

CHAPTER 214**INCOME, SALES, SERVICES, AND USE TAXES***H.F. 675*

AN ACT relating to taxation in regard to the withholding on pari-mutuel winnings, application of a net operating loss, filing of nonresident income tax returns, due date of individual estimated tax payments, the taxation of certain services and the determination, for purposes of the state sales, services, and use tax, of when certain building materials are not subject to the tax and of the gross receipts and purchase price when tangible personal property is used in processing or is traded to the retailer as part of the transaction subject to the tax.

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

Section 1. **NEW SECTION. 99D.16 WITHHOLDING TAX ON WINNINGS.**

All winnings provided in section 99D.11 are Iowa earned income and are subject to state and federal income tax laws. An amount deducted from winnings for payment of the state tax shall be remitted to the department of revenue and finance on behalf of the individual who won the wager.

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

2. However, ~~no~~ the tax shall not be imposed on ~~any~~ a resident or nonresident whose net income, as defined in section 422.7, is five thousand dollars or less; but in the event that the payment of tax under this division would reduce the net income to less than five thousand dollars, then the tax shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of five thousand dollars. ~~The preceding sentence does not apply to estates or trusts. For the purpose of this subsection, the entire net income, including any part thereof of the net income not allocated to Iowa, shall be taken into account. If the combined net income of a husband and wife exceeds five thousand 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 five thousand 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 five thousand dollars or the person claiming the dependent and the person's spouse have combined net income exceeding five thousand dollars.~~

Sec. 3. Section 422.13, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding subsections 1 through 4 and sections 422.15 and 422.36, a partnership, trust, or corporation whose stockholders are taxed on the corporation's income under the provisions of the Internal Revenue Code is entitled to request permission from the director to file a composite return for the nonresident partners, beneficiaries, or shareholders. The director may grant permission to file or require that a composite return be filed under the conditions deemed appropriate by the director. A partnership, trust, or corporation filing a composite return is liable for tax required to be shown due on the return. All powers of the director and requirements of the director apply to returns filed under this subsection including, but not limited to, the provisions of this division and division VI of this chapter.

Sec. 4. Section 422.16, subsection 11, paragraph a, Code 1987, is 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 ~~shall apply~~ applies. The estimated tax shall be paid in quarterly installments. The first installment shall be paid on or before the ~~last~~ fifteenth day of the fourth month of the taxpayer's tax year for which the estimated payments ~~apply~~ apply. The other installments shall be paid on or before ~~June 30~~ June 15, ~~September 30~~ September 15, and ~~January 31~~ January 15. However, at the election of the person or married couple, ~~any~~ an 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, shall increase or decrease any subsequent estimated tax payments accordingly.

Sec. 5. Section 422.42, subsection 3, Code 1987, is amended to read as follows:

3. "Retail sale" or "sale at retail" means the sale to a consumer or to any person for any purpose, other than for processing, for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with taxable services, and includes the sale of gas, electricity, water, and communication service to retail consumers or users, but does not include agricultural breeding livestock and domesticated fowl, or commercial fertilizer, agricultural limestone, or herbicide, pesticide, insecticide, food and medication and agricultural drain tile and installation thereof which are to be used in disease control, weed control, insect control, or health promotion of plants or livestock produced as part of agricultural production for market, and does not include electricity, steam or any taxable service when purchased and used in the processing of tangible personal property intended to be sold ultimately at retail. When used by a manufacturer of food products, electricity, steam, and other taxable services are sold for processing when used to produce marketable food products for human consumption, including but not limited to, treatment of material to change its form, context or condition, in order to produce the food product, maintenance of quality or integrity of the food product, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food product in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food product, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food product until shipment from the building of manufacture. Tangible personal property is sold for processing within the meaning of this subsection only when it is intended that the property will, by means of fabrication, compounding, manufacturing, or germination become an integral part of other tangible personal property intended to be sold ultimately at retail, or will be consumed as fuel in creating heat, power, or steam for processing including grain drying, for providing heat or cooling for livestock buildings or for generating electric current, or be consumed in self-propelled implements of husbandry engaged in agricultural production, or the property is a chemical, solvent, sorbent, or reagent, which is directly used and is consumed, dissipated, or depleted, in processing personal property which is intended to be sold ultimately at retail or consumed in the maintenance or repair of fabric or clothing, and which may not become a component or integral part of the finished product. The distribution to the public of free newspapers or shoppers guides is a retail sale for purposes of the processing exemption.

Sec. 6. Section 422.42, subsection 6, paragraph b, subparagraph (2), Code 1987, is amended to read as follows:

(2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail ~~and will be subject to the tax under section 422.43 when sold~~ or is intended to be used by the retailer or another in the remanufacturing of a like item.

Sec. 7. Section 422.42, subsections 9 and 10, Code 1987, are amended to read as follows:

9. Sales of building materials, supplies, and equipment to owners, contractors, subcontractors or builders, for the erection of buildings or the alteration, repair, or improvement of real

property, are retail sales in whatever quantity sold. Where the owner, contractor, subcontractor, or builder is also a retailer holding a retail sales tax permit and transacting retail sales of building materials, supplies, and equipment, the person shall purchase such items of tangible personal property without liability for the tax if such property will be subject to the tax at the time of resale or at the time it is withdrawn from inventory for construction purposes. The sales tax shall be due in the reporting period when the materials, supplies, and equipment are withdrawn from inventory for construction purposes or when sold at retail. The tax shall not be due when materials are withdrawn from inventory for use in construction outside of Iowa and the tax shall not apply to tangible personal property purchased and consumed by the manufacturer as building materials in the performance by the manufacturer or its subcontractor of construction outside of Iowa.

10. The use within this state of tangible personal property by the manufacturer thereof, as building materials, supplies, or equipment, in the performance of construction contracts ~~or for any other purpose except for resale or processing in Iowa~~, shall, for the purpose of this division, be construed as a sale at retail thereof by the manufacturer who shall be deemed to be the consumer of such tangible personal property. The tax shall be computed upon the cost to the manufacturer of the fabrication or production thereof.

Sec. 8. Section 422.43, subsection 11, Code 1987, is amended to read as follows:

11. 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, ~~excluding investment services of trust departments; bank 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; 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 television; campgrounds; carpet and upholstery cleaning; gun and camera repair; janitorial and building maintenance or cleaning; lawn care, landscaping and tree trimming and removal; ~~lobbying service;~~ pet grooming; reflexology; security and detective services; tanning beds or salons; and water conditioning and softening. For purposes of this subsection, gross taxable services from rental includes rents, royalties, and copyright and license fees. For purposes of this subsection, "financial institutions" means all national banks, federally chartered savings and loan associations, federally chartered savings banks, federally chartered credit unions, banks organized under chapter 524, savings and loan associations and savings banks organized under chapter 534, and credit unions organized under chapter 533. ~~For purposes of this subsection, "lobbying service" means the rendering, furnishing or performing, for a fee, salary or other compensation, activities which are intended or used for the purpose of encouraging the passage, defeat, or modification of legislation or for influencing the decision of the members of a legislative committee or subcommittee or the representing, for a fee, salary or other compensation, on a regular basis an organization which has as one of its purposes the encouragement of the passage, defeat or modification of legislation or~~

the influencing of the decision of the members of a legislative committee or a subcommittee. "Lobbying service" does not include the activities of a federal, state, or local government official or employee acting within the course of the official's or employee's duties or a representative of the news media engaged only in the reporting and dissemination of news and editorials.

Sec. 9. Section 422.45, subsection 19, Code 1987, is amended to read as follows:

19. The gross receipts from the sale of property which is a container, label, carton, pallet, packing case, wrapping paper, twine, bag, bottle, shipping case or other similar article or receptacle sold to retailers or manufacturers for the purpose of packaging or facilitating the transportation of tangible personal property sold at retail or transferred in association with the maintenance or repair of fabric or clothing.

Sec. 10. Section 423.1, subsection 3, paragraph b, subparagraph (2), Code 1987, is amended to read as follows:

(2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail and ~~will be subject to the tax under section 422.43 or this chapter when sold~~ or is intended to be used by the retailer or another in the remanufacturing of a like item.

Sec. 11. Section 423.1, subsection 10, Code 1987, is amended to read as follows:

10. Definitions contained in section 422.42 shall apply to the provisions of this chapter according to their context. The use in this state of building materials, supplies, or equipment, the sale or use of which is not treated as a retail sale or a sale at retail under section 422.42, subsections 9 and 10, shall not be subject to tax under this chapter.

Sec. 12. Sections 1, 2, and 3 of the Act are retroactive to January 1, 1987 for tax years beginning on or after that date.

Sec. 13. Section 4 of this Act is effective January 1, 1988 for tax years beginning on or after that date.

Approved June 5, 1987

CHAPTER 215

PHARMACY, PHARMACISTS, AND DRUG REGULATION

H.F. 594

AN ACT relating to the regulation of pharmacists and pharmacies and to administration, dispensing, and distribution of certain drugs, and providing penalties.

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

Section 1. NEW SECTION. 155A.1 SHORT TITLE.

This chapter may be cited as the "Iowa Pharmacy Practice Act."

Sec. 2. NEW SECTION. 155A.2 LEGISLATIVE DECLARATION — PURPOSE.

1. It is the purpose of this chapter to promote, preserve, and protect the public health, safety, and welfare through the effective regulation of the practice of pharmacy and the licensing of pharmacies, pharmacists, and others engaged in the sale, delivery, or distribution of prescription drugs and devices or other classes of drugs or devices which may be authorized.

2. Practitioners licensed under a separate chapter of the Code are not regulated by this chapter except when engaged in the operation of a pharmacy for the retailing of prescription drugs.

Sec. 3. NEW SECTION. 155A.3 DEFINITIONS.

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