

13. A member of the house of representatives appointed by the speaker of the house of representatives.

14. A member of the house of representatives appointed by the minority leader of the house of representatives.

15. Nine public members who are actively engaged as entrepreneurs appointed by the governor.

If a member has not been appointed by the date of the convening of the task force, the members already in place shall appoint the member at the task force's first meeting. A vacancy occurring in the membership of the entrepreneurship task force shall be filled in the same manner as the original appointment. The members' appointments shall terminate December 31, 1991. The members shall elect a chairperson at the first meeting of the task force. The chairperson shall call and conduct all future meetings.

The entrepreneurship task force shall submit a report of the task force's deliberations with a request for assistance to further study entrepreneurship or with specific recommendations to the department of economic development for transmission to the governor and the general assembly by January 15, 1991.

Sec. 2. APPROPRIATION.

There is appropriated from the general fund of the state to the department of economic development for the fiscal period beginning July 1, 1990, and ending January 15, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the entrepreneurship task force for expenses as necessary: \$ 25,000

Approved May 2, 1990

CHAPTER 1232

STATE TAXES

H.F. 2551

AN ACT relating to taxes administered and fees collected by the department of revenue and finance including technical corrections, payment and liability for certain sales and use taxes, special fuel taxes, income tax, franchise tax, inheritance tax, and providing for certain retroactive applicability and effective dates.

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

Section 1. Section 98.44, subsection 4, Code Supplement 1989, is amended to read as follows:

4. Each application for a distributor's license shall be accompanied by a fee of ~~twenty five~~ one hundred dollars, except that ~~no~~ an applicant holding a permit pursuant to division I of this chapter shall not be required to pay an additional fee. The application shall ~~also~~ be accompanied by a corporate surety bond issued by a surety licensed to do business in this state, in the sum of one thousand dollars, conditioned upon the true and faithful compliance by the distributor with all the provisions of this division and the payment when due of all taxes, penalties and accrued interest arising in the ordinary course of business or by reason of any delinquent money which may be due the state of Iowa. This bond shall be in a form to be fixed by the director and approved by the attorney general. Whenever it is the opinion of the director that the bond given by a licensee is inadequate in amount to fully protect the state, the director shall require either an increase in the amount of said bond or additional bond, in such amount as the director deems sufficient. Any bond required by this subdivision, or a reissue thereof, or a substitute therefor, shall be kept in full force and effect during the entire period covered by the license.

A separate application for license shall be made for each place of business at ~~which~~ where a distributor proposes to engage in business as such under this division.

Sec. 2. Section 324.34, unnumbered paragraph 6, Code 1989, is amended to read as follows:

All gallonage which is not for highway or aircraft use, dispensed through metered pumps as licensed under this section, on which special fuel tax is not collected, must be substantiated by exemption certificates as provided by the department or by valid exemption certificates provided by the dealers, signed by the purchaser, and retained by the dealer. A "valid exemption certificate provided by a dealer" is an exemption certificate which is in the form prescribed by the director to assist dealers in properly accounting for fuel dispensed for which special fuel tax is not collected and which is complete and correct according to the requirements of the director.

Sec. 3. Section 421.9, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The director may make application to the district court or judicial magistrate in the county where the books, records, or assets are located for an administrative search warrant as authorized by section 808.14, to ensure equitable administration of state tax law, if any of the following occurs:

a. A person refuses to allow the director or the director's authorized representative to audit the person's books or records or to inspect or value the person's assets.

b. The director has good and sufficient reason to believe that a person will not allow the department to audit books or records or inspect or value assets or to believe that the person will destroy books or records or secrete or transfer assets.

The director may make application to the district court or judicial magistrate for an administrative search warrant as authorized by section 808.14 to execute a distress warrant authorized by section 422.26.

Sec. 4. Section 421.17, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 31. At the director's discretion, accept payment of taxes, penalties, interest, and fees, or any portion thereof, by credit card. The director may adjust the payable amount to reflect the costs of processing the payment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charged by the credit card issuer.

Sec. 5. Section 421.26, Code 1989, is amended to read as follows:

421.26 PERSONAL LIABILITY FOR TAX DUE.

If a licensee or other person under section 324.65, a retailer or purchaser under chapter 422A or 422B, or section 422.52, or a retailer or purchaser under section 423.13 or a user under section 423.14 fails to pay a tax under those sections when due, ~~any~~ an officer of a corporation or association, or ~~any~~ a partner of a partnership, having control or supervision of or the authority for remitting the tax payments and having a substantial legal or equitable interest in the ownership of the corporation or partnership, who has intentionally failed to pay the tax is personally liable for the payment of the tax, interest, and penalty due and unpaid. However, this section shall not apply to taxes on accounts receivable. The dissolution of a corporation, association, or partnership shall not discharge a person's liability for failure to remit the tax due.

Sec. 6. Section 421.27, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The taxpayer was subject to the penalty provision of section 422.25, subsection 2, and was eligible to compute taxable income under the cash receipts and disbursements method of accounting under section 448(b)(3) of the Internal Revenue Code. The waiver provision in this paragraph applies only for tax years beginning in the 1985 and 1986 calendar years and only to the extent that the taxpayer failed to include in its net income for state tax purposes interest payable on short-term obligations as it accrued during those tax years as provided in section 1281 of the Internal Revenue Code and provided that an amended return is filed by July 1, 1990.

Sec. 7. Section 421.28, Code 1989, is amended to read as follows:

421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.

The immediate successor to a licensee's or retailer's business or stock of goods under chapter 422A or 422B, or section 324.65, 422.52, or 423.13, or 423.14 is not personally liable for the amount of delinquent tax, interest, or penalty due and unpaid if the immediate successor shows that the purchase of the business or stock of goods was made in good faith that no delinquent tax, interest, or penalty was due and unpaid. For purposes of this section the immediate successor shows good faith by evidence that no tax liens were filed, that the department had informed the immediate successor that no delinquent tax, interest, or penalty is unpaid, or that the immediate successor had taken in good faith a certified statement from the licensee or retailer that no delinquent tax, interest, or penalty is unpaid. When requested to do so by a person with whom the licensee or retailer is negotiating the sale of the business or stock of goods, the director of revenue and finance shall, upon being satisfied that such a situation exists, inform that person as to the amount of unpaid delinquent tax, interest, or penalty due by the licensee or the retailer. The giving of the information under this circumstance is not a violation of section 324.63, 422.20, or 422.72.

Sec. 8. Section 422.26, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The lien ~~aforsaid~~ shall attach at the time the tax becomes due and payable and shall continue for ten years from the ~~time the lien attaches~~ date an assessment is issued unless sooner released or otherwise discharged. The lien may, within ten years from the date the lien attaches an assessment is issued, be extended by filing for record a notice with the appropriate county official of any county and from the time of such filing, the lien shall be extended to the property in such county for ten years, unless sooner released or otherwise discharged, with no limit on the number of extensions. Liens having attached prior to January 1, 1969, will expire on January 1, 1979, unless extended by the director. The director shall charge off any account whose lien is allowed to lapse and may charge off any account and release the corresponding lien before the lien has lapsed if the director determines under uniform rules prescribed by the director that the account is uncollectible or collection costs involved would not warrant collection of the amount due.

Sec. 9. Section 422.26, Code 1989, is amended by adding the following new subsection and renumbering the subsequent subsection:

NEW SUBSECTION. 6. Date of assessment.

Sec. 10. Section 422.26, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, "assessment issued" means the most recent assessment against the taxpayer for the tax type and tax period.

Sec. 11. Section 422.27, subsection 1, Code 1989, is amended to read as follows:

1. A final account of a personal representative, as defined in section 450.1, shall not be allowed by any court unless the account shows, and the judge of the court finds, that all taxes imposed by this division upon the personal representative, which have become payable, have been paid, and that all taxes which may become due are secured by bond, or deposit, or are otherwise secured. The certificate of acquittances of the department of revenue and finance is conclusive as to the payment of the tax to the extent of the acquittance. This subsection does not apply if all property in the estate of a decedent is held in joint tenancy with right of survivorship by husband and wife alone.

Sec. 12. Section 422.42, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "Property purchased for resale in connection with the performance of a service" means property which is purchased for resale in connection with the performance of a service by a person who renders, furnishes, or performs the service if all of the following occur:

a. The provider and user of the service intend that a sale of the property will occur.

b. The property is transferred to the user of the service in connection with the performance of the service in a form or quantity capable of a fixed or definite price value.

c. The sale is evidenced by a separate charge for the identifiable piece of property.

Sec. 13. Section 422.43, subsection 11, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The following enumerated services are subject to the tax imposed on gross taxable services: Alteration and garment repair; armored car; automobile repair; battery, tire and allied; investment counseling; service charges of all financial institutions; barber and beauty; boat repair; car wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; rental of tangible personal property, except mobile homes which are tangible personal property; excavating and grading; farm implement repair of all kinds; flying service; furniture, rug, upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pipe fitting and plumbing; wood preparation; licensed executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; sewing and stitching; shoe repair and shoeshine; storage warehousing of raw agricultural products; telephone answering service; test laboratories, except tests on humans; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing; cable pay television; campgrounds; carpet and upholstery cleaning; gun and camera repair; janitorial and building maintenance or cleaning; lawn care, landscaping and tree trimming and removal; pet grooming; reflexology; security and detective services; tanning beds or salons; and water conditioning and softening.

Sec. 14. Section 422.45, subsection 5, Code Supplement 1989, is amended to read as follows:

5. The gross receipts or from services rendered, furnished, or performed and of all sales of goods, wares or merchandise used for public purposes to any tax-certifying or tax-levying body of the state of Iowa or governmental subdivision thereof of the state, including regional transit systems, as defined in section 601J.1, the state board of regents, state department of human services, state department of transportation, any municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which have no earnings going to the benefit of an equity investor or stockholder except sales of goods, wares or merchandise or from services rendered, furnished, or performed and used by or in connection with the operation of any municipally owned public utility engaged in selling gas, electricity or heat to the general public.

The exemption provided by this subsection shall also apply to all such sales of goods, wares or merchandise or from services rendered, furnished, or performed and subject to use tax under the provisions of chapter 423.

Sec. 15. Section 422.45, subsection 7, Code Supplement 1989, is amended to read as follows:

7. A private nonprofit educational institution in this state, nonprofit private museum or a tax-certifying or tax-levying body or governmental subdivision of the state, including the state board of regents, state department of human services, state department of transportation, a municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which do not have earnings going to the benefit of an equity investor or stockholder may make application to the department for the refund of the sales, services, or use tax upon the gross receipts of all sales of

goods, wares or merchandise, or from services rendered, furnished, or performed, to a contractor, used in the fulfillment of a written contract with the state of Iowa, any political subdivision of the state, or a division, board, commission, agency or instrumentality of the state or a political subdivision, ~~or~~ a private nonprofit educational institution in this state, or a nonprofit private museum if the property becomes an integral part of the project under contract and at the completion of the project becomes public property, ~~or~~ is devoted to educational uses; or becomes a nonprofit private museum except goods, wares or merchandise or services rendered, furnished, or performed used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public; and except goods, wares, and merchandise used in the performance of a contract for a "project" under chapter 419 as defined in that chapter other than goods, wares or merchandise used in the performance of a contract for a "project" under chapter 419 for which a bond issue was or will have been approved by a municipality prior to July 1, 1968, or for which the goods, wares, or merchandise becomes an integral part of the project under contract and at the completion of the project becomes public property or is devoted to educational uses.

a. Such contractor shall state under oath, on forms provided by the department, the amount of such sales of goods, wares or merchandise or services rendered, furnished, or performed and used in the performance of such contract, and upon which sales or use tax has been paid, and shall file such forms with the governmental unit, ~~or~~ private nonprofit educational institution, or nonprofit private museum which has made any written contract for performance by said the contractor. ~~Such~~ The forms shall be filed by the contractor with the governmental unit, ~~or~~ educational institution, or nonprofit private museum before final settlement is made.

b. Such governmental unit, ~~or~~ educational institution, or nonprofit private museum shall, not more than six months after the final settlement has been made, make application to the department for any refund of the amount of such sales or use tax which shall have been paid upon any goods, wares or merchandise, or services rendered, furnished, or performed, such application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit such claim and, if approved, issue a warrant to such governmental unit, ~~or~~ educational institution, or nonprofit private museum in the amount of such sales or use tax which has been paid to the state of Iowa under such contract.

c. Any contractor who shall willfully make false report of tax paid under the provisions of this subsection shall be guilty of a simple misdemeanor and in addition thereto shall be liable for the payment of the tax ~~with~~ and any applicable penalty and interest ~~thereon~~.

Sec. 16. Section 422.45, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 43. The gross receipts of all sales of goods, wares, merchandise, or services, used for educational, scientific, historic preservation, or aesthetic purpose to a nonprofit private museum.

Sec. 17. Section 422.45, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 44. The gross receipts from the sale of tangible personal property or the sale, furnishing, or servicing of electrical energy, natural or artificial gas, or communication service to another state or political subdivision of another state if the other state provides a similar reciprocal exemption for this state and political subdivisions of this state.

Sec. 18. Section 422.45, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 45. The gross receipts from the sale of tangible personal property consisting of advertising material including paper to a person in Iowa if that person or that person's agent will, subsequent to the sale, send that advertising material outside this state and the material is subsequently used solely outside of Iowa. For the purpose of this subsection, "advertising material" means any brochure, catalog, leaflet, flyer, order form, return envelope, or similar item used to promote sales of property or services.

Sec. 19. Section 422.72, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

It is unlawful for the director, or any person having an administrative duty under this chapter, or any present or former officer or other employee of the state authorized by the director to examine returns, to divulge in any manner whatever, the business affairs, operations, or information obtained by an investigation under this chapter of records and equipment of any person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy of a return or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law. However, the director may authorize examination of such state returns and other state information which is confidential under this section, if a reciprocal arrangement exists, by tax officers of another state or the federal government. The director may, by rules adopted pursuant to chapter 17A, authorize examination of state information and returns by other officers or employees of this state to the extent required by their official duties and responsibilities. Disclosure of state information to tax officers of another state is limited to disclosures which have a tax administrative purpose and only to officers of those states which have laws that are as strict by agreement with this state limit the disclosure of the information as strictly as the laws of this state protecting the confidentiality of returns and information. The director shall place upon the state tax form a notice to the taxpayer that state tax information may be disclosed to tax officials of another state or of the United States for tax administrative purposes.

PARAGRAPH DIVIDED. The department shall not authorize the examination of tax information by officers and employees of this state, another state, or of the United States if the officers or employees would otherwise be required to obtain a judicial order to examine the information if it were to be obtained from another source, and if the purpose of the examination is other than for tax administration. However, the director may provide sample individual income tax information to be used for statistical purposes to the legislative fiscal bureau. The information shall not include the name or mailing address of the taxpayer or the taxpayer's social security number. Any information contained in an individual income tax return which is provided by the director shall only be used as a part of a data base which contains similar information from a number of returns. The legislative fiscal bureau shall not have access to the income tax returns of individuals. Each request for individual income tax information shall contain a statement by the director of the legislative fiscal bureau that the individual income tax information received by the bureau shall be used solely for statistical purposes. This subsection does not prevent the department from authorizing the examination of state returns and state information under the provisions of section 252B.9. This subsection prevails over any general law of this state relating to public records.

Sec. 20. Section 450.7, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The Except for the share of the estate passing to the surviving spouse, the tax is a charge against and a lien upon the estate subject to tax under this chapter, and all property of the estate or owned by the decedent from the death of the decedent until paid, subject to the following limitations:

Sec. 21. Section 450.12, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. A liability shall not be deducted unless the personal representative or other person filing the inheritance tax return as provided in section 450.22 certifies that it has been paid or, if not paid, the director of revenue and finance is satisfied that it will be paid. If the amount of liabilities deductible under this section exceed the amount of property subject to the payment of the liabilities, the excess shall be deducted from other property included in the gross estate on a prorated basis that the gross value of each item of other property bears to the total gross value of all the other property. Subject to the previous provision, a liability is deductible whether or not the liability is legally enforceable against the decedent's estate.

Sec. 22. Section 421.8A, Code 1989, is repealed.

Sec. 23. Section 422.64, Code 1989, is repealed.

Sec. 24. Section 422.63A, Code Supplement 1989, is repealed.

Sec. 25. Section 4 of this Act is applicable to payments of taxes, penalties, interest, or fees made on or after July 1, 1990.

Sec. 26. Section 14 of this Act is retroactively applicable to July 1, 1985.

Sec. 27. Section 8 of this Act is applicable retroactively to January 1, 1990, for taxes due and payable before January 1, 1990, and unpaid on that date and for all taxes due on or after January 1, 1990.

Sec. 28. Sections 11 and 20 of this Act are retroactively applicable to January 1, 1988, for decedents dying on or after that date.

Sec. 29.

Section 6 of this Act applies retroactively to tax years beginning in the 1985 and 1986 calendar years.

Sec. 30.

Section 24 of this Act applies retroactively to January 1, 1990, for tax years beginning on or after that date.

Sec. 31.

Section 22 of this Act takes effect January 1, 1991, for assessments made on or after that date.

Approved May 2, 1990

CHAPTER 1233

SUBSTANTIVE CODE CORRECTIONS

H.F. 2313

AN ACT relating to statutory corrections which adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, and remove ambiguities.

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

Section 1. Section 49.7, Code Supplement 1989, is amended to read as follows:

49.7 WHEN REPRECINCTING REQUIRED.

Each county board of supervisors and city council shall make any changes in precinct boundaries necessary to comply with sections 49.3, 49.4 and 49.5 not earlier than July 1 nor later than November 15 of the year immediately following each year in which the federal decennial census is taken, unless the general assembly by joint resolution establishes different dates for compliance with these sections. Any or all of the publications required by section 49.11 may be made after November 15 if necessary. Each county board and city council shall notify the state commissioner and the commissioner ~~whenever~~ when the boundaries of election precincts are changed, and shall provide a map delineating the new boundary lines. Each county board and city council shall certify to the state commissioner the populations of the new election precincts or retained election precincts as determined under the latest federal decennial