

out the state, a nonresident, including a nonresident estate or trust, or an individual, estate, or trust that is domiciled in the state for less than the entire tax year, the state's apportioned share of the state alternative minimum tax is the amount of tax computed under this subsection, reduced by the applicable credits in sections 422.10 through 422.12 and this result multiplied by a fraction with a numerator of the sum of state net income allocated to Iowa as determined in section 422.8, subsection 2, paragraph "a" or "b" as applicable, plus tax preference items, adjustments, and losses under subparagraph (1) attributable to Iowa and with a denominator of the sum of total net income computed under section 422.7 plus all tax preference items, adjustments, and losses under subparagraph (1). In computing this fraction, those items excludable under subparagraph (1) shall not be used in computing the tax preference items. Married taxpayers electing to file separate returns or separately on a combined return must allocate the minimum tax computed in this subsection in the proportion that each spouse's respective preference items, adjustments, and losses under subparagraph (1) bear to the combined preference items, adjustments, and losses under subparagraph (1) of both spouses.

Sec. 5. Section 422.8, subsection 2, paragraph b, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A resident's income allocable to Iowa is the income determined under section 422.7 reduced by items of income and expenses from ~~a subchapter an S corporation which is a value-added corporation~~ that carries on business within and without the state when those items of income and expenses pass directly to the shareholders under provisions of the Internal Revenue Code. These items of income and expenses are increased by the greater of the following:

Sec. 6. Section 422.8, subsection 6, Code 1997, is amended to read as follows:

6. If the resident or part-year resident is a shareholder of ~~a value-added an S~~ corporation which has in effect an election under subchapter S of the Internal Revenue Code, subsections 1 and 3 do not apply to any income taxes paid to another state or foreign country on the income from the ~~value-added~~ corporation which has in effect an election under subchapter S of the Internal Revenue Code.

Sec. 7. Section 2 of this Act applies retroactively to January 1, 1997, for tax years beginning on or after that date.

Sec. 8. This Act, except for section 2 of this Act, is effective January 1, 1998, and applies to tax years beginning on or after that date.

Approved May 2, 1997

CHAPTER 112

SUPPLEMENTAL NEEDS TRUSTS FOR PERSONS WITH DISABILITIES

H.F. 492

AN ACT relating to supplemental needs trusts for persons with disabilities.

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

Section 1. NEW SECTION. 634A.1 DEFINITIONS.

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

1. "Person with a disability" means a person to whom one of the following applies, prior to creation of a trust which otherwise qualifies as a supplemental needs trust for the person's benefit:

a. Is considered to be a person with a disability under the disability criteria specified in Title II or Title XVI of the federal Social Security Act.

b. Has a physical or mental illness or condition which, in the expected natural course of the illness or condition, to a reasonable degree of medical certainty, is expected to continue for a continuous period of twelve months or more and substantially impairs the person's ability to provide for the person's care or custody.

2. "Supplemental needs trust" means an inter vivos or testamentary trust created for the benefit of a person with a disability and funded by a person other than the trust beneficiary or the beneficiary's spouse, and which is declared to be a supplemental needs trust in the instrument creating the trust. "Supplemental needs trust" shall include, but is not limited to, a trust created for the benefit of a person with a disability and funded solely with moneys awarded as damages in a personal injury case or moneys received in the settlement of a personal injury case provided that the trust is created within six months of receiving the award or settlement, the trust is irrevocable, the beneficiary is not named a trustee of the trust, and the instrument creating the trust declares the trust to be a supplemental needs trust.

Sec. 2. NEW SECTION. 634A.2 SUPPLEMENTAL NEEDS TRUST — REQUIREMENTS.

1. A supplemental needs trust established in compliance with this chapter is in keeping with the public policy of this state and is enforceable.

2. A supplemental needs trust established under this chapter shall comply with all of the following:

a. Shall be established as a discretionary trust for the purpose of providing a supplemental source for payment of expenses which include but are not limited to the reasonable living expenses and basic needs of a person with a disability only if benefits from publicly funded benefit programs are not sufficient to provide adequately for those expenses and needs.

b. Shall contain provisions which prohibit disbursements that would result in replacement, reduction, or substitution for publicly funded benefits otherwise available to the beneficiary or in rendering the beneficiary ineligible for publicly funded benefits. The supplemental needs trust shall provide for distributions only in a manner and for purposes that supplement or complement the benefits available under medical assistance, state supplementary assistance, and other publicly funded benefit programs for persons with disabilities.

3. For the purpose of establishing eligibility of a person as a beneficiary of a supplemental needs trust, disability may be established conclusively by the written opinion of a licensed professional who is qualified to diagnose the illness or condition, if confirmed by the written opinion of a second licensed professional who is also qualified to diagnose the illness or condition.

4. A supplemental needs trust is not enforceable if the trust beneficiary becomes a patient or resident after sixty-four years of age in a state institution or nursing facility for six months or more and, due to the beneficiary's medical need for care in an institutional setting, there is no reasonable expectation, as certified by the beneficiary's attending physician, that the beneficiary will be discharged from the facility. For the purposes of this subsection, a beneficiary participating in a group residential program is not a patient or resident of a state institution or nursing facility.

5. The trust income and assets of a supplemental needs trust are considered available to the beneficiary for medical assistance or other public assistance program purposes to the extent that income and assets are considered available in accordance with the methodology applicable to a particular program.

6. A supplemental needs trust is not subject to administration in the Iowa district court

sitting in probate. A trustee of a supplemental needs trust has all powers and shall be subject to all the duties and liabilities of a trustee as provided in the probate code, except the duty of reporting to or obtaining approval of the court.

7. Notwithstanding the prohibition of the funding of a supplemental needs trust by the beneficiary or the beneficiary's spouse, a supplemental needs trust may be established with the proceeds of back payments made by the United States social security administration resulting from a judgment regarding the regulatory schemes for determination of the disability of a child.

Approved May 2, 1997

CHAPTER 113

NOTICE REQUIREMENTS FOR CERTAIN ELECTRIC TRANSMISSION LINES

H.F. 552

AN ACT eliminating notice requirements relating to the location of certain electric transmission lines, wires, or cables.

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

Section 1. Section 478.1, unnumbered paragraph 2, Code 1997, is amended to read as follows:

If the transmission line, wire, or cable is capable of operating only at an electric voltage of less than thirty-four and one-half kilovolts, no franchise is required. However, the utilities board shall retain jurisdiction over all such lines, wires, or cables ~~and shall prescribe the contents of a written notice and map to be timely provided to the board and affected parties including owners of electric supply lines located within six tenths of one mile of proposed construction of such lines, wires or cables.~~ A person who seeks to construct, erect, maintain or operate a transmission line, wire, or cable which will operate at an electric voltage of less than thirty-four and one-half kilovolts outside of cities and which cannot secure the necessary voluntary easements to do so may petition the board pursuant to section 478.3, subsection 1, for a franchise granting authority for such construction, erection, maintenance, or operation, and for the use of the right of eminent domain.

Approved May 2, 1997