

CHAPTER 1114**ELECTRICITY AND NATURAL GAS REPLACEMENT TAX**

S.F. 2420

AN ACT relating to the administration and enforcement of the replacement tax imposed on the generation, transmission, and delivery, consumption, and use of electricity and natural gas, providing for the Act's retroactive applicability, and providing an effective date.

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

Section 1. Section 421.10, Code 1999, is amended to read as follows:
421.10 APPEAL PERIOD — APPLICABILITY.

The appeal period for revision of assessment of tax, interest, and penalties set out under section 422.28, 422.54, 437A.9, 437A.22, 452A.64, 453A.29, or 453A.46 applies to appeals to notices from the department denying changes in filing methods, denying refund claims, and denying portions of refund claims for the tax covered by that section, and notices of any department action directed to a specific taxpayer, other than licensing, which involves a calculation.

Sec. 2. Section 437A.3, subsection 1, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

"Assessed value" means the base year assessed value, as adjusted by section 437A.19, subsection 2. "Base year assessed value", for a taxpayer other than an electric company, natural gas company, or electric cooperative, means the value attributable to property identified in section 427A.1, subsection 1, paragraph "h", certified by the department of revenue and finance to the county auditors for the assessment date of January 1, 1997, and the value attributable to property identified in section 427A.1 and section 427B.17, subsection 5, as certified by the local assessors to the county auditors for the assessment date of January 1, 1997, provided, that for a taxpayer subject to section 437A.17A, such value shall be the value certified by the department of revenue and finance and local assessors to the county auditors for the assessment date of January 1, 1998.

Sec. 3. Section 437A.5, subsection 7, unnumbered paragraph 2, Code 1999, is amended to read as follows:

~~Section 437A.5, subsection~~ Subsection 2; does not apply to natural gas consumed by a person, other than an electric company, natural gas company, electric cooperative, or municipal utility, acquired by means of facilities owned by or leased to such person on January 1, 1999, which were physically attached to pipelines that are not permitted pursuant to chapter 479 and used by such person for the purpose of bypassing the local natural gas company or municipal utility.

Sec. 4. Section 437A.5, subsection 7, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Subsection 1 does not apply to natural gas which is delivered, by a pipeline that is not permitted pursuant to chapter 479, into a facility owned by or leased to a person, other than an electric company, natural gas company, electric cooperative, or municipal utility, if the person who consumes the gas uses the gas for the purpose of bypassing the local natural gas company or municipal utility, regardless of whether such facility existed on January 1, 1999.

Sec. 5. Section 437A.6, subsection 2, Code 1999, is amended to read as follows:

2. For purposes of this section, if a generation facility is jointly owned or leased, ~~the taxpayer shall compute the number of kilowatt-hours of electricity subject to the replacement generation tax by multiplying the taxpayer's percentage interest in the jointly held generation facility by the number of kilowatt-hours of electricity generated shall be the~~

number of kilowatt-hours of electricity generated and dispatched by the jointly held generation facility to the account of the taxpayer.

Sec. 6. Section 437A.6, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3. For purposes of this section, the number of kilowatt-hours generated by a generation facility shall exclude any kilowatt-hours used to operate that generation facility.

Sec. 7. Section 437A.8, subsection 4, Code 1999, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. If a distribution electric cooperative member or a municipal utility purchasing member subject to section 437A.15, subsection 3, paragraph "b", does not make timely payment of the correct amount of replacement tax to the generation and transmission electric cooperative and the generation and transmission electric cooperative so notifies the director and the appropriate county treasurer within fifteen days after August 1, and timely remits to the county treasurer the amounts of replacement tax received by the generation and transmission electric cooperative in accordance with section 437A.15, subsection 3, paragraph "b", the generation and transmission electric cooperative shall not be liable for the unpaid replacement tax due from the distribution electric cooperative member or municipal utility purchasing member. The generation and transmission electric cooperative shall also not be liable for a special utility property tax levy, if any, and shall not be entitled to a tax credit, if any, attributable to the unpaid replacement tax. The county treasurer and the director shall enforce payment of the replacement tax against the appropriate distribution electric cooperative member or municipal utility purchasing member pursuant to sections 437A.9 through 437A.13. The county treasurer shall enforce payment of the special utility property tax levy, if any, against the appropriate distribution electric cooperative member or municipal utility purchasing member.

NEW UNNUMBERED PARAGRAPH. If a generation and transmission electric cooperative receives some, but not all, of the required payment from a distribution electric cooperative member or a municipal utility purchasing member, the generation and transmission electric cooperative shall notify the director within fifteen days after August 1. The director shall then notify the generation and transmission electric cooperative of the paid amount to be remitted to the appropriate county treasurer and shall also notify the county treasurer. If the generation and transmission electric cooperative timely notifies the director and timely remits to the county treasurer the amounts of replacement tax, as determined by the director, the generation and transmission electric cooperative shall not be liable for that unpaid replacement tax due from the distribution electric cooperative member or municipal utility purchasing member. The generation and transmission electric cooperative shall also not be liable for a special utility property tax levy, if any, and shall not be entitled to a tax credit, if any, attributable to the unpaid replacement tax. The county treasurer and the director shall enforce payment of the replacement tax against the appropriate distribution electric cooperative member or municipal utility purchasing member pursuant to sections 437A.9 through 437A.13. The county treasurer shall enforce payment of the special utility property tax levy, if any, against the appropriate distribution electric cooperative member or municipal utility purchasing member.

NEW UNNUMBERED PARAGRAPH. If a generation and transmission electric cooperative, after notice, does not timely pay the correct amount of replacement tax or special utility property tax levy attributable to the excess property tax liability to the appropriate county treasurer, after receiving the required payment from the distribution electric cooperative member or municipal utility purchasing member, such replacement tax shall be enforced solely against the generation and transmission electric cooperative under sections 437A.9 through 437A.13, and shall not be enforced against the paying distribution electric cooperative member or municipal utility purchasing member, and the special utility property tax levy shall be enforced solely against the generation and transmission electric cooperative.

¹ The word "electric" probably intended

Sec. 8. Section 437A.11, unnumbered paragraph 6, Code 1999, is amended to read as follows:

Section 445.3 applies with respect to the replacement taxes and special utility property tax levies and penalties and interest imposed by this chapter, except for the provisions limiting the commencement of actions. In addition, at the county treasurer's discretion, chapters 446, 447, and 448 apply in the enforcement of the special utility property tax levies, but any tax deed issued shall not extinguish a tax lien or judgment lien for replacement taxes that has attached to the property.

Sec. 9. Section 437A.14, subsection 1, paragraph b, Code Supplement 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If an amount of overpaid replacement tax is attributable to payment of excess property tax liability as described in section 437A.15, subsection 3, paragraph "b", a claim for refund or credit may only be made by, and a refund or credit shall only be made to, the person who made such excess payment. Such claim shall not be made by the person who collected the tax from another person.

Sec. 10. Section 437A.15, subsection 3, Code Supplement 1999, is amended to read as follows:

3. a. All replacement taxes owed by a taxpayer shall be allocated among the local taxing districts in which such taxpayer's property is located in accordance with a general allocation formula determined by the department of management on the basis of general property tax equivalents. General property tax equivalents shall be determined by applying the levy rates reported by each local taxing district to the department of management on or before June 30 following a tax year to the assessed value of taxpayer property allocated to each such local taxing district as adjusted and reported to the department of management in such tax year by the director pursuant to section 437A.19, subsection 2. The general allocation formula for a tax year shall allocate to each local taxing district that portion of the replacement taxes owed by each taxpayer which bears the same ratio as such taxpayer's general property tax equivalents for each local taxing district bears to such taxpayer's total general property tax equivalents for all local taxing districts in Iowa.

b. Notwithstanding other provisions of this section, if excess property tax liability has been assigned pursuant to section 437A.4, subsection 3, paragraph "c", subparagraph (4), and has not been removed, the allocation of electric delivery replacement tax attributable to the excess property tax liability shall be made by the director and the department of management so as to allocate the electric delivery replacement tax attributable to the excess property tax liability among those local taxing districts in which the property associated with the excess property tax liability is located. In order to ensure that the electric delivery replacement tax attributable to the excess property tax liability is paid to the appropriate county treasurer for disposition to the local taxing districts, each distribution electric cooperative member and each municipal utility purchasing member subject to section 437A.4, subsection 3, paragraph "c", subparagraph (4), shall pay to the appropriate generation and transmission electric cooperative the electric delivery replacement tax attributable to the excess property tax liability by August 1. The amount of electric delivery replacement tax attributable to the excess property tax liability shall equal that percentage of total electric delivery replacement tax liability that the excess property tax liability bears to the total property tax liability contained in the electric delivery tax component. The generation and transmission electric cooperative shall pay the electric delivery replacement tax attributable to the excess property tax liability to the appropriate county treasurer.

c. If paragraph "b" is applicable, on or before June 1, the director shall notify each distribution electric cooperative member, each municipal utility purchasing member, and each generation and transmission electric cooperative of the amount of electric delivery replacement tax to pay to the generation and transmission electric cooperative. On or before June 1, the director shall notify the generation and transmission electric cooperative of the amount of replacement tax liability attributable to the excess property tax liability that is payable to each

county treasurer. The director shall determine the amount of any special utility property tax levy or tax credit attributable to the excess property tax liability which shall be reflected in the amount required to be paid by each distribution electric cooperative member and each municipal utility purchasing member to the generation and transmission electric cooperative.

Sec. 11. Section 437A.15, subsection 4, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

On or before August 31 following tax years 1999, 2000, and 2001, each county treasurer shall compute a special utility property tax levy or tax credit for each taxpayer for which a replacement tax liability for each such tax year is reported to the county treasurer pursuant to subsection 1, and shall notify the taxpayer of the amount of such tax levy or tax credit. The amount of the special utility property tax levy or credit shall be determined for each taxpayer by the county treasurer by comparing the taxpayer's total replacement tax liability allocated to taxing districts in the county pursuant to this section with the anticipated tax revenues from the taxpayer for all taxing districts in the county. If the taxpayer's total replacement tax liability allocated to taxing districts in the county is less than the anticipated tax revenues from the taxpayer for all taxing districts in the county, the county treasurer shall levy a special utility property tax equal to the shortfall which shall be added to and collected with the replacement tax owed by the taxpayer to the county treasurer for the tax year pursuant to section 437A.8, subsection 4. If the taxpayer's total replacement tax liability allocated to taxing districts in the county exceeds the anticipated tax revenues from the taxpayer for all taxing districts in the county, the county treasurer shall issue a credit to the taxpayer which shall be applied to reduce the taxpayer's replacement tax liability to the county treasurer for the tax year. If the taxpayer's total replacement tax liability allocated to taxing districts in the county equals the anticipated tax revenues from the taxpayer for all taxing districts in the county, no levy or credit is required. Replacement tax liability for purposes of this subsection means replacement tax liability before credits allowed by section 437A.8, subsection 7. A recalculation of a special utility property tax levy or credit shall not be made as a result of a subsequent recalculation of replacement tax liability under section 437A.8, subsection 7, or adjustment to assessed value under section 437A.19, subsection 2, paragraph "f". "Anticipated tax revenues from a taxpayer" means the product of the total levy rates imposed by the taxing districts and the value of taxpayer property allocated to the taxing districts and reported to the county auditor. Special utility property tax levies and credits shall be treated as replacement taxes for purposes of section 437A.11. If a special utility property tax levy payment becomes delinquent, the delinquent payment shall accrue interest and penalty in the same manner and amount as the replacement tax under section 437A.13.

Sec. 12. Section 437A.19, subsection 2, paragraph f, unnumbered paragraph 3, Code Supplement 1999, is amended to read as follows:

The director, on or before October 31, 1999, in the case of January 1, 1999, assessed values, and on or before August 31 of each subsequent assessment year, shall report to the department of management and to the auditor of each county the adjusted assessed value of taxpayer property as of January 1 of such assessment year for each local taxing district, provided that for a taxpayer whose base year as defined in section 437A.3, subsection 1, changed from 1997 to 1998, the director shall, before May 1, 2000, report to the department of management and to the auditor of each county, the assessed values as of January 1, 1999. For purposes of this subsection, the assessed value of taxpayer property in each local taxing district subject to adjustment under this section by the director means the assessed value of such property as of the preceding January 1 as determined and allocated among the local taxing districts by the director.

Sec. 13. Section 437A.21, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 6. Notwithstanding subsections 1 through 5, a taxpayer is not required to file a return under this section or to remit any statewide property tax for any tax year in which the taxpayer's statewide property tax liability is one dollar or less.

Sec. 14. Section 443.2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

The county auditor shall list the aggregate actual value and the aggregate taxable value of all taxable property within the county and each political subdivision including property subject to the statewide property tax imposed under section 437A.18 on the tax list in order that the actual value of the taxable property within the county or a political subdivision may be ascertained and shown by the tax list for the purpose of computing the debt-incurring capacity of the county or political subdivision. As used in this section, "actual value" is the value determined under section 441.21, subsections 1 to 3, prior to the reduction to a percentage of actual value as otherwise provided in section 441.21. "Actual value" of property subject to statewide property tax is the assessed value under section 437A.18.

Sec. 15. Section 445.57, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The county treasurer shall apportion all interest and penalties on the replacement taxes and special utility property tax levies collected by the county treasurer to the general fund. Replacement taxes collected by the county treasurer shall be apportioned as set forth in this section.

Sec. 16. **RECOMPUTATION.** The director of revenue and finance shall recompute the electric replacement delivery tax rate applicable to each electric competitive service area under section 437A.4 in order to reflect the electric generation tax component determined under section 437A.6, as amended by this Act. If the recomputed electric replacement delivery tax rate differs from the delivery tax rate published in the Iowa administrative bulletin in 1999, the director shall publish the recomputed tax rate in the Iowa administrative bulletin within ninety days of the effective date of this Act.

Sec. 17. **RETROACTIVE APPLICABILITY.** Sections 3, 4, 5, 6, 7, 9, and 10 of this Act, amending section 437A.5, subsection 7; section 437A.6; section 437A.8, subsection 4; section 437A.14, subsection 1; and section 437A.15, subsection 3, respectively, apply retroactively to January 1, 1999, for tax years beginning on and after that date.

Sec. 18. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 19, 2000

CHAPTER 1115

INDIGENT DEFENSE

H.F. 2470

AN ACT relating to the office of the state public defender including indigent defense costs and the appropriation of indigent defense funds.

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

Section 1. Section 13B.8, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The state public defender may appoint ~~a local public defender~~ and may remove the local public defender, assistant local public defenders, clerks, investigators, secretaries, or other