. However, the tax shall not be imposed on a resident or nonresident whose net income, as defined in section 422.7, is seven thousand five hundred dollars or less in the case of married persons filing jointly or filing separately on a combined return, unmarried heads of household, and surviving spouses or five thousand dollars or less in the case of all other persons; but in the event that the payment of tax under this division would reduce the net income to less than seven thousand five hundred dollars or five thousand dollars as applicable, then the tax shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of seven thousand five hundred dollars or five thousand dollars as applicable. The preceding sentence does not apply to estates or trusts. For the purpose of this subsection, the entire net income, including any part of the net income not allocated to Iowa, shall be taken into account. For purposes of this subsection, net income includes all amounts of pensions or other retirement income received from any source which is not taxable under this division as a result of any other state law. If the combined net income of a husband and wife exceeds seven thousand five hundred dollars, neither of them shall receive the benefit of this subsection, and it is immaterial whether they file a joint return or separate returns. However, if a husband and wife file separate returns and have a combined net income of seven thousand

five hundred dollars or less, neither spouse shall receive the benefit of this paragraph, if one spouse has a net operating loss and elects to carry back or carry forward the loss as provided in section 422.9, subsection 3. A person who is claimed as a dependent by another person as defined in section 422.12 shall not receive the benefit of this subsection if the person claiming the dependent has net income exceeding seven thousand five hundred dollars or five thousand dollars as applicable or the person claiming the dependent and the person's spouse have combined net income exceeding seven thousand five hundred dollars or five thousand dollars as applicable.

In addition, if the married persons', filing jointly or filing separately on a combined return, unmarried head of household's, or surviving spouse's net income exceeds seven thousand five hundred dollars, the regular tax imposed under this division shall be the lesser of the maximum state individual income tax rate times the portion of the net income in excess of seven thousand five hundred dollars or the regular tax liability computed without regard to this sentence. Taxpayers electing to file separately shall compute the alternate tax described in this paragraph using the total net income of the husband and wife. The alternate tax described in this paragraph does not apply if one spouse elects to carry back or carry forward the loss as provided in section 422.9, subsection 3.

Sec. 10. Section 422.5, subsection 6, Code Supplement 1987, is amended to read as follows:

6. A person who is disabled, is sixty-two years of age or older or is the surviving spouse of an individual or survivor having an insurable interest in an individual who would have qualified for the exemption under this paragraph for this tax year and receives one or more annuities from the United States civil service retirement and disability trust fund, and whose net income, as defined in section 422.7, is sufficient to require that the tax be imposed upon it under this section, may determine final taxable income for purposes of imposition of the tax by excluding the amount of annuities received from the United States civil service retirement and disability trust fund, which are not already excluded in determining net income, as defined in section 422.7, up to a maximum each tax year of five thousand ~~five hundred~~ six hundred twenty-seven dollars for a person who files a separate state income tax return and ~~eight thousand one hundred eighty-four~~ eight thousand one hundred eighty-four dollars total for a husband and wife who file a joint state income tax return. However, a surviving spouse who is not disabled or sixty-two years of age or older can only exclude the amount of annuities received as a result of the death of the other spouse. The amount of the exemption shall be reduced by the amount of any social security benefits received. For the purpose of this section, the amount of annuities received from the United States civil service retirement and disability trust fund taxable under the Internal Revenue Code of 1954 shall be included in net income for purposes of determining eligibility under the five thousand dollar or less exclusion.

Sec. 11. Section 422.5, subsections 6, 7, 8, and 10, Code Supplement 1987, are amended to read as follows:

6. A person who is disabled, is sixty-two years of age or older or is the surviving spouse of an individual or survivor having an insurable interest in an individual who would have qualified for the exemption under this paragraph for this tax year and receives one or more annuities from the United States civil service retirement and disability trust fund, and whose net income, as defined in section 422.7, is sufficient to require that the tax be imposed upon it under this section, may determine final taxable income for purposes of imposition of the tax by excluding the amount of annuities received from the United States civil service retirement and disability trust fund, which are not already excluded in determining net income, as defined in section 422.7, up to a maximum each tax year of five thousand ~~five hundred~~ six hundred twenty-seven dollars for a person who files a separate state income tax return and ~~eight thousand one hundred eighty-four~~ eight thousand one hundred eighty-four dollars total for a husband and wife who file a joint state income

tax return. However, a surviving spouse who is not disabled or sixty-two years of age or older can only exclude the amount of annuities received as a result of the death of the other spouse. The amount of the exemption shall be reduced by the amount of any social security benefits received. For the purpose of this section, the amount of annuities received from the United States civil service retirement and disability trust fund taxable under the Internal Revenue Code of 1954 shall be included in net income for purposes of determining eligibility under the seven thousand five hundred dollar or less or five thousand dollar or less exclusion, as applicable.

7. Upon determination of the latest cumulative inflation factor, the director shall multiply each dollar amount set forth in subsection 1, paragraphs "a" through "m" and "i" of this section, and each dollar amount specified in this section as the maximum amount of annuities received which may be excluded in determining final taxable income, by this cumulative inflation factor, shall round off the resulting product to the nearest one dollar, and shall incorporate the result into the income tax forms and instructions for each tax year.

8. ~~Income of an individual which is excluded from gross income under the Internal Revenue Code of 1954 as a result of the provisions of the Hostage Relief Act of 1980, 94 stat. 1967, shall not be included as income in computing the tax imposed by this section.~~

10. In addition to the other taxes imposed by this section, a tax is imposed on the amount of a lump sum distribution for which the taxpayer has elected under section 402(e) of the Internal Revenue Code of 1954 to be separately taxed for federal income tax purposes for the tax year. The rate of tax is equal to twenty-five percent of the separate federal tax imposed on the amount of the lump sum distribution. A nonresident is liable for this tax only on that portion of the lump sum distribution allocable to Iowa. The total amount of the lump sum distribution subject to separate federal tax shall be included in net income for purposes of determining eligibility under the seven thousand five hundred dollar or less or five thousand dollar or less exclusion, as applicable.

Sec. 12. Section 422.6, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The beneficiary of a trust who receives an accumulation distribution shall be allowed credit without interest for the Iowa income taxes paid by the trust attributable to such ~~the~~ accumulation distribution in a manner corresponding to the provisions for credit under the federal income tax relating to accumulation distributions as contained in the Internal Revenue Code of 1954. The trust ~~shall~~ is not be entitled to a refund of taxes paid on the distributions. The trust shall maintain detailed records to verify the computation of the tax.

Sec. 13. Section 422.7, unnumbered paragraph 1 and subsections 2, 6, 7, 8, 9, 11, 16A, 19, 21, 23, 24, and 27, Code Supplement 1987, are amended to read as follows:

The term "net income" means the adjusted gross income as properly computed for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:

2. Add interest and dividends from foreign securities and from securities of state and other political subdivisions exempt from federal income tax under the Internal Revenue Code of 1954.

6. Individual taxpayers and married taxpayers who file a joint federal income tax return and who elect to file a joint return, separate returns, or separate filing on a combined return for Iowa income tax purposes, may avail themselves of the disability income exclusion and shall compute the amount of the disability income exclusion subject to the limitations for joint federal income tax return filers provided by section 105(d) of the Internal Revenue Code of 1954. The disability income exclusion provided in section 105(d) of the Internal Revenue Code of 1954, as amended up to and including December 31, 1982, continues to apply for state income tax purposes for tax years beginning on or after January 1, 1984.

7. Add to the taxable income of trusts, that portion of trust income excluded from federal taxable income under section 641(c) of the Internal Revenue Code of 1954.

8. Married taxpayers who file a joint federal income tax return and who elect to file separate returns or separate filing on a combined return for Iowa income tax purposes, may avail themselves of the expensing of business assets and capital loss provisions of sections 179(a) and 1211(b) respectively of the Internal Revenue Code of 1954 and shall compute the amount of expensing of business assets and capital loss subject to the limitations for joint federal income tax return filers provided by sections 179(b) and 1211(b) respectively of the Internal Revenue Code of 1954.

9. Subtract the amount of the jobs tax credit allowable for the tax year under section 51 of the Internal Revenue Code of 1954 to the extent that the credit increased federal adjusted gross income.

11. Subtract the amount of the alcohol fuel credit allowable for the tax year under section 40 of the Internal Revenue Code of 1954 to the extent that the credit increased federal adjusted gross income.

16A. ~~Notwithstanding any other provision, add~~ Add the amounts deducted and subtract the amounts included as income as a result of the treatment provided sale-leaseback agreements under section 168(f)(8) of the Internal Revenue Code of 1954 for property placed in service by the transferee prior to January 1, 1986, to the extent that the amounts deducted and the amounts included in income are not otherwise deductible or included in income under the Internal Revenue Code of 1954 as amended to and including December 31, 1985. Entitlement to depreciation on any property included in a sale-leaseback agreement which is placed in service by the transferee prior to January 1, 1986, shall be determined under the Internal Revenue Code of 1954 as amended to and including December 31, 1985, excluding section 168(f)(8) in making the determination.

19. Married taxpayers, who file a joint federal income tax return and who elect to file separate returns or who elect separate filing on a combined return for state income tax purposes, shall include in net income any social security benefits ~~or tier 1 railroad retirement benefits~~ received to the same extent as those benefits are taxable on the taxpayer's joint federal return for that year under section 86 of the Internal Revenue Code of 1954. The benefits included in net income must be allocated between the spouses in the ratio of the social security benefits ~~or tier 1 railroad retirement benefits~~ received by each spouse to the total of these benefits received by both spouses.

21. Add the four percent of the basic salary of a judge, who is a member of the judicial retirement system established in chapter 602, article 9, which is exempt from federal income tax under the Internal Revenue Code of 1954.

23. Add the amount of intangible drilling and development costs optionally deducted in the year paid or incurred as described in section 57(a)(2) of the Internal Revenue Code of 1954. This amount may be recovered through cost depletion or depreciation, as appropriate under rules prescribed by the director.

24. Add the percentage depletion amount determined with respect to an oil, gas, or geothermal well as described in section 57(a)(1) of the Internal Revenue Code of 1954.

27. Add interest and dividends from regulated investment companies exempt from federal income tax under the Internal Revenue Code of 1986 and subtract the loss on the sale or exchange of a share of a regulated investment company held for six months or less to the extent the loss was disallowed under section 852(b)(4)(B) of the Internal Revenue Code of 1986.

Sec. 14. Section 422.7, subsection 15, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following:

15. Notwithstanding the method for computing the amount of travel expenses that may be deducted under section 162(h) of the Internal Revenue Code, for tax years beginning on or after January 1, 1987, a member of the general assembly whose place of residence within the

legislative district is greater than fifty miles from the capitol building of the state may deduct the total amount per day determined under section 162(h)(1)(B) of the Internal Revenue Code and a member of the general assembly whose place of residence within the legislative district is fifty or fewer miles from the capitol building of the state may deduct fifty dollars per day. This subsection does not apply to a member of the general assembly who elects to itemize for state tax purposes the member's travel expenses.

Sec. 15. Section 422.7, subsections 5, 10, 12, 13, 14, 16, 17, 20, 22, and 26, Code Supplement 1987, are amended by striking the subsections.

Sec. 16. Section 422.8, subsections 2 and 4, Code 1987, are amended to read as follows:

2. Nonresident's net income allocated to Iowa is the net income, or portion thereof, which is derived from a business, trade, profession, or occupation carried on within this state or income from any property, trust, estate, or other source within Iowa. If ~~any a~~ business, trade, profession, or occupation is carried on partly within and partly without the state, only the portion of the net income which is fairly and equitably attributable to that part of the business, trade, profession, or occupation carried on within the state is allocated to Iowa for purposes of section 422.5, subsection 1, paragraph "~~n~~" "j" and section 422.13 and income from any property, trust, estate, or other source partly within and partly without the state is allocated to Iowa in the same manner, except that annuities, interest on bank deposits and interest-bearing obligations, and dividends are allocated to Iowa only to the extent to which they are derived from a business, trade, profession, or occupation carried on within the state. However, income received by an individual who is a resident of another state is not allocated to Iowa if the income is subject to an income tax imposed by the state where the individual resides, and if the state of residence allows a similar exclusion for income received in that state by residents of Iowa. In order to implement the exclusions, the director shall designate by rule the states which allow a similar exclusion for income received by residents of Iowa, and may enter into agreements with other states to provide that similar exclusions will be allowed, and to provide suitable withholding requirements in each state.

4. The amount of minimum tax paid to another state or foreign country by a resident taxpayer of this state from preference items derived from sources outside of Iowa shall be allowed as a credit against the tax computed under this division except that the credit shall not exceed what the amount of state alternative minimum tax would have been on the same preference items which were taxed by the other state or foreign country. The limitation on this credit shall be computed according to the following formula: The total of preference items earned outside of Iowa and taxed by another state or foreign country shall be divided by the total of preference items of the resident taxpayer of Iowa. In computing this quotient, those items excludable under section 422.5, subsection 1, paragraph "~~o~~" "k", subparagraph (1) shall not be used in computing the preference items. This quotient multiplied times the net state alternative minimum tax as determined in section 422.5, subsection 1, paragraph "~~o~~" "k" on the total of preference items as if entirely earned in Iowa shall be the maximum tax credit against the Iowa alternative minimum tax. However, the maximum tax credit will not be allowed to the extent that the minimum tax imposed by the other state or foreign country is less than the maximum tax credit computed above.

Sec. 17. Section 422.9, subsection 1, Code Supplement 1987, is amended by striking the subsection and inserting in lieu thereof the following:

1. An optional standard deduction, after deduction of federal income tax, equal to one thousand two hundred thirty dollars for a married person who files separately or a single person or equal to three thousand thirty dollars for a husband and wife who file a joint return, a

surviving spouse, or an unmarried head of household. The optional standard deduction shall not exceed the amount remaining after deduction of the federal income tax.

Sec. 18. Section 422.9, subsection 2, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

The total of contributions, interest, taxes, medical expense, nonbusiness losses, and miscellaneous expenses; and moving expenses; deductible for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:

Sec. 19. Section 422.9, subsection 2, paragraph e, Code Supplement 1987, is amended by striking the paragraph.

Sec. 20. Section 422.9, subsection 3, unnumbered paragraph 1 and paragraph c, Code Supplement 1987, are amended to read as follows:

If, after applying all of the adjustments provided for in section 422.7, the allocation provisions of section 422.8, and the deductions allowable in this section subject to the modifications provided in section 172(d) of the Internal Revenue Code of 1954, the taxable income results in a net operating loss, the net operating loss shall be deducted as follows:

c. If the election under section 172(b)(3)(C) of the Internal Revenue Code of 1954 is made, the Iowa net operating loss shall be carried forward fifteen taxable years.

Sec. 21. Section 422.10, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state. For individuals, the credit shall equal equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. For purposes of this section, an individual may claim a research credit for qualifying research expenditures incurred by a partnership, subchapter S corporation, and estate or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 30 41 of the Internal Revenue Code of 1954, in effect on January 1, 1985, or which would be allowable under section 41 of the Internal Revenue Code of 1986.

Sec. 22. Section 422.12, subsection 1, paragraph c, Code Supplement 1987, is amended to read as follows:

c. For each dependent, an additional ten dollars. As used in this section, the term "dependent" shall have has the same meaning as provided by the Internal Revenue Code of 1954.

Sec. 23. Section 422.12, subsection 2, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

A child and dependent care credit equal to forty-five percent of the federal child and dependent care credit provided in section 21 of the Internal Revenue Code of 1954.

Sec. 24. Section 422.13, subsection 1, paragraph a, Code Supplement 1987, is amended to read as follows:

a. The individual is required to file a federal income tax return under the Internal Revenue Code of 1954.



Sec. 25. Section 422.16, subsection 1, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

Every withholding agent and every employer as defined in this chapter and further defined in the Internal Revenue Code of 1954, with respect to income tax collected at source, making payment of wages to a nonresident employee working in Iowa, or to a resident employee, shall deduct and withhold from the wages an amount which will approximate the employee's annual tax liability on a calendar year basis, calculated on the basis of tables to be prepared by the department and schedules or percentage rates, based on the wages, to be prescribed by the department. Every employee or other person shall declare to the employer or withholding agent the number of the employee's or other person's personal exemptions and dependency exemptions or credits to be used in applying the tables and schedules or percentage rates. However, no greater number of personal or dependency exemptions or credits may be declared by the employee or other person than the number to which the employee or other person is entitled except as allowed under section 3402(m)(1) of the Internal Revenue Code of 1954. The claiming of exemptions or credits in excess of entitlement is a serious misdemeanor.

Sec. 26. Section 422.16, subsection 11, paragraphs a and d, Code Supplement 1987, are amended to read as follows:

a. Every person or married couple filing a return shall make estimated tax payments if the person's or couple's Iowa income tax attributable to income other than wages subject to withholding can reasonably be expected to amount to fifty dollars or more for the taxable year, except that, in the cases of farmers and ~~fishers~~ fishermen, the exceptions provided in the Internal Revenue Code of 1954 with respect to making estimated payments apply. The estimated tax shall be paid in quarterly installments. The first installment shall be paid on or before the last day of the fourth month of the taxpayer's tax year for which the estimated payments apply. The other installments shall be paid on or before June 30, September 30, and January 31. However, at the election of the person or married couple, any installment of the estimated tax may be paid prior to the date prescribed for its payment. If a person or married couple filing a return has reason to believe that the person's or couple's Iowa income tax may increase or decrease, either for purposes of meeting the requirement to make estimated tax payments or for the purpose of increasing or decreasing estimated tax payments, the person or married couple shall increase or decrease any subsequent estimated tax payments accordingly.

d. Any amount of estimated tax paid is a credit against the amount of tax found payable on a final, completed return, as provided in subsection 9, relating to the credit for the tax withheld against the tax found payable on a return properly and correctly prepared under sections 422.5 through 422.25, and any overpayment of one dollar or more shall be refunded to the taxpayer and the return constitutes a claim for refund for this purpose. Amounts less than one dollar shall not be refunded. The method provided by the Internal Revenue Code of 1954 for determining what is applicable to the addition to tax for underpayment of the tax payable applies to persons required to make payments of estimated tax under this section except the amount to be added to the tax for underpayment of estimated tax is an amount determined at the rate in effect under section 421.7. This addition to tax specified for underpayment of the tax payable is not subject to waiver provisions relating to reasonable cause, except as provided in the Internal Revenue Code of 1954. Underpayment of estimated tax shall be determined in the same manner as provided under the Internal Revenue Code of 1954 and the exceptions in the Internal Revenue Code of 1954 also apply.

Sec. 27. Section 422.20, subsection 2, Code Supplement 1987, is amended to read as follows:

2. It ~~shall be~~ is unlawful for ~~any an~~ officer, employee, or agent, or former officer, employee, or agent of the state to disclose to any person, except as authorized in subsection 1 of this

section, any federal tax return or return information as defined in section 6103(b) of the Internal Revenue Code of 1954. It shall further be is unlawful for any a person to whom any federal tax return or return information, as defined in section 6103(b) of the Internal Revenue Code of 1954, is disclosed in a manner unauthorized by subsection 1 of this section to thereafter print or publish in any manner not provided by law any such return or return information. Any A person committing an offense against the foregoing violating this provision shall be is guilty of a serious misdemeanor.

Sec. 28. Section 422.21, unnumbered paragraphs 4, 5, and 6, Code Supplement 1987, are amended to read as follows:

The director shall determine for the ~~1979~~ 1989 and each subsequent calendar years year the annual and cumulative inflation factors for ~~those each~~ each calendar years year to be applied to tax years beginning on or after January 1 of that calendar year. The director shall compute the new dollar amounts as specified ~~therein~~ to be adjusted in section 422.5 by the latest cumulative inflation factor and round off the result to the nearest one dollar. The annual and cumulative inflation factors determined by the director are not rules as defined in section 17A.2, subsection 7.

The department shall provide on income tax forms or in the instruction booklets in a manner that will be noticeable to the taxpayers a statement ~~to the extent that~~, even though the taxpayer may not have any federal or state income tax liability, the taxpayer may be eligible for the federal earned income tax credit. The statement shall also contain notice of where the taxpayer may check on the taxpayer's eligibility for this credit.

~~The department shall prepare and make available a special return for filing a tax refund claim resulting from the net capital gain deduction authorized in section 422.9, subsection 6. The special returns shall be designed so that the department will be able to compile data that identifies the source and type of the capital gains and losses and the geographical location of the transactions involving the capital gains and losses. By January 15, 1989, the department shall make available to the general assembly the data compiled from the special returns filed during the previous calendar year.~~

Sec. 29. Section 422.25, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

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 determined by the department is the tax. However, if the taxpayer omits from income an amount which will, under the Internal Revenue Code of 1954, extend the statute of limitations for assessment of federal tax to six years under the federal law, the period for examination and determination is six years. In addition to the applicable period of limitation for examination and determination, the department 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 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'~~ six-month period, the notice shall be in writing in any form sufficient to inform the department of the final disposition with respect to that year, and a copy of the federal document showing the final disposition or final federal adjustments shall be attached to the notice.

Sec. 30. Section 422.32, subsection 1, Code Supplement 1987, is amended to read as follows:

1. The word "corporation" includes joint stock companies, and associations organized for pecuniary profit, ~~except limited partnerships organized under chapter 545 and publicly traded partnerships taxed as corporations under the Internal Revenue Code.~~

Sec. 31. Section 422.32, subsection 11, Code Supplement 1987, is amended to read as follows:  
11. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 1987 1988, whichever is applicable.

Sec. 32. Section 422.32, subsection 11, Code Supplement 1987, is amended by striking the subsection.

Sec. 33. Section 422.33, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. There is imposed upon each corporation exempt from the general business tax on corporations by section 422.34, subsections 2 through 6, a tax at the rates in subsection 1 upon the state's apportioned share computed in accordance with subsections 2 and 3 of the unrelated business income computed in accordance with the Internal Revenue Code and with the adjustments set forth in section 422.35.

Sec. 34. Section 422.72, subsection 2, Code Supplement 1987, is amended to read as follows:  
2. Federal tax returns, copies of returns, and return information as defined in section 6103(b) of the Internal Revenue Code ~~of 1954~~, which are required to be filed with the department for the enforcement of the income tax laws of this state, shall be ~~deemed and~~ held as confidential by the department and subject to the disclosure limitations in subsection 1 ~~of this section~~.

Sec. 35. Section 450.1, unnumbered paragraph 2, Code 1987, is amended to read as follows:  
For purposes of this chapter, unless the context otherwise requires, "personal representative" means an executor, administrator, or trustee as each is defined in section 633.3 and "Internal Revenue Code" means the same as defined in section 422.3.

Sec. 36. Section 450.3, subsections 2 and 7, Code 1987, are amended to read as follows:  
2. By deed, grant, sale, gift or transfer made within three years of the death of the grantor or donor, which is not a bona fide sale for an adequate and full consideration in money or money's worth and which is in excess of the annual gift tax exclusion allowable for each donee under section 2503, subsections b and e of the Internal Revenue Code of 1954 as defined in section 422.3. If both spouses consent, a gift made by one spouse to a person who is not the other spouse is considered, for the purposes of this subsection, as made one half by each spouse under the same terms and conditions provided for in section 2513 of the Internal Revenue Code of 1954 as defined in section 422.3.

7. Which qualifies as a qualified terminable interest property as defined in section 2056(b)(7)(B) of the Internal Revenue Code of 1954 as defined in section 422.3, shall, if an election is made, be treated and considered as passing in fee, or its equivalent, to the surviving spouse in the estate of the donor-grantor. Property on which the election is made shall be included in the gross estate of the surviving spouse and shall be deemed to have passed in fee from the surviving spouse to the persons succeeding to the remainder interest, unless the property was sold, distributed, or otherwise disposed of prior to the death of the surviving spouse. A sale, disposition, or disposal of the property prior to the death of the surviving spouse shall void the election, and shall subject the property disposed of, less amounts received or retained by the surviving spouse, to tax in the donor-grantor's estate in the same manner as if the tax had been deferred under sections 450.44 through 450.49.

Sec. 37. Section 450.37, subsection 1, paragraph b, Code 1987, is amended to read as follows:  
b. The alternate value of the property, if the personal representative so elects, that has been established for federal estate tax purposes under section 2032 of the Internal Revenue Code of 1954 as defined in section 422.3. The election shall be exercised on the return by the

personal representative or other person signing the return, within the time prescribed by law for filing the return or before the expiration of any extension of time granted for filing the return.

Sec. 38. Section 450A.1, subsection 5, Code Supplement 1987, is amended to read as follows:

5. "Internal Revenue Code" means the same as the term is defined in section ~~422.3~~ 422.32.

Sec. 39. Section 450B.1, Code 1987, is amended to read as follows:

#### 450B.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Internal Revenue Code of 1954" means the same as defined in section 422.3.
2. "Taxpayer" means a qualified heir liable for the inheritance tax imposed under chapter 450 on qualified real property.
3. "Qualified real property", "qualified use", "cessation of qualified use", and "qualified heir" mean the same as defined in section 2032A of the Internal Revenue Code of 1954.
4. For purposes of subsection 1, the Internal Revenue Code of 1954 shall be interpreted to include the provisions of Pub. L. No. 98-4.

Sec. 40. Section 450B.2, Code 1987, is amended to read as follows:

#### 450B.2 ALTERNATE ELECTION OF VALUE FOR QUALIFIED USE.

Notwithstanding section 450.37, the value of qualified real property for the purpose of the tax imposed under chapter 450 may, at the election of the taxpayer, be its value for the use under which it qualifies as prescribed by section 2032A of the Internal Revenue Code of 1954. A taxpayer may make an election under this section only if all of the following conditions are met:

1. An election for federal estate tax purposes was made with regard to the qualified real property under section 2032A of the Internal Revenue Code of 1954.
2. All persons who signed the agreement referred to in section 2032A(d)(2) of the Internal Revenue Code of 1954 make the election under this section and sign an agreement with the department of revenue and finance consenting to the application of section 450B.3 with respect to the qualified real property.
3. The total decrease in the value of the qualified real property as a result of the election under this section does not exceed the dollar limitation specified in section 2032A(a)(2) of the Internal Revenue Code of 1954.

The election under this section shall be made by the taxpayer in the manner as the director of revenue and finance may prescribe by rule. The value for the qualified use under this section shall be the value as determined and accepted for federal estate tax purposes.

The definitions and special rules specified in section 2032A(e) of the Internal Revenue Code of 1954 shall apply with respect to qualified real property for which an election was made under this section except that rules shall be prescribed by the director of revenue and finance in lieu of the regulations promulgated by the secretary of treasury.

The director shall prescribe regulations setting forth the application of this chapter in the case of an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business within the meaning of section 6166(b)(1) of the Internal Revenue Code of 1954. Such regulations shall conform as nearly as possible with the regulations promulgated by the United States secretary of treasury in respect to such interests.

Sec. 41. Section 450B.3, Code 1987, is amended to read as follows:

#### 450B.3 ADDITIONAL INHERITANCE TAX APPLICABLE.

There is imposed upon the qualified heir an additional inheritance tax if, within ten years after the decedent's death and before the death of the qualified heir, the qualified heir disposes of, other than to a member of the family, any interest in qualified real property for which an election under section 450B.2 was made or ceases to use for the qualified use the qualified real property for which an election under section 450B.2 was made as prescribed in section 2032A(c)

of the Internal Revenue Code of 1954. The additional inheritance tax shall be the amount computed under section 450B.5 and shall be due six months after the date of the disposition or cessation of qualified use referred to in this section. The amount of the additional inheritance tax shall accrue interest at the rate of ten percent per year from nine months after the decedent's death to the due date of the tax. The tax shall be paid to the department of revenue and finance and shall be deposited into the general fund of the state. Taxes not paid within the time prescribed in this section shall draw interest at the rate of ten percent per annum until paid. There shall not be an additional inheritance tax if the disposition or cessation occurs ten years or more after the decedent's death.

Sec. 42. Section 451.1, subsection 8, Code 1987, is amended to read as follows:

8. "Internal Revenue Code of 1954" means the same as defined in section 422.3.

Sec. 43. Section 451.2, unnumbered paragraph 1, Code 1987, is amended to read as follows:

An amount equal to the federal estate tax credit for state death taxes as allowed in the Internal Revenue Code of 1954 is hereby imposed upon every transfer of the net estate of every decedent, being a resident of, or owning property in this state, as herein provided.

Sec. 44. Section 451.3, Code 1987, is amended to read as follows:

451.3 GROSS AND NET ESTATE.

The gross estate shall be the same as finally determined for federal estate tax and the net estate shall be the gross estate less deductions as permitted by federal law, in arriving at the net taxable federal estate, all determined as provided in the Internal Revenue Code of 1954.

Sec. 45. 1987 Iowa Acts, Second Extraordinary Session, chapter 1, section 13, is amended to read as follows:

SEC. 13. Section 422.4, subsection 17, section 422.5, subsection 7, section 422.7, subsections 10, 12, 14, 15, 22, and 26, section 422.9, subsection 2, paragraph "e", and section 422.21, unnumbered paragraph 4, do not apply.

Sec. 46. 1987 Iowa Acts, Second Extraordinary Session, chapter 1, section 16, is amended to read as follows:

SEC. 16. Sections 1 through 10, 13, and 14 of this Act are retroactive to January 1, 1987 for tax years beginning in the 1987 calendar year only on or after that date.

Sec. 47. 1987 Iowa Acts, Second Extraordinary Session, chapter 1, sections 13 and 14, are repealed.

Sec. 48. For purposes of tax years beginning in the 1988 calendar year, references in section 422.9, subsection 6, unnumbered paragraph 4 and section 422.21, unnumbered paragraph 6, to the year 1987, 1988, or 1989, shall mean the year 1988, 1989, or 1990, respectively.

Sec. 49. The Code editor shall renumber section 422.5, subsection 1A, as section 422.5, subsection 1. References in the Iowa Code to section 422.5, subsection 1, shall mean section 422.5, subsection 1A, as renumbered. The Code editor may renumber other subsections as a result of this Act.

Sec. 50. Sections 3, 8, 10, 14, 30, 31, 45, and 46 of this Act are retroactive to January 1, 1987, for tax years beginning on or after that date.

Sec. 51. Sections 1, 2, 4, 5, 6, 7, 9, 11, 12, 13, 15 through 20, 21 through 27, 29, 32, 33, 34, 47, and 49 of this Act are retroactive to January 1, 1988, for tax years beginning on or after that date.

Sec. 52. Section 28 of this Act is effective January 1, 1989, for tax years beginning on or after that date.

Sec. 53. Sections 35, 36, 37, and 39 through 44 of this Act are effective January 1, 1988, for estates of persons dying on or after that date.

Sec. 54. Section 38 of this Act is retroactive to October 22, 1986, for generation skipping transfers which are eligible for the credit for state taxes under section 2604 of the Internal Revenue Code and are made after October 22, 1986, subject to the special rules of section 1433(b) of Pub. L. No. 99-514.

Sec. 55. Sections 3, 8, 31, 38, and 45 of this Act are repealed January 1, 1988, for tax years beginning on or after that date or for estates of persons dying on or after that date.

Sec. 56. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 4, 1988

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## CHAPTER 1029

### EVIDENCE FROM CRIMINALISTICS LABORATORY

*S.F. 2256*

**AN ACT** relating to the admission of a report or findings of the criminalistics laboratory as evidence in a civil proceeding.

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

Section 1. Section 691.2, Code 1987, is amended to read as follows:

**691.2 PRESUMPTION OF QUALIFICATION — ACCEPTANCE IN EVIDENCE.**

It shall be presumed that any employee or technician of the criminalistics laboratory is qualified or possesses the required expertise to accomplish any analysis, comparison, or identification done by the employee in the course of the employee's employment in the criminalistics laboratory. Any report, or copy thereof of a report, or the findings of the criminalistics laboratory shall be received in evidence, if determined to be relevant, in any court, preliminary hearing, grand jury proceeding, civil proceeding, administrative hearing, and forfeiture proceeding in the same manner and with the same force and effect as if the employee or technician of the criminalistics laboratory who accomplished the requested analysis, comparison, or identification had testified in person.

PARAGRAPH DIVIDED. A party or the party's attorney may request that an employee or technician testify in person at a criminal trial, administrative hearing, or forfeiture proceeding on behalf of the state or the adverse agency of the state, by notifying the proper county attorney, or in the case of an administrative proceeding the adverse agency, at least ten days before the date of the criminal trial, administrative hearing, or forfeiture proceeding. A party or the party's attorney in any other civil proceeding may require an employee or technician to testify in person pursuant to a subpoena.

Approved April 4, 1988