

## INDIVIDUAL INCOME, CORPORATE, AND FRANCHISE TAXES

### **422.1 Classification of chapter.**

The provisions of this chapter are herein classified and designated as follows:

Division I Introductory provisions.

Division II Personal net income tax.

Division III Business tax on corporations.

Division IV Repealed by 2003 Acts, 1st Ex., ch. 2, § 151, 205; see chapter 423.

Division V Taxation of financial institutions.

Division VI Administration.

Division VII Estimated taxes by corporations and financial institutions.

Division VIII Allocation of revenues.

Division IX Fuel tax credit.

Division X Livestock production tax credit.

[C35, § 6943-f1; C39, § **6943.033**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.1]

2006 Acts, ch 1010, §100

### **422.2 Purpose or object.**

This chapter shall be known as the "*Property Relief Act*", and shall have for its purpose the direct replacement of taxes already levied or to be levied on property to the extent of the net revenue obtained from the taxes imposed herein, which shall be apportioned back to the credit of individual taxpayers on the basis of the assessed valuation of taxable property as provided in division VIII of this chapter.

[C35, § 6943-f2; C39, § **6943.034**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.2]

### **422.3 Definitions controlling chapter.**

For the purpose of this chapter and unless otherwise required by the context:

1. "*Book*", "*list*", "*record*", or "*schedule*" kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.
2. "*Court*" means the district court in the county of the taxpayer's residence.
3. "*Department*" means the department of revenue.
4. "*Director*" means the director of revenue.
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, 2006.

6. The word "*taxpayer*" includes any person, corporation, or fiduciary who is subject to a tax imposed by this chapter.

[C35, § 6943-f3; C39, § **6943.035**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.3]

84 Acts, ch 1305, § 25; 85 Acts, ch 230, § 3; 86 Acts, ch 1213, § 8; 86 Acts, ch 1245, § 439; 88 Acts, ch 1028, § 1; 89 Acts, ch 285, § 2; 90 Acts, ch 1171, § 1; 91 Acts, ch 215, § 1; 92 Acts, ch 1219, § 1; 93 Acts, ch 113, §1; 94 Acts, ch 1166, §1; 95 Acts, ch 152, §2; 96 Acts, ch 1166, § 2, 4; 97 Acts, ch 135, §3, 9; 98 Acts, ch 1078, §3, 10; 99 Acts, ch 95, §3, 12, 13; 2000 Acts, ch 1146, §3, 9, 11; 2000 Acts, ch 1148, §1; 2001 Acts, ch 127, §3, 9, 10; 2002 Acts, ch 1069, §3, 10, 14; 2002 Acts, ch 1119, §200, 201; 2003 Acts, ch 139, §3; 2003 Acts, ch 145, §286; 2004 Acts, 1st Ex, ch 1001, §37, 41, 42; 2005 Acts, ch 24, §3, 10, 11; 2006 Acts, ch 1140, §3, 10, 11

## Footnotes

Internal Revenue Code definition is updated regularly; for applicable definition in a prior tax year, refer to Code for that year

2006 amendment to subsection 5 takes effect May 30, 2006, and applies retroactively to January 1, 2005, for tax years beginning on or after that date; 2006 Acts, ch 1140, §10, 11

### **422.4 Definitions controlling division.**

For the purpose of this division and unless otherwise required by the context:

1. *a. "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, 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 gross domestic product price deflator computed for the second quarter of the calendar year by the bureau of economic analysis of the United States department of commerce and shall add all of that percent change to one hundred 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 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 1988 calendar year is one hundred percent.

2. *a. "Annual standard deduction 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, 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 standard deduction factor, the department shall use the annual percent change, but not less than zero

percent, in the gross domestic product price deflator computed for the second quarter of the calendar year by the bureau of economic analysis of the United States department of commerce and shall add all of that percent change to one hundred percent. The annual standard deduction factor and the cumulative standard deduction factor shall each be expressed as a percentage rounded to the nearest one-tenth of one percent. The annual standard deduction factor shall not be less than one hundred percent.

b. "*Cumulative standard deduction factor*" means the product of the annual standard deduction factor for the 1989 calendar year and all annual standard deduction factors for subsequent calendar years as determined pursuant to this subsection. The cumulative standard deduction factor applies to all tax years beginning on or after January 1 of the calendar year for which the latest annual standard deduction factor has been determined.

3. The term "*employer*" shall mean and include those who have a right to exercise control as to how, when, and where services are to be performed.

4. The word "*fiduciary*" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

5. The words "*fiscal year*" mean an accounting period of twelve months, ending on the last day of any month other than December.

6. The words "*foreign country*" mean any jurisdiction other than one embraced within the United States. The words "*United States*", when used in a geographical sense, include the states, the District of Columbia, and the possessions of the United States.

7. The words "*head of household*" have the same meaning as provided by the Internal Revenue Code.

8. The words "*income year*" mean the calendar year or the fiscal year upon the basis of which the net income is computed under this division.

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

10. The word "*nonresident*" applies only to individuals, and includes all individuals who are not "residents" within the meaning of subsection 15 hereof.

11. "*Notice of assessment*" means a notice by the department to a taxpayer advising the taxpayer of an assessment of tax due.

12. The term "*other person*" shall mean that person or entity properly empowered to act in behalf of an individual payee and shall include authorized agents of such payees whether they be individuals or married couples.

13. The word "*paid*", for the purposes of the deductions under this division, means "paid or accrued" or "paid or incurred", and the terms "*paid or incurred*" and "*paid or accrued*" shall be construed according to the method of accounting upon the basis of which the net income is computed under this division. The term "*received*", for the purpose of the computation of net income under this division, means "received or accrued", and the term "*received or accrued*" shall be construed according to the method of accounting upon the basis of which the net income is computed under this division.

14. The word "*person*" includes individuals and fiduciaries.

15. The word "*resident*" applies only to individuals and includes, for the purpose of determining liability to the tax imposed by this division upon or with reference to the income of any tax year, any individual domiciled in the state, and any other individual who maintains a permanent place of abode within the state.

16. 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, but with the adjustments specified in section 422.7 plus the Iowa income tax deducted in computing the federal taxable income and minus federal income taxes as provided in section 422.9.

17. 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, "*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.

18. The word "*wages*" has the same meaning as provided by the Internal Revenue Code.

19. The term "*withholding agent*" means any individual, fiduciary, estate, trust, corporation, partnership or association in whatever capacity acting and including all officers and employees of the state of Iowa, or any municipal corporation of the state of Iowa and of any school district or school board of the state, or of any political subdivision of the state of Iowa, or any tax-supported unit of government that is obligated to pay or has control of paying or does pay to any resident or nonresident of the state of Iowa or the resident's or nonresident's agent any wages that are subject to the Iowa income tax in the hands of such resident or nonresident, or any of the above-designated entities making payment or having control of making such payment of any taxable Iowa income to any nonresident. The term "*withholding agent*" shall also include an officer or employee of a corporation or association, or a member or employee of a partnership, who as such officer, employee, or member has the responsibility to perform an act under section 422.16 and who subsequently knowingly violates the provisions of section 422.16.

[C35, § 6943-f4; C39, § **6943.036**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.4; 81 Acts, ch 132, § 1, 2, 9; 82 Acts, ch 1023, § 1, 30, ch 1203, § 1]

83 Acts, ch 179, § 1, 2, 21, 23; 84 Acts, ch 1305, § 26, 27; 87 Acts, 1st Ex, ch 1, § 1; 87 Acts, 2nd Ex, ch 1, § 1; 88 Acts, ch 1028, §24; 89 Acts, ch 268, §1; 94 Acts, ch 1107, §11; 94 Acts, ch 1133, §2, 16; 96 Acts, ch 1197, § 14, 13, 18; 97 Acts, ch 111, §1, 8; 99 Acts, ch 152, §2, 40; 2002 Acts, ch 1119, §163

#### **422.5 Tax imposed exclusions alternative minimum tax.**

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:

a. On all taxable income from zero through one thousand dollars, thirty-six hundredths of one percent.

b. On all taxable income exceeding one thousand dollars but not exceeding two thousand dollars, seventy-

two hundredths of one percent.

*c.* On all taxable income exceeding two thousand dollars but not exceeding four thousand dollars, two and forty-three hundredths percent.

*d.* On all taxable income exceeding four thousand dollars but not exceeding nine thousand dollars, four and one-half percent.

*e.* On all taxable income exceeding nine thousand dollars but not exceeding fifteen thousand dollars, six and twelve hundredths percent.

*f.* On all taxable income exceeding fifteen thousand dollars but not exceeding twenty thousand dollars, six and forty-eight hundredths percent.

*g.* On all taxable income exceeding twenty thousand dollars but not exceeding thirty thousand dollars, six and eight-tenths percent.

*h.* On all taxable income exceeding thirty thousand dollars but not exceeding forty-five thousand dollars, seven and ninety-two hundredths percent.

*i.* On all taxable income exceeding forty-five thousand dollars, eight and ninety-eight hundredths percent.

*j.* (1) The tax imposed upon the taxable income of a nonresident shall be computed by reducing the amount determined pursuant to paragraphs "a" through "i" by the amounts of nonrefundable credits under this division and by multiplying this resulting amount by a fraction of which the nonresident's net income allocated to Iowa, as determined in section 422.8, subsection 2, paragraph "a", is the numerator and the nonresident's total net income computed under section 422.7 is the denominator. This provision also applies to individuals who are residents of Iowa for less than the entire tax year.

(2) The tax imposed upon the taxable income of a resident shareholder in an S corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state may be computed by reducing the amount determined pursuant to paragraphs "a" through "i" by the amounts of nonrefundable credits under this division and by multiplying this resulting amount by a fraction of which the resident's net income allocated to Iowa, as determined in section 422.8, subsection 2, paragraph "b", is the numerator and the resident's total net income computed under section 422.7 is the denominator. If a resident shareholder has elected to take advantage of this subparagraph, and for the next tax year elects not to take advantage of this subparagraph, the resident shareholder shall not reelect to take advantage of this subparagraph for the three tax years immediately following the first tax year for which the shareholder elected not to take advantage of this subparagraph, unless the director consents to the reelection. This subparagraph also applies to individuals who are residents of Iowa for less than the entire tax year.

This subparagraph shall not affect the amount of the taxpayer's checkoffs under this division, the credits from tax provided under this division, and the allocation of these credits between spouses if the taxpayers filed separate returns or separately on combined returns.

*k.* There is imposed upon every resident and nonresident of this state, including estates and trusts, the greater of the tax determined in paragraphs "a" through "j" or the state alternative minimum tax equal to seventy-five percent of the maximum state individual income tax rate for the tax year, rounded to the nearest one-tenth of one percent, of the state alternative minimum taxable income of the taxpayer as computed under this paragraph.

The state alternative minimum taxable income of a taxpayer is equal to the taxpayer's state taxable income, as

computed with the deductions in section 422.9, with the following adjustments:

(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, 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, and add losses as required by section 58 of the Internal Revenue Code. To the extent that any preference or adjustment is determined by an individual's federal adjusted gross income, the individual's federal adjusted gross income is computed in accordance with section 422.7, subsection 39. 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.

(2) Subtract the applicable exemption amount as follows:

(a) Seventeen thousand five hundred dollars for a married person who files separately or for an estate or trust.

(b) Twenty-six thousand dollars for a single person or a head of household.

(c) Thirty-five thousand dollars for a married couple which files a joint return.

(d) The exemption amount shall be reduced, but not below zero, by an amount equal to twenty-five percent of the amount by which the alternative minimum taxable income of the taxpayer, computed without regard to the exemption amount in this subparagraph, exceeds the following:

(i) Seventy-five thousand dollars in the case of a taxpayer described in subparagraph subdivision (a).

(ii) One hundred twelve thousand five hundred dollars in the case of a taxpayer described in subparagraph subdivision (b).

(iii) One hundred fifty thousand dollars in the case of a taxpayer described in subparagraph subdivision (c).

(3) In the case of a net operating loss computed for a tax year beginning after December 31, 1982, which is carried back or carried forward to the current taxable year, the net operating loss shall be reduced by the amount of the items of tax preference arising in such year which was taken into account in computing the net operating loss in section 422.9, subsection 3. The deduction for a net operating loss for a tax year beginning after December 31, 1986, which is carried back or carried forward to the current taxable year shall not exceed ninety percent of the alternative minimum taxable income determined without regard for the net operating loss deduction.

The state alternative minimum tax of a taxpayer whose net capital gain deduction includes the gain or loss from the forfeiture of an installment real estate contract, the transfer of real or personal property securing a debt to a creditor in cancellation of that debt, or from the sale or exchange of property as a result of actual notice of foreclosure, where the fair market value of the taxpayer's assets exceeds the taxpayer's liabilities immediately before such forfeiture, transfer, or sale or exchange, shall not be greater than such excess, including any asset transferred within one hundred twenty days prior to such forfeiture, transfer, or sale or exchange.

In the case of a resident, including a resident estate or trust, the state's apportioned share of the state alternative minimum tax is one hundred percent of the state alternative minimum tax computed in this subsection. In the case of a resident or part-year resident shareholder in an S corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without 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.

2. However, the tax shall not be imposed on a resident or nonresident whose net income, as defined in section 422.7, is thirteen thousand five hundred dollars or less in the case of married persons filing jointly or filing separately on a combined return, heads of household, and surviving spouses or nine 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 thirteen thousand five hundred dollars or nine 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 thirteen thousand five hundred dollars or nine 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 the government pension exclusions in section 422.7, or any other state law. If the combined net income of a husband and wife exceeds thirteen 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 thirteen 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 thirteen thousand five hundred dollars or nine thousand dollars as applicable or the person claiming the dependent and the person's spouse have combined net income exceeding thirteen thousand five hundred dollars or nine thousand dollars as applicable.

In addition, if the married persons', filing jointly or filing separately on a combined return, head of household's, or surviving spouse's net income exceeds thirteen 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 thirteen 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.

2A. However, the tax shall not be imposed on a resident or nonresident who is at least sixty-five years old on December 31 of the tax year and whose net income, as defined in section 422.7, is twenty-four thousand 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 eighteen 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 twenty-four thousand dollars or eighteen 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 twenty-four thousand dollars or eighteen 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 the government pension exclusions in section 422.7, or any other state law. If the combined net income of a husband and wife exceeds twenty-four 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 twenty-four 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 twenty-four thousand dollars or eighteen thousand dollars as applicable or the person claiming the dependent and the person's spouse have combined net income exceeding twenty-four thousand dollars or eighteen 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 twenty-four thousand 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 twenty-four thousand 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.

This subsection applies even though one spouse has not attained the age of sixty-five, if the other spouse is at least sixty-five at the end of the tax year.

This subsection is repealed January 1, 2009.

2B. Reserved.

3. The tax herein levied shall be computed and collected as hereinafter provided.

4. The provisions of this division shall apply to all salaries received by federal officials or employees of the United States government as provided for herein.

5. Upon determination of the latest cumulative inflation factor, the director shall multiply each dollar amount set forth in subsection 1, paragraphs "a" through "i" of this section 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.

6. The state income tax of a taxpayer whose net income includes the gain or loss from the forfeiture of an installment real estate contract, the transfer of real or personal property securing a debt to a creditor in cancellation of that debt, or from the sale or exchange of property as a result of actual notice of foreclosure where the fair market value of the taxpayer's assets exceeds the taxpayer's liabilities immediately before such forfeiture, transfer, or sale or exchange shall not be greater than such excess, including any asset transferred within one hundred twenty days prior to such forfeiture, transfer, or sale or exchange. For purposes of this subsection, in the case of married taxpayers, except in the case of a husband and wife who live apart at all times during the tax year, the assets and liabilities of both spouses shall be considered in determining if the fair market value of the taxpayer's assets exceed the taxpayer's liabilities.

7. 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 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 subsections 2 and 2A or 2B,\* as applicable.

8. In the case of income derived from the sale or exchange of livestock which qualifies under section 451(e) of the Internal Revenue Code because of drought, the taxpayer may elect to include the income in the taxpayer's net income in the tax year following the year of the sale or exchange in accordance with rules prescribed by the director.

9. If an individual's federal income tax was forgiven for a tax year under section 692 of the Internal Revenue Code, because the individual was killed while serving in an area designated by the president of the United States or the United States Congress as a combat zone, the individual was missing in action and presumed dead, or the individual was killed outside the United States in a terroristic or military action while the individual was a military or civilian employee of the United States, the individual's Iowa income tax is also forgiven for the same tax year.

10. If a taxpayer repays in the current tax year certain amounts of income that were subject to tax under this division in a prior year and a tax benefit would be allowed under similar circumstances under section 1341 of the Internal Revenue Code, a tax benefit shall be allowed on the Iowa return. The tax benefit shall be the reduced tax for the current tax year due to the deduction for the repaid income or the reduction in tax for the prior year or years due to exclusion of the repaid income. The reduction in tax shall qualify as a refundable tax credit on the return for the current year pursuant to rules prescribed by the director.

[C35, § 6943-f5; C39, § **6943.037**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.5; 81 Acts, ch 132, § 3; 82 Acts, ch 1023, § 2, 31, ch 1064, § 1, 2, ch 1226, § 1, 2, 6]

83 Acts, ch 101, § 86; 83 Acts, ch 179, § 3, 20, 22; 85 Acts, ch 243, § 1, 2; 86 Acts, ch 1213, § 9; 86 Acts, ch 1232, § 1; 86 Acts, ch 1236, § 3, 4; 87 Acts, ch 214, § 2; 87 Acts, 1st Ex, ch 1, § 2; 87 Acts, 2nd Ex, ch 1, § 2, 3; 88 Acts, ch 1028, § 511; 89 Acts, ch 228, § 4, 5; 89 Acts, ch 251, § 11; 89 Acts, ch 268, § 2, 3; 89 Acts, ch 296, § 41; 91 Acts, ch 159, § 7; 91 Acts, ch 196, § 1; 92 Acts, 2nd Ex, ch 1001, § 217, 218, 224; 96 Acts, ch 1166, § 3, 4; 96 Acts, ch 1197, § 14, 15, 18; 96 Acts, ch 1219, § 27; 97 Acts, ch 8, §1, 2; 97 Acts, ch 111, §24, 7, 8; 97 Acts, ch 158, § 11, 49; 99 Acts, ch 151, §4, 89; 2003 Acts, ch 139, §4; 2006 Acts, ch 1112, §1, 3, 5; 2006 Acts, ch 1158, §810

\*Subsection 2B takes effect January 1, 2009; see 2006 Acts, ch 1112, §2, 5

2003 amendment to subsection 1, paragraph k, subparagraph (1), takes effect May 21, 2003, and applies retroactively to tax years beginning on or after September 10, 2001; 2003 Acts, ch 139, §11, 12

Subsection 2A takes effect January 1, 2007, and applies to tax years beginning on or after that date but before January 1, 2009; 2006 Acts, ch 1112, §5

For future text of subsection 2B effective January 1, 2009, see 2006 Acts, ch 1112, §2, 5

2006 amendment to subsection 7 takes effect January 1, 2007, for tax years beginning on or after that date; 2006 Acts, ch 1112, §5

#### **422.6 Income from estates or trusts.**

The tax imposed by section 422.5 less the amounts of nonrefundable credits allowed under this division apply to and are a charge against estates and trusts with respect to their taxable income, and the rates are the same as those applicable to individuals. The fiduciary shall make the return of income for the estate or trust for which the fiduciary acts, whether the income is taxable to the estate or trust or to the beneficiaries. However,

for tax years ending after August 5, 1997, if the trust is a qualified preneed funeral trust as set forth in section 685 of the Internal Revenue Code and the trustee has elected the special tax treatment under section 685 of the Internal Revenue Code, neither the trust nor the beneficiary is subject to Iowa income tax on income accruing to the trust.

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 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. The trust is not entitled to a refund of taxes paid on the distributions. The trust shall maintain detailed records to verify the computation of the tax.

[C35, § 6943-f6; C39, § **6943.038**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.6]

83 Acts, ch 179, § 4, 25; 84 Acts, ch 1305, § 28; 88 Acts, ch 1028, §12; 89 Acts, ch 251, §12; 91 Acts, ch 159, §8; 97 Acts, ch 23, §42; 98 Acts, ch 1078, §4, 11; 99 Acts, ch 95, §4, 12, 13; 2002 Acts, ch 1145, §8; 2006 Acts, ch 1158, §11

#### **422.7 "Net income" how computed.**

The term "*net income*" means the adjusted gross income before the net operating loss deduction as properly computed for federal income tax purposes under the Internal Revenue Code, with the following adjustments:

1. Subtract interest and dividends from federal securities.
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.
3. Where the adjusted gross income includes capital gains or losses, or gains or losses from property other than capital assets, and such gains or losses have been determined by using a basis established prior to January 1, 1934, an adjustment may be made, under rules prescribed by the director, to reflect the difference resulting from the use of a basis of cost or January 1, 1934, fair market value, less depreciation allowed or allowable, whichever is higher. Provided that the basis shall be fair market value as of January 1, 1955, less depreciation allowed or allowable, in the case of property acquired prior to that date if use of a prior basis is declared to be invalid.
4. Subtract payments received by a beneficiary under an annuity which was purchased under an employee's pension or retirement plan when the commuted value of the installments has been included as a part of the decedent employee's estate for Iowa inheritance tax purposes.
5. 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. The disability income exclusion provided in section 105(d) of the Internal Revenue Code, 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.
6. Reserved.
7. 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 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.

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

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

10. 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.

11. 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 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 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 as amended to and including December 31, 1985, excluding section 168(f)(8) in making the determination.

12. If the adjusted gross income includes income or loss from a small business operated by the taxpayer, an additional deduction shall be allowed in computing the income or loss from the small business if the small business hired for employment in the state during its annual accounting period ending with or during the taxpayer's tax year any of the following:

*a.* An individual with a disability domiciled in this state at the time of the hiring who meets any of the following conditions:

- (1) Has a physical or mental impairment which substantially limits one or more major life activities.
- (2) Has a record of that impairment.
- (3) Is regarded as having that impairment.

*b.* An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

- (1) Has been convicted of a felony in this or any other state or the District of Columbia.
- (2) Is on parole pursuant to chapter 906.
- (3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.
- (4) Is in a work release program pursuant to chapter 904, division IX.

*c.* An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 907A.1, Code 2001, applies, or to

whom the interstate compact for adult offender supervision under chapter 907B applies.

The amount of the additional deduction is equal to sixty-five percent of the wages paid to individuals, but shall not exceed twenty thousand dollars per individual, named in paragraphs "a", "b", and "c" who were hired for the first time by that business during the annual accounting period for work done in the state. This additional deduction is allowed for the wages paid to those individuals successfully completing a probationary period during the twelve months following the date of first employment by the business and shall be deducted at the close of the annual accounting period.

The additional deduction shall not be allowed for wages paid to an individual who was hired to replace an individual whose employment was terminated within the twelve-month period preceding the date of first employment. However, if the individual being replaced left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct in connection with the individual's employment as determined by the department of workforce development, the additional deduction shall be allowed.

A taxpayer who is a partner of a partnership or a shareholder of a subchapter S corporation, may deduct that portion of wages qualified under this subsection paid by the partnership or subchapter S corporation based on the taxpayer's pro rata share of the profits or losses from the partnership or subchapter S corporation.

For purposes of this subsection, "*physical or mental impairment*" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

For purposes of this subsection, "*small business*" means small business as defined in section 16.1, subsection 36, except that it shall also include the operation of a farm.

12A. If the adjusted gross income includes income or loss from a business operated by the taxpayer, and if the business does not qualify for the adjustment under subsection 12, an additional deduction shall be allowed in computing the income or loss from the business if the business hired for employment in the state during its annual accounting period ending with or during the taxpayer's tax year either of the following:

a. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

- (1) Has been convicted of a felony in this or any other state or the District of Columbia.
- (2) Is on parole pursuant to chapter 906.
- (3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.
- (4) Is in a work release program pursuant to chapter 904, division IX.

b. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 907A.1, Code 2001, applies, or to whom the interstate compact for adult offender supervision under chapter 907B applies.

The amount of the additional deduction is equal to sixty-five percent of the wages paid to individuals, but shall not exceed twenty thousand dollars per individual, named in paragraphs "a" and "b" who were hired for the first time by that business during the annual accounting period for work done in the state. This additional deduction is allowed for the wages paid to those individuals successfully completing a probationary period during the twelve months following the date of first employment by the business and shall be deducted at the close of the annual accounting period.

The additional deduction shall not be allowed for wages paid to an individual who was hired to replace an individual whose employment was terminated within the twelve-month period preceding the date of first employment. However, if the individual being replaced left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct in connection with the individual's employment as determined by the department of workforce development, the additional deduction shall be allowed.

A taxpayer who is a partner of a partnership or a shareholder of a subchapter S corporation, may deduct that portion of wages qualified under this subsection paid by the partnership or subchapter S corporation based on the taxpayer's pro rata share of the profits or losses from the partnership or subchapter S corporation.

The department shall develop and distribute information concerning the deduction available for businesses employing persons named in paragraphs "a" and "b".

13. *a.* Subtract, to the extent included, the amount of additional social security benefits taxable under the Internal Revenue Code for tax years beginning on or after January 1, 1994, but before January 1, 2014. The amount of social security benefits taxable as provided in section 86 of the Internal Revenue Code, as amended up to and including January 1, 1993, continues to apply for state income tax purposes for tax years beginning on or after January 1, 1994, but before January 1, 2014.

*b.* (1) For tax years beginning in the 2007 calendar year, subtract, to the extent included, thirty-two percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(2) For tax years beginning in the 2008 calendar year, subtract, to the extent included, thirty-two percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(3) For tax years beginning in the 2009 calendar year, subtract, to the extent included, forty-three percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(4) For tax years beginning in the 2010 calendar year, subtract, to the extent included, fifty-five percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(5) For tax years beginning in the 2011 calendar year, subtract, to the extent included, sixty-seven percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(6) For tax years beginning in the 2012 calendar year, subtract, to the extent included, seventy-seven percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(7) For tax years beginning in the 2013 calendar year, subtract, to the extent included, eighty-nine percent of taxable social security benefits remaining after the subtraction in paragraph "a".

*c.* 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 allocate between the spouses the amount of benefits subtracted under paragraphs "a" and "b" from net income in the ratio of the social security benefits received by each spouse to the total of these benefits received by both spouses.

*d.* For tax years beginning on or after January 1, 2014, subtract, to the extent included, the amount of social security benefits taxable under section 86 of the Internal Revenue Code.

14. 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. This amount may be recovered through cost depletion or depreciation, as appropriate under rules prescribed by the director.

15. 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.

16. Subtract the income resulting from the forfeiture of an installment real estate contract, the transfer of real or personal property securing a debt to a creditor in cancellation of that debt, or from the sale or exchange of property as a result of actual notice of foreclosure if all of the following conditions are met:

a. The forfeiture, transfer, or sale or exchange was done for the purpose of establishing a positive cash flow.

b. Immediately before the forfeiture, transfer, or sale or exchange, the taxpayer's debt to asset ratio exceeded ninety percent as computed under generally accepted accounting practices.

c. The taxpayer's net worth at the end of the tax year is less than seventy-five thousand dollars. In determining a taxpayer's net worth at the end of the tax year a taxpayer shall include any asset transferred within one hundred twenty days prior to the end of the tax year without adequate and full consideration in money or money's worth. In determining the taxpayer's debt to asset ratio, the taxpayer shall include any asset transferred within one hundred twenty days prior to such forfeiture, transfer, or sale or exchange without adequate and full consideration in money or money's worth. For purposes of this subsection, actual notice of foreclosure includes, but is not limited to, bankruptcy or written notice from a creditor of the creditor's intent to foreclose where there is a reasonable belief that the creditor can force a sale of the asset. For purposes of this subsection, in the case of married taxpayers, except in the case of a husband and wife who live apart at all times during the tax year, the assets and liabilities of both spouses shall be considered for purposes of determining the taxpayer's net worth or the taxpayer's debt to asset ratio.

17. Add interest and dividends from regulated investment companies exempt from federal income tax under the Internal Revenue Code 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.

18. Reserved.

19. Subtract interest earned on bonds and notes issued by the agricultural development authority as provided in section 175.17, subsection 10.

20. Subtract, to the extent included, the proceeds received pursuant to a judgment in or settlement of a lawsuit against the manufacturer or distributor of a Vietnam herbicide for damages resulting from exposure to the herbicide. This subsection applies to proceeds received by a taxpayer who is a disabled veteran or who is a beneficiary of a disabled veteran.

For purposes of this subsection:

a. "*Vietnam herbicide*" means a herbicide, defoliant or other causative agent containing dioxin, including, but not limited to, Agent Orange, used in the Vietnam Conflict beginning December 22, 1961, and ending May 7, 1975, inclusive.

b. "*Agent Orange*" means the herbicide composed of trichlorophenoxyacetic acid and dichlorophenoxyacetic acid and the contaminant dioxin (TCDD).

21. Subtract the net capital gain from the following:

a. (1) Net capital gain from the sale of real property used in a business, in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years, or from the sale of a business, as defined in section 423.1, in which the taxpayer

materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years. The sale of a business means the sale of all or substantially all of the tangible personal property or service of the business.

However, where the business is sold to individuals who are all lineal descendants of the taxpayer, the taxpayer does not have to have materially participated in the business in order for the net capital gain from the sale to be excluded from taxation.

However, in lieu of the net capital gain deduction in this paragraph and paragraphs "b", "c", and "d", where the business is sold to individuals who are all lineal descendants of the taxpayer, the amount of capital gain from each capital asset may be subtracted in determining net income.

(2) For purposes of this paragraph, "*lineal descendant*" means children of the taxpayer, including legally adopted children and biological children, stepchildren, grandchildren, great-grandchildren, and any other lineal descendants of the taxpayer.

b. Net capital gain from the sale of cattle or horses held by the taxpayer for breeding, draft, dairy, or sporting purposes for a period of twenty-four months or more from the date of acquisition; but only if the taxpayer received more than one-half of the taxpayer's gross income from farming or ranching operations during the tax year.

c. Net capital gain from the sale of breeding livestock, other than cattle or horses, if the livestock is held by the taxpayer for a period of twelve months or more from the date of acquisition; but only if the taxpayer received more than one-half of the taxpayer's gross income from farming or ranching operations during the tax year.

d. Net capital gain from the sale of timber as defined in section 631(a) of the Internal Revenue Code.

However, to the extent otherwise allowed, the deduction provided in this subsection is not allowed for purposes of computation of a net operating loss in section 422.9, subsection 3, and in computing the income for the taxable year or years for which a net operating loss is deducted.

For purposes of this subsection, the term "*held*" shall be determined with reference to the holding period provisions of section 1223 of the Internal Revenue Code and the federal regulations adopted pursuant thereto.

22. Subtract, to the extent included, the amounts paid to an eligible individual under section 105 of the Civil Liberties Act of 1988, Pub. L. No. 100-383, Title I, as satisfaction for a claim against the United States arising out of the confinement, holding in custody, relocation, or other deprivation of liberty or property of an individual of Japanese ancestry.

23. Reserved.

24. Subtract, to the extent included, active duty pay received by a person in the national guard or armed forces military reserve for services performed on or after August 2, 1990, pursuant to military orders related to the Persian Gulf Conflict.

25. Subtract, to the extent included, active duty pay received by a person in the national guard or armed forces military reserve for service performed on or after November 21, 1995, pursuant to military orders related to peacekeeping in Bosnia-Herzegovina.

26. Add depreciation taken for federal income tax purposes on a speculative shell building defined in section 427.1, subsection 27, which is owned by a for-profit entity and the for-profit entity is receiving the proper tax exemption. Subtract depreciation computed as if the speculative shell building were classified as fifteen-year

property under the accelerated cost recovery system of the Internal Revenue Code during the period during which it is owned by the for-profit entity and is receiving the property tax exemption. However, this subsection does not apply to a speculative shell building which is used by the for-profit entity, subsidiary of the for-profit entity, or majority owners of the for-profit entity, for other than as a speculative shell building, as defined in section 427.1, subsection 27.

27. Subtract, to the extent included, payments received by an individual providing unskilled in-home health-related care services pursuant to section 249.3, subsection 2, paragraph "a", subparagraph (2), to a member of the individual caregiver's family. For purposes of this subsection, a member of the individual caregiver's family includes a spouse, parent, stepparent, child, stepchild, brother, stepbrother, sister, stepsister, lineal ancestor, or lineal descendant, and such persons by marriage or adoption. A health care professional licensed by an examination board designated in section 147.13, subsections 1 through 10, is not eligible for the exemption authorized in this subsection.

28. If the taxpayer is owner of an individual development account certified under chapter 541A at any time during the tax year, deductions of all of the following shall be allowed:

*a.* Contributions made to the account by persons and entities, other than the taxpayer, as authorized in chapter 541A.

*b.* The amount of any savings refund authorized under section 541A.3, subsection 1.

*c.* Earnings from the account.

29. Subtract, to the extent not otherwise deducted in computing adjusted gross income, the amounts paid by the taxpayer for the purchase of health benefits coverage or insurance for the taxpayer or taxpayer's spouse or dependent.

30. Subtract the amount of the employer social security credit allowable for the tax year under section 45B of the Internal Revenue Code to the extent that the credit increases federal adjusted gross income.

31. For a person who is disabled, or is fifty-five years of age or older, or is the surviving spouse of an individual or a survivor having an insurable interest in an individual who would have qualified for the exemption under this subsection for the tax year, subtract, to the extent included, the total amount of a governmental or other pension or retirement pay, including, but not limited to, defined benefit or defined contribution plans, annuities, individual retirement accounts, plans maintained or contributed to by an employer, or maintained or contributed to by a self-employed person as an employer, and deferred compensation plans or any earnings attributable to the deferred compensation plans, up to a maximum of six thousand dollars for a person, other than a husband or wife, who files a separate state income tax return and up to a maximum of twelve thousand dollars for a husband and wife who file a joint state income tax return. However, a surviving spouse who is not disabled or fifty-five years of age or older can only exclude the amount of pension or retirement pay received as a result of the death of the other spouse. A husband and wife filing separate state income tax returns or separately on a combined state return are allowed a combined maximum exclusion under this subsection of up to twelve thousand dollars. The twelve thousand dollar exclusion shall be allocated to the husband or wife in the proportion that each spouse's respective pension and retirement pay received bears to total combined pension and retirement pay received.

32. *a.* Subtract the maximum contribution that may be deducted for Iowa income tax purposes as a participant in the Iowa educational savings plan trust pursuant to section 12D.3, subsection 1, paragraph "a".

*b.* Add the amount resulting from the cancellation of a participation agreement refunded to the taxpayer as a participant in the Iowa educational savings plan trust to the extent previously deducted as a contribution to the trust.

33. Subtract, to the extent included, income from interest and earnings received from the Iowa educational savings plan trust created in chapter 12D.

34. Reserved.

35. Subtract, to the extent included, the following:

*a.* Payments made to the taxpayer because of the taxpayer's status as a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime or as an heir of such victim.

*b.* Items of income attributable to, derived from, or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II. However, income from assets acquired with such assets or with the proceeds from the sale of such assets shall not be subtracted. This paragraph shall only apply to a taxpayer who was the first recipient of such assets after recovery of the assets and who is a victim of persecution for racial, ethnic, or religious reasons by Nazi Germany or any other Axis regime or is an heir of such victim.

36. Add, to the extent not already included, income from the sale of obligations of the state and its political subdivisions. Income from the sale of these obligations is exempt from the taxes imposed by this division only if the law authorizing these obligations specifically exempts the income from the sale from the state individual income tax.

37. Notwithstanding the method for computing income from an installment sale under section 453 of the Internal Revenue Code, as defined in section 422.3, the method to be used in computing income from an installment sale shall be the method under section 453 of the Internal Revenue Code, as amended up to and including January 1, 2000. A taxpayer affected by this subsection shall make adjustments in the adjusted gross income pursuant to rules adopted by the director.

The adjustment to net income provided in this subsection is repealed for tax years beginning on or after January 1, 2002. However, to the extent that a taxpayer using the accrual method of accounting reported the entire capital gain from the sale or exchange of property on the Iowa return for the tax year beginning in the 2001 calendar year and the capital gain was reported on the installment method on the federal income tax return, any additional installment from the capital gain reported for federal income tax purposes is not to be included in net income in tax years beginning on or after January 1, 2002.

38. Subtract, to the extent not otherwise excluded, the amount of withdrawals from qualified retirement plan accounts made during the tax year if the taxpayer or taxpayer's spouse is a member of the Iowa national guard or reserve forces of the United States who is ordered to state military service or federal service or duty. In addition, a penalty for such withdrawals shall not be assessed by the state.

39. *a.* The additional first-year depreciation allowance authorized in section 168(k) of the Internal Revenue Code, as enacted by Pub. L. No. 107-147, section 101, does not apply in computing net income for state tax purposes. If the taxpayer has taken such deduction in computing federal adjusted gross income, the following adjustments shall be made:

(1) Add the total amount of depreciation taken on all property for which the election under section 168(k) of the Internal Revenue Code was made for the tax year.

(2) Subtract an amount equal to depreciation allowed on such property for the tax year using the modified

accelerated cost recovery system depreciation method applicable under section 168 of the Internal Revenue Code without regard to section 168(k).

(3) Any other adjustments to gains or losses to reflect the adjustments made in subparagraphs (1) and (2) pursuant to rules adopted by the director.

*b.* A taxpayer may elect to apply the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code, as enacted by Pub. L. No. 108-27, in computing net income for state tax purposes, for qualified property acquired after May 5, 2003, and before January 1, 2005. If the taxpayer elects to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the deduction may be taken on amended state tax returns, if necessary. If the taxpayer does not elect to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the following adjustment shall be made:

(1) Add the total amount of depreciation taken on all property for which the election under section 168(k)(4) of the Internal Revenue Code was made for the tax year.

(2) Subtract an amount equal to depreciation allowed on such property for the tax year using the modified accelerated cost recovery system depreciation method applicable under section 168 of the Internal Revenue Code without regard to section 168(k)(4).

(3) Any other adjustments to gains or losses to reflect the adjustments made in subparagraphs (1) and (2) pursuant to rules adopted by the director.

40. Subtract, to the extent included, active duty pay received by a person in the national guard or armed forces military reserve for service performed on or after January 1, 2003, pursuant to military orders related to Operation Iraqi Freedom, Operation Noble Eagle, and Operation Enduring Freedom.

41. Reserved.

42. Subtract, to the extent included, military student loan repayments received by the taxpayer serving on active duty in the national guard or armed forces military reserve or on active duty status in the armed forces.

43. A taxpayer may elect not to take the increased expensing allowance under section 179 of the Internal Revenue Code, as amended by Pub. L. No. 108-27, section 202, in computing state tax purposes. If the taxpayer does not take the increased expensing allowance under section 179 of the Internal Revenue Code for state tax purposes, the following adjustments shall be made:

*a.* Add the total amount of expense deduction taken on section 179 property for federal tax purposes under section 179 of the Internal Revenue Code.

*b.* Subtract the amount of expense deduction on section 179 property allowable for federal tax purposes under section 179 of the Internal Revenue Code prior to enactment of Pub. L. No. 108-27, section 202.

*c.* Any other adjustments to gains and losses to the adjustments made in paragraphs "*a*" and "*b*" pursuant to rules adopted by the director.

44. *a.* If the taxpayer, while living, donates one or more of the taxpayer's human organs to another human being for immediate human organ transplantation during the tax year, subtract, to the extent not otherwise excluded, the following unreimbursed expenses incurred by the taxpayer and related to the taxpayer's organ donation:

(1) Travel expenses.

(2) Lodging expenses.

(3) Lost wages.

b. The maximum amount that may be deducted under paragraph "a" is ten thousand dollars. A taxpayer shall only take the deduction under this subsection once. If a deduction is taken under this subsection, the amount of expenses shall not be considered medical care expenses under section 213 of the Internal Revenue Code for state tax purposes.

c. For purposes of this subsection, "*human organ*" means all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow.

45. Subtract, to the extent not otherwise deducted, the amount of two thousand dollars for the cost of a clean fuel motor vehicle if the taxpayer was eligible for the alternative motor vehicle credit under section 30B of the Internal Revenue Code for such motor vehicle.

46. Subtract, to the extent included, the amount of any grant provided pursuant to the injured veterans grant program pursuant to section 35A.14.

47. Subtract, to the extent not otherwise deducted in computing adjusted gross income, the amounts paid by the taxpayer to the department of veterans affairs for the purpose of providing grants under the injured veterans grant program established in section 35A.14. Amounts subtracted under this subsection shall not be used by the taxpayer in computing the amount of charitable contributions as defined by section 170 of the Internal Revenue Code.

48. Subtract, to the extent included, income from interest and earnings received from the bonds issued under section 12.91.

49. Subtract, to the extent included, the amount of ordinary or capital gain realized by the taxpayer as a result of the involuntary conversion of property due to eminent domain. However, if the total amount of such realized ordinary or capital gain is not recognized because the converted property is replaced with property that is similar to, or related in use to, the converted property, the amount of such realized ordinary or capital gain shall not be subtracted under this subsection until the remaining realized ordinary or capital gain is subject to federal taxation or until the time of disposition of the replacement property as provided under rules of the director. The subtraction allowed under this subsection shall not alter the basis as established for federal tax purposes of any property owned by the taxpayer.

[C35, § 6943-f7; C39, § **6943.039**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.7; 81 Acts, ch 132, § 46, 911; 82 Acts, ch 1023, § 38, 25, 30, 31, ch 1203, § 2]

83 Acts, ch 174, § 1, 3; 83 Acts, ch 179, § 5, 6, 21, 24; 84 Acts, ch 1305, § 29, 30; 85 Acts, ch 230, § 4; 86 Acts, ch 1232, § 2; 86 Acts, ch 1236, § 5; 86 Acts, ch 1238, § 18; 86 Acts, ch 1241, § 14; 86 Acts, ch 1243, § 33; 87 Acts, 1st Ex, ch 1, §3; 87 Acts, 2nd Ex, ch 1, §46; 88 Acts, ch 1028, §1315; 89 Acts, ch 175, § 2; 89 Acts, ch 225, § 18, 19; 89 Acts, ch 228, § 6, 7, 11; 89 Acts, ch 249, § 2; 89 Acts, ch 251, § 13; 89 Acts, ch 268, § 4; 89 Acts, ch 285, § 3; 90 Acts, ch 1171, §2; 90 Acts, ch 1195, § 1; 90 Acts, ch 1251, § 52; 90 Acts, ch 1271, § 1901, 1903; 91 Acts, ch 196, §2; 91 Acts, ch 210, § 1; 92 Acts, ch 1225, § 1, 5; 92 Acts, ch 1247, § 30, 31, 39; 93 Acts, ch 97, §14, 20; 94 Acts, ch 1165, §12, 46; 94 Acts, ch 1166, §2, 3, 12; 94 Acts, ch 1183, §7779, 97; 95 Acts, ch 5, §1, 14; 95 Acts, ch 152, §3, 7; 95 Acts, ch 206, §1, 4; 96 Acts, ch 1106, § 7; 96 Acts, ch 1129, § 113; 96 Acts, ch 1186, § 23; 97 Acts, ch 133, §1; 97 Acts, ch 135, §4, 9; 98 Acts, ch 1100, §57; 98 Acts, ch 1172, §12, 14; 98 Acts, ch 1174, §5, 6; 98 Acts, ch 1177, §16; 2000 Acts, ch 1103, §2, 3; 2000 Acts, ch 1163, §5, 6; 2000 Acts, ch 1194, §8, 21; 2001 Acts, ch 15, §1, 2; 2001 Acts, ch 116, §6, 28; 2001 Acts, ch 127, §4, 5, 9, 10; 2001 Acts, 2nd Ex, ch 6, §21, 22, 25, 26, 37; 2002 Acts, ch 1069, §4, 11, 14; 2002 Acts, ch 1150, §4; 2002 Acts, ch 1151, §5, 36; 2003 Acts, ch 139, §5, 11, 12; 2003 Acts, ch 142, §5, 6,

11; 2003 Acts, 1st Ex, ch 2, §184, 205; 2004 Acts, ch 1086, §66; 2004 Acts, 1st Ex, ch 1001, §38, 41, 42; 2005 Acts, ch 2, §1, 2, 6; 2005 Acts, ch 19, §53; 2005 Acts, ch 24, §4, 10, 11; 2005 Acts, ch 127, §1, 2; 2006 Acts, ch 1013, §1, 2; 2006 Acts, ch 1106, §2, 4; 2006 Acts, ch 1112, §4, 5; 2006 Acts, ch 1140, §4, 10, 11; 2006 Acts, ch 1158, §12; 2006 Acts, ch 1179, §71; 2006 Acts, 1st Ex, ch 1001, §41, 49

2001 amendments to subsection 12, paragraph c, and subsection 12A, paragraph b, take effect July 1, 2002; 2001 Acts, 2nd Ex, ch 6, §25, 26, 37; 2003 Acts, ch 44, §109, 116

2003 amendments to subsection 21, paragraph a, take effect July 1, 2004; see 2003 Acts, 1st Ex, ch 2, §184, 205

2003 amendment to subsection 39 takes effect May 21, 2003, and applies retroactively to tax years ending on or after September 10, 2001; 2003 Acts, ch 139, §11, 12

2003 amendments to subsections 4042 take effect May 21, 2003, and apply retroactively to tax years beginning on or after January 1, 2003; 2003 Acts, ch 142, §11

2004 amendment to subsection 39 takes effect September 7, 2004, and applies retroactively to tax years ending after May 5, 2003; 2004 Acts, 1st Ex, ch 1001, § 41, 42

2005 amendments to subsection 39, paragraph b, are effective February 24, 2005, and apply retroactively to tax years ending after May 5, 2003; requirements pertaining to amended returns and depreciation adjustments; 2005 Acts, ch 2, §5, 6

2005 amendments striking former subsections 41 and 43 are effective April 13, 2005, and apply retroactively to January 1, 2003, for tax years beginning on or after that date; 2005 Acts, ch 24, §10, 11

2005 amendment adding NEW subsection 43 is effective February 24, 2005, and applies retroactively to tax years beginning on or after January 1, 2003; requirements pertaining to amended returns and depreciation adjustments; 2005 Acts, ch 2, §5, 6

2005 amendment adding NEW subsection 44 applies retroactively to January 1, 2005, for tax years beginning on or after that date; 2005 Acts, ch 127, §2

2006 amendment to subsection 13 takes effect January 1, 2007, for tax years beginning on or after that date; 2006 Acts, ch 1112, §5

2006 amendment adding the last unnumbered paragraph of subsection 21 takes effect March 29, 2006, and applies retroactively to sales made on or after January 1, 2006, to determining the holding period for sales made on or after January 1, 2006, and to tax years beginning on or after January 1, 2006; 2006 Acts, ch 1013, §2

Subsection 45 takes effect May 30, 2006, and applies retroactively to tax years beginning on or after January 1, 2005; 2006 Acts, ch 1140, §10, 11

Subsections 46 and 47 take effect May 8, 2006, and apply retroactively to tax years beginning on and after January 1, 2006; 2006 Acts, ch 1106, §4

Subsection 49 applies retroactively to January 1, 2006, for tax years beginning on or after that date; 2006 Acts, 1st Ex, ch 1001, §49

#### **422.8 Allocation of income earned in Iowa and other states.**

Under rules prescribed by the director, net income of individuals, estates and trusts shall be allocated as follows:

1. The amount of income tax paid to another state or foreign country by a resident taxpayer of this state on income derived from sources outside of Iowa shall be allowed as a credit against the tax computed under this chapter, except that the credit shall not exceed what the amount of the Iowa tax would have been on the same income which was taxed by the other state or foreign country. The limitation on this credit shall be computed according to the following formula: Income earned outside of Iowa and taxed by another state or foreign country shall be divided by the total income of the resident taxpayer of Iowa. This quotient multiplied times the net Iowa tax as determined on the total income of the taxpayer as if entirely earned in Iowa shall be the maximum tax credit against the Iowa net tax.

2. *a.* Nonresident's net income allocated to Iowa is the net income, or portion of net income, 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. However, income derived from a business, trade, profession, or occupation carried on within this state and income from any property, trust, estate, or other source within Iowa shall not include distributions from pensions, including defined benefit or defined contribution plans, annuities, individual retirement accounts, and deferred compensation plans or any earnings attributable thereto so long as the distribution is directly related to an individual's documented retirement and received while the individual is a nonresident of this state. If 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 "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.

*b.* A resident's income allocable to Iowa is the income determined under section 422.7 reduced by items of income and expenses from an S 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:

(1) The net income or loss of the corporation which is fairly and equitably attributable to this state under section 422.33, subsections 2 and 3.

(2) Any cash or the value of property distributions which are made only to the extent that they are paid from income upon which Iowa income tax has not been paid, as determined under rules of the director, reduced by the amount of any of these distributions that are made to enable the shareholder to pay federal income tax on items of income, loss, and expenses from the corporation.

3. Taxable income of resident and nonresident estates and trusts shall be allocated in the same manner as individuals.

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 "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 "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.

5. The director may, in accordance with the provisions of this subsection, and when cost-efficient, administratively feasible, and of mutual benefit to both states, enter into reciprocal agreements with tax administration agencies of other states to further tax administration and eliminate duplicate withholding by exempting from Iowa taxation income earned from personal services in Iowa by residents of another state, if the other state provides a tax exemption for the same type of income earned from personal services by Iowa residents in the other state. For purposes of this subsection, "*income earned from personal services*" means wages, salaries, commissions, and tips, and earned income from other sources. This subsection does not authorize the department to withhold taxes on deferred compensation payments, pension distributions, and annuity payments when paid to a nonresident of the state of Iowa. All the terms of the agreements shall be described in the rules adopted by the department.

A reciprocal agreement entered into on or after April 4, 2002, with a tax administration agency of another state shall not take effect until such agreement has been authorized by a constitutional majority of each house of the general assembly and approved by the governor. A reciprocal agreement in effect on or after January 1, 2002, shall not be terminated by the state of Iowa unless the termination has been authorized by a constitutional majority of each house of the general assembly and approved by the governor. An amendment to an existing reciprocal agreement does not constitute a new agreement.

6. If the resident or part-year resident is a shareholder of 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 corporation which has in effect an election under subchapter S of the Internal Revenue Code.

[C35, § 6943-f8; C39, § **6943.037, 6943.040, 6943.050**; C46, 50, 54, 58, § 422.5, 422.8, 422.18; C62, 66, 71, 73, 75, 77, 79, 81, § 422.5, 422.8; 82 Acts, ch 1226, § 3, 6]

83 Acts, ch 16, § 1, 2; 85 Acts, ch 243, § 3; 88 Acts, ch 1028, § 16; 92 Acts, ch 1224, § 1, 2, 4; 94 Acts, ch 1149, §1, 2; 96 Acts, ch 1197, § 1618; 97 Acts, ch 111, §5, 6, 8; 2002 Acts, ch 1005, §10, 11; 2002 Acts, ch 1069, §5, 12, 14

#### **422.9 Deductions from net income.**

In computing taxable income of individuals, there shall be deducted from net income the larger of the following amounts:

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 a head of household. The optional standard deduction shall not exceed the amount remaining after deduction of the federal income tax. The amount of federal income tax deducted shall be computed as provided in subsection 2, paragraph "b".

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

a. Subtract the deduction for Iowa income taxes.

b. Add the amount of federal income taxes paid or accrued, as the case may be, during the tax year and

subtract any federal income tax refunds received during the tax year. Where married persons, who have filed a joint federal income tax return, file separately, such total shall be divided between them according to the portion of the total paid or accrued, as the case may be, by each. Federal income taxes paid for a tax year in which an Iowa return was not required to be filed shall not be added and federal income tax refunds received from a tax year in which an Iowa return was not required to be filed shall not be subtracted.

*c.* Add the amount by which expenses paid or incurred in connection with the adoption of a child by the taxpayer exceed three percent of the net income of the taxpayer, or of the taxpayer and spouse in the case of a joint return. The expenses may include medical and hospital expenses of the biological mother which are incident to the child's birth and are paid by the taxpayer, welfare agency fees, legal fees, and all other fees and costs relating to the adoption of a child if the child is placed by a child-placing agency licensed under chapter 238 or by a person making an independent placement according to the provisions of chapter 600.

*d.* Add an additional deduction for mileage incurred by the taxpayer in voluntary work for a charitable organization consisting of the excess of the state employee mileage reimbursement over the amount deductible for federal income tax purposes. The deduction shall be proven by the keeping of a contemporaneous diary by the person throughout the period of the voluntary work in the tax year.

*e.* Add the amount, not to exceed five thousand dollars, of expenses not otherwise deductible under this section actually incurred in the home of the taxpayer for the care of a person who is the grandchild, child, parent, or grandparent of the taxpayer or the taxpayer's spouse and who is unable, by reason of physical or mental disability, to live independently and is receiving, or would be eligible to receive if living in a health care facility licensed under chapter 135C, medical assistance benefits under chapter 249A. In the event that the person being cared for is receiving assistance benefits under chapter 239B, the expenses not otherwise deductible shall be the net difference between the expenses actually incurred in caring for the person and the assistance benefits received under chapter 239B.

*f.* Add the amount of the mortgage interest credit allowable for the tax year under section 25 of the Internal Revenue Code to the extent the credit decreased the amount of interest deductible under section 163(g) of the Internal Revenue Code.

*g.* If the taxpayer has a deduction for medical care expenses under section 213 of the Internal Revenue Code, the taxpayer shall recompute for the purposes of this subsection the amount of the deduction under section 213 by excluding from medical care, as defined in section 213, the amount subtracted under section 422.7, subsection 29.

*h.* For purposes of calculating the deductions in this subsection that are authorized under the Internal Revenue Code, and to the extent that any of such deductions is determined by an individual's federal adjusted gross income, the individual's federal adjusted gross income is computed in accordance with section 422.7, subsection 39.

*i.* The deduction for state sales and use taxes is allowable only if the taxpayer elected to deduct the state sales and use taxes in lieu of state income taxes under section 164 of the Internal Revenue Code. A deduction for state sales and use taxes is not allowed if the taxpayer has taken the deduction for state income taxes or claimed the standard deduction under section 63 of the Internal Revenue Code. This paragraph applies to taxable years beginning after December 31, 2003, and before January 1, 2006.

3. 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, the taxable income results in a net operating loss, the net operating loss shall be deducted as follows:

*a.* The Iowa net operating loss shall be carried back three taxable years for an individual taxpayer with a

casualty or theft property loss or for a net operating loss in a presidentially declared disaster area incurred by a taxpayer engaged in a small business or in the trade or business of farming. For all other Iowa net operating losses, the net operating loss shall be carried back two taxable years or to the taxable year in which the taxpayer first earned income in Iowa whichever year is the later.

b. The Iowa net operating loss remaining after being carried back as required in paragraph "a" or "d" or if not required to be carried back shall be carried forward twenty taxable years.

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

d. Notwithstanding paragraph "a", for a taxpayer who is engaged in the trade or business of farming as defined in section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in section 172(b)(1)(F) of the Internal Revenue Code including modifications prescribed by rule by the director, the Iowa loss from the trade or business of farming is a net operating loss which may be carried back five taxable years prior to the taxable year of the loss.

4. Where married persons file separately, both must use the optional standard deduction if either elects to use it.

5. A taxpayer affected by section 422.8 shall, if the optional standard deduction is not used, be permitted to deduct only such portion of the total referred to in subsection 2 above as is fairly and equitably allocable to Iowa under the rules prescribed by the director.

6. In determining the amount of deduction for federal income tax under subsection 1 or subsection 2, paragraph "b", for tax years beginning in the 2001 calendar year, the amount of the deduction shall not be adjusted by the amount received during the tax year of the advanced refund of the rate reduction tax credit provided pursuant to the federal Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, and the advanced refund of such credit shall not be subject to taxation under this division.

7. In determining the amount of deduction for federal income tax under subsection 1 or subsection 2, paragraph "b", for tax years beginning in the 2002 calendar year, the amount of the deduction for the tax year shall not be adjusted by the amount of the rate reduction credit received in the tax year to the extent that the credit is attributable to the rate reduction credit provided pursuant to the federal Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, and the amount of such credit shall not be taxable under this division.

[C35, § 6943-f9; C39, § **6943.041**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.9; 82 Acts, ch 1023, § 9, 10, 30, 32, ch 1192, § 1, 2, ch 1226, § 4, 6]

83 Acts, ch 179, § 7, 22; 84 Acts, ch 1305, § 31; 87 Acts, ch 233, § 493; 87 Acts, 2nd Ex, ch 1, § 79; 88 Acts, ch 1028, §1720; 89 Acts, ch 268, §5; 91 Acts, ch 159, § 9; 91 Acts, ch 210, § 2; 92 Acts, ch 1222, § 4, 6; 94 Acts, ch 1046, §9; 94 Acts, ch 1166, §46, 12; 95 Acts, ch 5, §2, 14; 96 Acts, ch 1168, § 1, 3; 97 Acts, ch 41, §32; 97 Acts, ch 135, §5, 9; 98 Acts, ch 1078, §5, 12; 99 Acts, ch 95, §5, 6, 12, 13; 99 Acts, ch 114, §25; 2001 Acts, ch 132, §22, 24; 2001 Acts, 1st Ex, ch 3, §1, 2; 2002 Acts, ch 1069, §6, 13, 14; 2003 Acts, ch 139, §6, 11, 12; 2003 Acts, ch 142, §7, 11; 2005 Acts, ch 24, §5, 10, 11; 2005 Acts, ch 140, §3739, 73; 2006 Acts, ch 1158, §13

2003 amendment to subsection 2, paragraph h, takes effect May 21, 2003, and applies retroactively to tax years ending on or after September 10, 2001; 2003 Acts, ch 139, §11, 12

2005 amendments to subsection 1, to subsection 2, paragraph b, and striking subsection 2, former paragraphs g and h, apply retroactively to January 1, 2005, for tax years beginning on or after that date; 2005 Acts, ch

2005 amendments to subsection 2, paragraph i, take effect April 13, 2005, and apply retroactively to January 1, 2003, for tax years beginning on or after that date; 2005 Acts, ch 24, §10, 11

#### **422.10 Research activities credit.**

1. The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state.

a. For individuals, the credit equals the sum of the following:

(1) Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

(2) Six and one-half percent of the basic research payments determined under section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon 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.

b. In lieu of the credit amount computed in paragraph "a", subparagraph (1), a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative incremental credit described in section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used for the taxpayer's federal income tax. The election made under this paragraph is for the tax year and the taxpayer may use another or the same method for any subsequent year.

c. For purposes of the alternate credit computation method in paragraph "b", the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of section 41(c)(4)(A) of the Internal Revenue Code are one and sixty-five hundredths percent, two and twenty hundredths percent, and two and seventy-five hundredths percent, respectively.

2. For purposes of this section, an individual may claim a research credit incurred by a partnership, S corporation, limited liability company, 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, S corporation, limited liability company, estate, or trust.

3. For purposes of this section, "*base amount*", "*basic research payment*", and "*qualified research expense*" mean the same as defined for the federal credit for increasing research activities under section 41 of the Internal Revenue Code, except that for the alternative incremental credit such amounts are for research conducted within this state.

For purposes of this section, "*Internal Revenue Code*" means the Internal Revenue Code in effect on January 1, 2006.

4. Any credit in excess of the tax liability imposed by section 422.5 less the amounts of nonrefundable credits allowed under this division for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

5. An individual may claim an additional research activities credit authorized pursuant to section 15.335 if the eligible business is a partnership, S corporation, limited liability company, or estate or trust which elects to have the income taxed directly to the individual. The amount of the credit shall be as provided in section 15.335.

83 Acts, ch 179, § 8, 25; 85 Acts, ch 230, § 5; 86 Acts, ch 1007, § 22; 87 Acts, 2nd Ex, ch 1, § 10; 88 Acts, ch 1028, §21; 90 Acts, ch 1171, § 3; 91 Acts, ch 159, §10; 91 Acts, ch 215, §2; 93 Acts, ch 113, §2, 4; 94 Acts, ch 1166, §7, 11; 95 Acts, ch 152, §4, 7; 97 Acts, ch 23, §43; 97 Acts, ch 135, §6, 9; 98 Acts, ch 1078, §6, 10; 99 Acts, ch 95, §7, 12, 13; 2000 Acts, ch 1146, § 4, 9, 11; 2000 Acts, ch 1194, §9, 21; 2001 Acts, ch 127, §6, 9, 10; 2002 Acts, ch 1069, §7, 10, 14; 2003 Acts, ch 139, §7, 11, 12; 2004 Acts, ch 1073, §17; 2005 Acts, ch 24, §6, 10, 11; 2006 Acts, ch 1140, §5, 10, 11; 2006 Acts, ch 1158, §14, 15

## **Footnotes**

Internal Revenue Code definition is updated regularly; for applicable definition in a prior tax year, refer to Iowa Acts and Code for that year

2006 amendment to subsection 3 takes effect May 30, 2006, and applies retroactively to January 1, 2005, for tax years beginning on or after that date; 2006 Acts, ch 1140, §10, 11

### **422.11 Franchise tax credit.**

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a franchise tax credit. A taxpayer who is a shareholder in a financial institution, as defined in section 581 of the Internal Revenue Code, which has in effect for the tax year an election under subchapter S of the Internal Revenue Code, or is a member of a financial institution organized as a limited liability company under chapter 524 that is taxed as a partnership for federal income tax purposes, shall compute the amount of the tax credit by recomputing the amount of tax under this division by reducing the taxable income of the taxpayer by the taxpayer's pro rata share of the items of income and expense of the financial institution and subtracting the credits allowed under sections 422.12 and 422.12B. This recomputed tax shall be subtracted from the amount of tax computed under this division after the deduction for credits allowed under sections 422.12 and 422.12B. The resulting amount, which shall not exceed the taxpayer's pro rata share of the franchise tax paid by the financial institution, is the amount of the franchise tax credit allowed.

97 Acts, ch 154, §1, 3; 2004 Acts, ch 1141, §46; 2006 Acts, ch 1158, §16

### **422.11A New jobs tax credit.**

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a new jobs tax credit. An industry which has entered into an agreement under chapter 260E and which has increased its base employment level by at least ten percent within the time set in the agreement or, in the case of an industry without a base employment level, adds new jobs within the time set in the agreement is entitled to this new jobs tax credit for the tax year selected by the industry. In determining if the industry has increased its base employment level by ten percent or added new jobs, only those new jobs directly resulting from the project covered by the agreement and those directly related to those new jobs shall be counted. The amount of this credit is equal to the product of six percent of the taxable wages upon which an employer is required to contribute to the state unemployment compensation fund, as defined in section 96.19, subsection 37, times the number of new jobs existing in the tax year that directly result from the project covered by the agreement or new jobs that directly result from those new jobs. The tax year chosen by the industry shall either begin or end during the period beginning with the date of the agreement and ending

with the date by which the project is to be completed under the agreement. An individual may claim the new jobs tax credit allowed a partnership, subchapter S corporation, or 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 the partnership, subchapter S corporation, or estate or trust. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten tax years or until depleted, whichever is the earlier. For purposes of this section, "agreement", "industry", "new job" and "project" mean the same as defined in section 260E.2 and "base employment level" means the number of full-time jobs an industry employs at the plant site which is covered by an agreement under chapter 260E on the date of that agreement.

85 Acts, ch 32, §80; 89 Acts, ch 251, §14; 91 Acts, ch 159, §11

#### **422.11B Minimum tax credit.**

1. There is allowed as a credit against the tax determined in section 422.5, subsection 1, paragraphs "a" through "j" for a tax year an amount equal to the minimum tax credit for that tax year.

The minimum tax credit for a tax year is the excess, if any, of the net minimum tax imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this section for those prior tax years.

2. The allowable credit under subsection 1 for a tax year shall not exceed the excess, if any, of the tax determined in section 422.5, subsection 1, paragraphs "a" through "j" over the state alternative minimum tax as determined in section 422.5, subsection 1, paragraph "k".

The net minimum tax for a tax year is the excess, if any, of the tax determined in section 422.5, subsection 1, paragraph "k" for the tax year over the tax determined in section 422.5, subsection 1, paragraphs "a" through "j" for the tax year.

89 Acts, ch 285, §4; 2006 Acts, ch 1158, §17, 18

#### **422.11C Ethanol blended gasoline tax credit.**

1. As used in this section, unless the context otherwise requires:

*a. "E-85 gasoline", "ethanol blended gasoline", "gasoline", "retail dealer", and "retail motor fuel site" mean the same as defined in section 214A.1.*

*b. "Motor fuel pump" means the same as defined in section 214.1.*

*c. "Sell" means to sell on a retail basis.*

*d. "Tax credit" means the designated ethanol blended gasoline tax credit as provided in this section.*

2. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an ethanol blended gasoline tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this section. In order to be eligible, all of the following must apply:

*a. The taxpayer is a retail dealer.*

*b. The taxpayer operates at least one retail motor fuel site at which more than sixty percent of the total gallons of gasoline sold and dispensed through one or more motor fuel pumps by the taxpayer in the tax year is ethanol blended gasoline.*

c. The taxpayer complies with requirements of the department required to administer this section.

3. The tax credit shall be calculated separately for each retail motor fuel site operated by the taxpayer. The amount of the tax credit for each eligible retail motor fuel site is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all motor fuel pumps located at that retail motor fuel site during the tax year in excess of sixty percent of all gasoline sold and dispensed through motor fuel pumps at that retail motor fuel site during the tax year.

4. A retail dealer is eligible to claim a designated ethanol blended gasoline tax credit as provided in this section even though the retail dealer claims an E-85 gasoline promotion tax credit pursuant to section 422.11O for the same tax year for the same ethanol gallonage.

5. Any credit in excess of the taxpayer's tax liability shall be refunded. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

6. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, 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, limited liability company, S corporation, estate, or trust.

7. This section is repealed on January 1, 2009.

2001 Acts, ch 123, §2, 6; 2002 Acts, ch 1050, §35; 2006 Acts, ch 1142, §3538, 49

Ethanol blended gasoline tax credit applies beginning January 1, 2002; implementation; refunds; retroactivity; 2001 Acts, ch 123, § 6; 2003 Acts, ch 167, §24

For provisions relating to availability and calculation of an ethanol blended tax credit in calendar year 2008 for a retail dealer whose tax year ends prior to December 31, 2008, see 2006 Acts, ch 1142, §49

#### **422.11D Historic preservation and cultural and entertainment district tax credit.**

1. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a historic preservation and cultural and entertainment district tax credit equal to the amount as computed under chapter 404A for rehabilitating eligible property. Any credit in excess of the tax liability shall be refunded as provided in section 404A.4, subsection 3.

2. An individual may claim a historic preservation and cultural and entertainment district tax credit allowed a partnership, limited liability company, S corporation, 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, limited liability company, S corporation, estate, or trust except when low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development in which case the amount claimed by a partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company shall be based on the amounts designated by the eligible partnership, S corporation, or limited liability company.

3. For purposes of this section, "*eligible property*" means the same as used in section 404A.1.

2000 Acts, ch 1194, §10; 2005 Acts, ch 179, §64

#### **422.11E Assistive device tax credit small business.**

1. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an assistive device tax credit. A small business purchasing, renting, or modifying an assistive device or making workplace modifications for an individual with a disability who is employed or will be employed by the small business is eligible, subject to availability of credits, to receive this assistive device tax credit which is equal to fifty percent of the first five thousand dollars paid during the tax year for the purchase, rental, or modification of the assistive device or for making the workplace modifications. Any credit in excess of the tax liability shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year. If the small business elects to take the assistive device tax credit, the small business shall not deduct for Iowa tax purposes any amount of the cost of an assistive device or workplace modifications which is deductible for federal tax purposes.

2. To receive the assistive device tax credit, the eligible small business must submit an application to the department of economic development. If the taxpayer meets the criteria for eligibility, the department of economic development shall issue to the taxpayer a certification of entitlement for the assistive device tax credit. However, the combined amount of tax credits that may be approved for a fiscal year under this section and section 422.33, subsection 9, shall not exceed five hundred thousand dollars. Tax credit certificates shall be issued on an earliest filed basis. The certification shall contain the taxpayer's name, address, tax identification number, the amount of the credit, and tax year for which the certificate applies. The taxpayer must file the tax credit certificate with the taxpayer's individual income tax return in order to claim the tax credit. The departments of economic development and revenue shall each adopt rules to jointly administer this section and shall provide by rule for the method to be used to determine for which fiscal year the tax credits are approved.

3. An individual may claim an assistive device tax credit allowed a partnership, limited liability company, S corporation, 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 the partnership, limited liability company, S corporation, estate, or trust.

4. For purposes of this section:

a. *"Assistive device"* means any item, piece of equipment, or product system which is used to increase, maintain, or improve the functional capabilities of an individual with a disability in the workplace or on the job. *"Assistive device"* does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. *"Assistive device"* does not include any device for which a certificate of title is issued by the state department of transportation, but does include any item, piece of equipment, or product system otherwise meeting the definition of *"assistive device"* that is incorporated, attached, or included as a modification in or to such a device issued a certificate of title.

b. *"Disability"* means the same as defined in section 15.102, except that it does not include alcoholism.

c. *"Small business"* means a business that either had gross receipts for its preceding tax year of three million dollars or less or employed not more than fourteen full-time employees during its preceding tax year.

d. *"Workplace modifications"* means physical alterations to the work environment.

2000 Acts, ch 1194, §11, 21; 2003 Acts, ch 145, §286; 2006 Acts, ch 1159, §25

#### **422.11F Investment tax credits.**

1. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an investment tax credit authorized pursuant to section 15E.43 for an investment in a qualifying business or a community-based seed capital fund.

2. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by investment tax credits authorized pursuant to sections 15.333 and 15E.193B, subsection 6.

2002 Acts, ch 1006, §7, 13; 2006 Acts, ch 1158, §19

#### **422.11G Venture capital fund investment tax credit.**

The tax imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a venture capital fund investment tax credit authorized pursuant to section 15E.51.

2002 Acts, ch 1156, §2, 8

#### **422.11H Endow Iowa tax credit.**

The tax imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

2003 Acts, 1st Ex, ch 2, §84, 89

Section effective June 19, 2003, and applies retroactively to January 1, 2003, for tax years beginning on or after that date; 2003 Acts, 1st Ex, ch 2, §89

For future repeal of this section effective June 30, 2010, and the strike of that repeal effective July 1, 2007, see 2003 Acts, 1st Ex, ch 2, §93; 2006 Acts, ch 1151, §7, 8

#### **422.11I Soy-based cutting tool oil tax credit.**

1. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a soy-based cutting tool oil tax credit. A manufacturer, as defined in section 428.20, is eligible to receive a soy-based cutting tool oil tax credit which is equal to the costs incurred by the manufacturer during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil. The costs eligible for the credit are limited to those costs meeting all of the following requirements:

*a.* The costs were incurred after June 30, 2005, and before January 1, 2007.

*b.* The costs were incurred in the first twelve months of the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

*c.* The costs of the purchase and replacement do not exceed two dollars per gallon of soy-based cutting tool oil used in the transition. The total number of gallons used in the transition under this paragraph shall not exceed two thousand gallons.

If the manufacturer elects to take the soy-based cutting tool oil tax credit, the manufacturer shall not deduct for Iowa tax purposes any amount of the costs incurred in the transition to using soy-based cutting tool oil which is deductible for federal tax purposes.

2. Any credit in excess of the tax liability shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

3. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation,

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 the partnership, limited liability company, S corporation, estate, or trust.

4. For purposes of this section, "*soy-based cutting tool oil*" means cutting tool oil that contains at least fifty-one percent soy-based products.

5. This section is repealed December 31, 2007.

2005 Acts, ch 146, §1, 3

Section applies to tax years ending after June 30, 2005, and beginning before January 1, 2007; 2005 Acts, ch 146, §3

#### **422.11J Tax credits for wind energy production and renewable energy.**

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by tax credits for wind energy production allowed under chapter 476B and for renewable energy allowed under chapter 476C.

2004 Acts, ch 1175, §404, 418; 2005 Acts, ch 160, §1, 14

#### **422.11K Economic development region revolving fund contribution tax credit.**

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

2005 Acts, ch 150, §13

#### **422.11L Wage-benefits tax credit.**

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a wage-benefits tax credit authorized pursuant to section 15I.2.

2005 Acts, ch 150, §60, 69

Section is effective June 9, 2005, and applies to qualified new jobs created on or after July 1, 2005; section applies to tax years ending on or after July 1, 2005; 2005 Acts, ch 150, §69

#### **422.11M Agricultural assets transferred to beginning farmers.**

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an agricultural assets transfer tax credit as allowed under section 175.37.

2006 Acts, ch 1161, §3, 7

Section takes effect January 1, 2007, and applies to tax years beginning on or after that date; 2006 Acts, ch 1161, §7

#### **422.11N Ethanol promotion tax credit.**

1. As used in this section, unless the context otherwise requires:

a. "E-85 gasoline", "ethanol", "ethanol blended gasoline", "gasoline", and "retail dealer" mean the same as defined in section 214A.1.

b. "Flexible fuel vehicle" means the same as defined in section 452A.2.

c. "Motor fuel" means the same as defined in section 452A.2.

d. "Motor fuel pump" means the same as defined in section 214.1.

e. "Sell" means to sell on a retail basis.

f. "Tax credit" means the ethanol promotion tax credit as provided in this section.

2. The special terms provided in section 452A.31 shall also apply to this section.

3. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an ethanol promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this section. In order to be eligible, all of the following must apply:

a. The taxpayer is a retail dealer who sells and dispenses ethanol blended gasoline through a motor fuel pump in the tax year in which the tax credit is claimed.

b. The retail dealer complies with requirements of the department to administer this section.

4. In order to receive the tax credit, the retail dealer must calculate all of the following:

a. The retail dealer's biofuel distribution percentage which is the sum of the retail dealer's total ethanol gallonage plus the retail dealer's total biodiesel gallonage expressed as a percentage of the retail dealer's total gasoline gallonage, in the retail dealer's applicable determination period.

b. The retail dealer's biofuel threshold percentage is as follows:

(1) For a retail dealer who sells and dispenses more than two hundred thousand gallons of motor fuel in an applicable determination period, the retail dealer's biofuel threshold percentage is as follows:

(a) Ten percent for the determination period beginning on January 1, 2009, and ending December 31, 2009.

(b) Eleven percent for the determination period beginning on January 1, 2010, and ending December 31, 2010.

(c) Twelve percent for the determination period beginning on January 1, 2011, and ending December 31, 2011.

(d) Thirteen percent for the determination period beginning on January 1, 2012, and ending December 31, 2012.

(e) Fourteen percent for the determination period beginning on January 1, 2013, and ending December 31, 2013.

(f) Fifteen percent for the determination period beginning on January 1, 2014, and ending December 31, 2014.

(g) Seventeen percent for the determination period beginning on January 1, 2015, and ending December 31,

2015.

(h) Nineteen percent for the determination period beginning on January 1, 2016, and ending December 31, 2016.

(i) Twenty-one percent for the determination period beginning on January 1, 2017, and ending December 31, 2017.

(j) Twenty-three percent for the determination period beginning on January 1, 2018, and ending December 31, 2018.

(k) Twenty-five percent for each determination period in the period beginning on January 1, 2019, and ending on December 31, 2020.

(2) For a retail dealer who sells and dispenses two hundred thousand gallons of motor fuel or less in an applicable determination period, the biofuel threshold percentages shall be:

(a) Six percent for the determination period beginning on January 1, 2009, and ending December 31, 2009.

(b) Six percent for the determination period beginning on January 1, 2010, and ending December 31, 2010.

(c) Ten percent for the determination period beginning on January 1, 2011, and ending December 31, 2011.

(d) Eleven percent for the determination period beginning on January 1, 2012, and ending December 31, 2012.

(e) Twelve percent for the determination period beginning on January 1, 2013, and ending December 31, 2013.

(f) Thirteen percent for the determination period beginning on January 1, 2014, and ending December 31, 2014.

(g) Fourteen percent for the determination period beginning on January 1, 2015, and ending December 31, 2015.

(h) Fifteen percent for the determination period beginning on January 1, 2016, and ending December 31, 2016.

(i) Seventeen percent for the determination period beginning on January 1, 2017, and ending December 31, 2017.

(j) Nineteen percent for the determination period beginning on January 1, 2018, and ending December 31, 2018.

(k) Twenty-one percent for the determination period beginning on January 1, 2019, and ending December 31, 2019.

(l) Twenty-five percent for the determination period beginning on January 1, 2020, and ending December 31, 2020.

(3) Notwithstanding paragraph "a", the governor may adjust a biofuel threshold percentage for a determination period if the governor finds that exigent circumstances exist. Exigent circumstances exist due to potential substantial economic injury to the state's economy. Exigent circumstances also exist if it is

probable that a substantial number of retail dealers cannot comply with a biofuel threshold percentage during a determination period due to any of the following:

(a) Less than the target number of flexible fuel vehicles are registered under chapter 321. The target numbers of flexible fuel vehicles are as follows:

(i) On January 1, 2011, two hundred fifty thousand.

(ii) On January 1, 2014, three hundred fifty thousand.

(iii) On January 1, 2017, four hundred fifty thousand.

(iv) On January 1, 2019, five hundred fifty thousand.

(b) A shortage in the biofuel feedstock resulting in a dramatic decrease in biofuel inventories.

If the governor finds that exigent circumstances exist, the governor may reduce the applicable biofuel threshold percentage by replacing it with an adjusted biofuel threshold percentage. The governor shall consult with the department of revenue and the renewable fuels and coproducts advisory committee established pursuant to section 159A.4. The governor shall make the adjustment by giving notice of intent to issue a proclamation which shall take effect not earlier than thirty-five days after publication in the Iowa administrative bulletin of a notice to issue the proclamation. The governor shall provide a period of notice and comment in the same manner as provided in section 17A.4, subsection 1. The adjusted biofuel threshold percentage shall be effective for the following determination period.

*c.* The retail dealer's biofuel threshold percentage disparity which is a positive percentage difference obtained by taking the minuend which is the retail dealer's biofuel threshold percentage and subtracting from it the subtrahend which is the retail dealer's biofuel distribution percentage, in the retail dealer's applicable determination period.

*d.* The tax credit shall be calculated separately for each retail motor fuel site or other permanent or temporary location from which the retail dealer sells and dispenses ethanol blended gasoline.

5. *a.* For a retail dealer whose tax year is the same as a determination period beginning on January 1 and ending on December 31, the retail dealer's tax credit is calculated by multiplying the retail dealer's total ethanol gallonage by a tax credit rate, which may be adjusted based on the retail dealer's biofuel threshold percentage disparity. The tax credit rate is as follows:

(1) For any tax year in which the retail dealer has attained a biofuel threshold percentage for the determination period, the tax credit rate is six and one-half cents.

(2) For any tax year in which the retail dealer has not attained a biofuel threshold percentage for the determination period, the tax credit rate shall be adjusted based on the retail dealer's biofuel threshold percentage disparity. The amount of the adjusted tax credit rate is as follows:

(a) If the retail dealer's biofuel threshold percentage disparity equals two percent or less, the tax credit rate is four and one-half cents.

(b) If the retail dealer's biofuel threshold percentage disparity equals more than two percent but not more than four percent, the tax credit rate is two and one-half cents.

(c) A retail dealer is not eligible for a tax credit if the retail dealer's biofuel threshold percentage disparity equals more than four percent.

b. For a retail dealer whose tax year is not the same as a determination period beginning on January 1 and ending on December 31, the retail dealer shall calculate the tax credit twice, as follows:

(1) If a retail dealer has not claimed a tax credit in the retail dealer's previous tax year, the retail dealer may claim the tax credit in the retail dealer's current tax year for that period beginning on January 1 of the retail dealer's previous tax year to the last day of the retail dealer's previous tax year. For that period the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on December 31 of that calendar year as provided in paragraph "a".

(2) (a) For the period beginning on the first day of the retail dealer's tax year until December 31, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who calculates the tax credit on that same December 31 as provided in paragraph "a".

(b) For the period beginning on January 1 to the end of the retail dealer's tax year, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on the following December 31 as provided in paragraph "a".

6. A retail dealer is eligible to claim an ethanol promotion tax credit as provided in this section even though the retail dealer claims an E-85 gasoline promotion tax credit pursuant to section 422.11O for the same tax year and for the same ethanol gallonage.

7. Any credit in excess of the retail dealer's tax liability shall be refunded. In lieu of claiming a refund, the retail dealer may elect to have the overpayment shown on the retail dealer's final, completed return credited to the tax liability for the following tax year.

8. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, 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, limited liability company, S corporation, estate, or trust.

9. This section is repealed on January 1, 2021.

2006 Acts, ch 1142, §39, 49; 2006 Acts, ch 1175, §1014, 17, 23

For provisions relating to availability and calculation of an ethanol promotion tax credit in calendar year 2020 for a retail dealer whose tax year ends prior to December 31, 2020, see 2006 Acts, ch 1142, §49; 2006 Acts, ch 1175, §17

#### **422.11O E-85 gasoline promotion tax credit.**

1. As used in this section, unless the context otherwise requires:

a. "E-85 gasoline", "ethanol", "gasoline", and "retail dealer" mean the same as defined in section 214A.1.

b. "Motor fuel pump" means the same as defined in section 214.1.

c. "Sell" means to sell on a retail basis.

d. "Tax credit" means the E-85 gasoline promotion tax credit as provided in this section.

2. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an E-85 gasoline promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection. In order to be eligible, all of the following must apply:



6. Any credit in excess of the retail dealer's tax liability shall be refunded. In lieu of claiming a refund, the retail dealer may elect to have the overpayment shown on the retail dealer's final, completed return credited to the tax liability for the following tax year.

7. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, 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, limited liability company, S corporation, estate, or trust.

8. This section is repealed on January 1, 2021.

2006 Acts, ch 1142, §40, 48, 49; 2006 Acts, ch 1175, §15, 23

Section applies retroactively to tax years beginning on or after January 1, 2006; 2006 Acts, ch 1142, §48

For provisions relating to availability and calculation of an E-85 gasoline promotion tax credit in calendar year 2020 for a retail dealer whose tax year ends prior to December 31, 2020, see 2006 Acts, ch 1142, §49

#### **422.11P Biodiesel blended fuel tax credit.**

1. As used in this section, unless the context otherwise requires:

*a. "Biodiesel blended fuel", "diesel fuel", and "retail dealer" mean the same as defined in section 214A.1.*

*b. "Motor fuel pump" means the same as defined in section 214.1.*

*c. "Sell" means to sell on a retail basis.*

*d. "Tax credit" means a biodiesel blended fuel tax credit as provided in this section.*

2. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by the amount of the biodiesel blended fuel tax credit for each tax year that the taxpayer is eligible to claim a tax credit under this subsection.

*a. In order to be eligible, all of the following must apply:*

(1) The taxpayer is a retail dealer who sells and dispenses biodiesel blended fuel through a motor fuel pump in the tax year in which the tax credit is claimed.

(2) Of the total gallons of diesel fuel that the retail dealer sells and dispenses through all motor fuel pumps during the retail dealer's tax year, fifty percent or more is biodiesel blended fuel which meets the requirements of this section.

(3) The retail dealer complies with requirements of the department established to administer this section.

*b. The tax credit shall apply to biodiesel blended fuel formulated with a minimum percentage of two percent by volume of biodiesel, if the formulation meets the standards provided in section 214A.2.*

3. The amount of the tax credit is three cents multiplied by the total number of gallons of biodiesel blended fuel sold and dispensed by the retail dealer through all motor fuel pumps operated by the retail dealer during the retail dealer's tax year.

4. Any credit in excess of the retail dealer's tax liability shall be refunded. In lieu of claiming a refund, the retail dealer may elect to have the overpayment shown on the retail dealer's final, completed return credited to the tax liability for the following tax year.

5. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, 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 the partnership, limited liability company, S corporation, estate, or trust.

6. This section is repealed January 1, 2012.

2006 Acts, ch 1142, §41, 48, 49

Section applies retroactively to tax years beginning on or after January 1, 2006; 2006 Acts, ch 1142, §48

For provisions relating to requirements for claiming a biodiesel blended fuel tax credit in calendar year 2006 for a retail dealer whose tax year ends prior to December 31, 2006; and for availability and calculation of the tax credit for calendar year 2011 for a retail dealer whose tax year ends prior to December 31, 2011, see 2006 Acts, ch 1142, §49

#### **422.11Q Iowa fund of funds tax credit.**

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

2006 Acts, ch 1158, §20

#### **422.11R Soy-based transformer fluid tax credit.**

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a soy-based transformer fluid tax credit allowed under chapter 476D.

This section is repealed December 31, 2008.

2006 Acts, ch 1136, §1

#### **422.11S School tuition organization tax credit.**

1. The taxes imposed under this division less the credits allowed under sections 422.12 and 422.12B shall be reduced by a school tuition organization tax credit equal to sixty-five percent of the amount of the voluntary cash contributions made by the taxpayer during the tax year to a school tuition organization, subject to the total dollar value of the organization's tax credit certificates as computed in subsection 7. The tax credit shall be claimed by use of a tax credit certificate as provided in subsection 6.

2. To be eligible for this credit, all of the following shall apply:

*a.* A deduction pursuant to section 170 of the Internal Revenue Code for any amount of the contribution is not taken for state tax purposes.

*b.* The contribution does not designate that any part of the contribution be used for the direct benefit of any dependent of the taxpayer or any other student designated by the taxpayer.

3. Any credit in excess of the tax liability is not refundable but the excess for the tax year may be credited to the tax liability for the following five tax years or until depleted, whichever is the earlier.

4. Married taxpayers who file separate returns or file separately on a combined return form must determine the tax credit under subsection 1 based upon their combined net income and allocate the total credit amount to each spouse in the proportion that each spouse's respective net income bears to the total combined net income. Nonresidents or part-year residents of Iowa must determine their tax credit in the ratio of their Iowa source net income to their all source net income. Nonresidents or part-year residents who are married and elect to file separate returns or to file separately on a combined return form must allocate the tax credit between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income of the taxpayers.

5. For purposes of this section:

*a. "Eligible student"* means a student who is a member of a household whose total annual income during the calendar year before the student receives a tuition grant for purposes of this section does not exceed an amount equal to three times the most recently published federal poverty guidelines in the federal register by the United States department of health and human services.

*b. "Qualified school"* means a nonpublic elementary or secondary school in this state which is accredited under section 256.11 and adheres to the provisions of the federal Civil Rights Act of 1964 and chapter 216.

*c. "School tuition organization"* means a charitable organization in this state that is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code and that does all of the following:

(1) Allocates at least ninety percent of its annual revenue in tuition grants for children to allow them to attend a qualified school of their parents' choice.

(2) Only awards tuition grants to children who reside in Iowa.

(3) Provides tuition grants to students without limiting availability to only students of one school.

(4) Only provides tuition grants to eligible students.

(5) Prepares an annual reviewed financial statement certified by a public accounting firm.

6. *a.* In order for the taxpayer to claim the school tuition organization tax credit under subsection 1, a tax credit certificate issued by the school tuition organization to which the contribution was made shall be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the contribution, the amount of the credit, and other information required by the department.

*b.* The department shall authorize a school tuition organization to issue tax credit certificates for contributions made to the school tuition organization. The aggregate amount of tax credit certificates that the department shall authorize for a school tuition organization for a tax year shall be determined for that organization pursuant to subsection 7. However, a school tuition organization shall not be authorized to issue tax credit certificates unless the organization is controlled by a board of directors consisting of seven members. The names and addresses of the members shall be provided to the department and shall be made available by the department to the public, notwithstanding any state confidentiality restrictions.

*c.* Pursuant to rules of the department, a school tuition organization shall initially register with the department. The organization's registration shall include proof of section 501(c)(3) status and provide a list of the schools the school tuition organization serves. Once the school tuition organization has registered, it is

not required to subsequently register unless the schools it serves changes.

*d.* Each school that is served by a school tuition organization shall submit a participation form annually to the department by October 15 providing the following information:

(1) Certified enrollment as of the third Friday of September.

(2) The school tuition organization that represents the school. A school shall only be represented by one school tuition organization.

7. *a.* For purposes of this subsection:

(1) "*Certified enrollment*" means the enrollment at schools served by school tuition organizations as indicated by participation forms provided to the department each October.

(2) "*Total approved tax credits*" means for the tax year beginning in the 2006 calendar year, two million five hundred thousand dollars and for tax years beginning on or after January 1, 2007, five million dollars.

(3) "*Tuition grant*" means grants to students to cover all or part of the tuition at a qualified school.

*b.* Each year by November 15, the department shall authorize school tuition organizations to issue tax credit certificates for the following tax year. However, for the tax year beginning in the 2006 calendar year only, the department, by September 1, 2006, shall authorize school tuition organizations to issue tax credit certificates for the 2006 calendar tax year. For the tax year beginning in the 2006 calendar year only, each school served by a school tuition organization shall submit a participation form to the department by August 1, 2006, providing the certified enrollment as of the third Friday of September 2005, along with the school tuition organization that represents the school. Tax credit certificates available for issue by each school tuition organization shall be determined in the following manner:

(1) Total the certified enrollment of each participating qualified school to arrive at the total participating certified enrollment.

(2) Determine the per student tax credit available by dividing the total approved tax credits by the total participating certified enrollment.

(3) Multiply the per student tax credit by the total participating certified enrollment of each school tuition organization.

8. A school tuition organization that receives a voluntary cash contribution pursuant to this section shall report to the department, on a form prescribed by the department, by January 12 of each tax year all of the following information:

*a.* The name and address of the members and the chairperson of the governing board of the school tuition organization.

*b.* The total number and dollar value of contributions received and the total number and dollar value of the tax credits approved during the previous tax year.

*c.* A list of the individual donors for the previous tax year that includes the dollar value of each donation and the dollar value of each approved tax credit.

*d.* The total number of children utilizing tuition grants for the school year in progress and the total dollar value of the grants.

e. The name and address of each represented school at which tuition grants are currently being utilized, detailing the number of tuition grant students and the total dollar value of grants being utilized at each school served by the school tuition organization.

2006 Acts, ch 1163, §1, 2

Section takes effect June 2, 2006, and applies retroactively to January 1, 2006, for tax years beginning on or after that date; 2006 Acts, ch 1163, §2

#### **422.12 Deductions from computed tax.**

There shall be deducted from but not to exceed the tax, after the same shall have been computed as provided in this division, the following:

1. A personal exemption credit in the following amounts:

a. For an estate or trust, a single individual, or a married person filing a separate return, forty dollars.

b. For a head of household, or a husband and wife filing a joint return, eighty dollars.

c. For each dependent, an additional forty dollars. As used in this section, the term "*dependent*" has the same meaning as provided by the Internal Revenue Code.

d. For a single individual, husband, wife or head of household, an additional exemption of twenty dollars for each of said individuals who has attained the age of sixty-five years before the close of the tax year or on the first day following the end of the tax year.

e. For a single individual, husband, wife or head of household, an additional exemption of twenty dollars for each of said individuals who is blind at the close of the tax year. For the purposes of this paragraph, an individual is blind only if the individual's central visual acuity does not exceed twenty-two hundredths in the better eye with correcting lenses, or if the individual's visual acuity is greater than twenty-two hundredths but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

2. A tuition credit equal to twenty-five percent of the first one thousand dollars which the taxpayer has paid to others for each dependent in grades kindergarten through twelve, for tuition and textbooks of each dependent in attending an elementary or secondary school situated in Iowa, which school is accredited or approved under section 256.11, which is not operated for profit, and which adheres to the provisions of the federal Civil Rights Act of 1964 and chapter 216. As used in this subsection, "*textbooks*" means books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state and does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to inculcate those tenets, doctrines, or worship. "*Textbooks*" includes books or materials used for extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or programs of a similar nature. Notwithstanding any other provision, all other credits allowed under this section and section 422.12B shall be deducted before the tuition credit under this subsection. The department, when conducting an audit of a taxpayer's return, shall also audit the tuition tax credit portion of the tax return.

As used in this subsection, "*tuition*" means any charges for the expenses of personnel, buildings, equipment and materials other than textbooks, and other expenses of elementary or secondary schools which relate to the teaching only of those subjects legally and commonly taught in public elementary and secondary schools in this state and which do not relate to the teaching of religious tenets, doctrines, or worship, the purpose of

which is to inculcate those tenets, doctrines, or worship. "Tuition" includes those expenses which relate to extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or programs of a similar nature.

3. For the purpose of this section, the determination of whether an individual is married shall be made in accordance with section 7703 of the Internal Revenue Code.

[C35, § 6943-f12; C39, § **6943.044**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.12]

83 Acts, ch 179, § 9, 10, 22; 84 Acts, ch 1305, § 32; 86 Acts, ch 1236, § 6, 7; 86 Acts, ch 1241, § 15; 87 Acts, ch 233, § 494; 88 Acts, ch 1028, §22, 23; 89 Acts, ch 296, §42; 90 Acts, ch 1248, § 9; 91 Acts, ch 159, §13; 95 Acts, ch 206, §2, 4; 96 Acts, ch 1168, § 2, 3; 98 Acts, ch 1177, §710; 2006 Acts, ch 1158, §21

**422.12A Income tax refund checkoff for keep Iowa beautiful fund.** Repealed by its own terms; 2004 Acts, ch 1175, § 436, 439. See § 422.12G.

**422.12B Earned income tax credit.**

1. The taxes imposed under this division less the credits allowed under section 422.12 shall be reduced by an earned income credit equal to six and one-half percent of the federal earned income credit provided in section 32 of the Internal Revenue Code. Any credit in excess of the tax liability is nonrefundable.

2. Married taxpayers electing to file separate returns or filing separately on a combined return may avail themselves of the earned income credit by allocating the earned income credit to each spouse in the proportion that each spouse's respective earned income bears to the total combined earned income. Taxpayers affected by the allocation provisions of section 422.8 shall be permitted a deduction for the credit only in the amount fairly and equitably allocable to Iowa under rules prescribed by the director.

89 Acts, ch 268, §6; 90 Acts, ch 1171, § 4; 91 Acts, ch 159, §14; 91 Acts, ch 215, §3; 2000 Acts, ch 1146, §5, 9, 11

**422.12C Child and dependent care or early childhood development tax credits.**

1. The taxes imposed under this division, less the amounts of nonrefundable credits allowed under this division, shall be reduced by a child and dependent care credit equal to the following percentages of the federal child and dependent care credit provided in section 21 of the Internal Revenue Code:

a. For a taxpayer with net income of less than ten thousand dollars, seventy-five percent.

b. For a taxpayer with net income of ten thousand dollars or more but less than twenty thousand dollars, sixty-five percent.

c. For a taxpayer with net income of twenty thousand dollars or more but less than twenty-five thousand dollars, fifty-five percent.

d. For a taxpayer with net income of twenty-five thousand dollars or more but less than thirty-five thousand dollars, fifty percent.

e. For a taxpayer with net income of thirty-five thousand dollars or more but less than forty thousand dollars, forty percent.

f. For a taxpayer with net income of forty thousand dollars or more but less than forty-five thousand dollars, thirty percent.

g. For a taxpayer with net income of forty-five thousand dollars or more, zero percent.

2. The taxes imposed under this division, less the amounts of nonrefundable credits allowed under this division, may be reduced by an early childhood development tax credit equal to twenty-five percent of the first one thousand dollars which the taxpayer has paid to others for each dependent, as defined in the Internal Revenue Code, ages three through five for early childhood development expenses. In determining the amount of early childhood development expenses for the tax year beginning in the 2006 calendar year only, such expenses paid during November and December of the previous tax year shall be considered paid in the tax year for which the tax credit is claimed. This credit is available to a taxpayer whose net income is less than forty-five thousand dollars. If the early childhood development tax credit is claimed for a tax year, the taxpayer and the taxpayer's spouse shall not claim the child and dependent care credit under subsection 1. As used in this subsection, "*early childhood development expenses*" means services provided to the dependent by a preschool, as defined in section 237A.1, materials, and other activities as follows:

a. Books that improve child development, including textbooks, music books, art books, teacher's editions, and reading books.

b. Instructional materials required to be used in a child development or educational lesson activity, including but not limited to paper, notebooks, pencils, and art supplies.

c. Lesson plans and curricula.

d. Child development and educational activities outside the home, including drama, art, music, and museum activities, and the entrance fees for such activities, but not including food or lodging, membership fees, or other nonacademic expenses.

"*Early childhood development expenses*" does not include services, materials, or activities for the teaching of religious tenets, doctrines, or worship, the purpose of which is to inculcate those tenets, doctrines, or worship.

3. Any credit in excess of the tax liability shall be refunded. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

4. Married taxpayers who have filed joint federal returns electing to file separate returns or to file separately on a combined return form must determine the child and dependent care credit under subsection 1 or the early childhood development tax credit under subsection 2 based upon their combined net income and allocate the total credit amount to each spouse in the proportion that each spouse's respective net income bears to the total combined net income. Nonresidents or part-year residents of Iowa must determine their Iowa child and dependent care credit in the ratio of their Iowa source net income to their all source net income. Nonresidents or part-year residents who are married and elect to file separate returns or to file separately on a combined return form must allocate the Iowa child and dependent care credit between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income of the taxpayers.

90 Acts, ch 1248, §10; 91 Acts, ch 159, §15; 93 Acts, ch 172, §44, 56; 97 Acts, ch 23, §44; 2005 Acts, ch 148, §2327; 2006 Acts, ch 1158, §2325, 69

2005 amendments apply to tax years beginning on or after January 1, 2006; 2005 Acts, ch 148, § 27

2006 amendments to subsection 2 apply retroactively to January 1, 2006, for tax years beginning on or after that date; 2006 Acts, ch 1158, §69

**422.12D Income tax checkoff for the Iowa state fair foundation.**

1. A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate one dollar or more to be paid to the Iowa state fair foundation as established in section 173.22. If the refund due on the return or the payment remitted with the return is insufficient to pay the amount designated by the taxpayer to the Iowa state fair foundation, the amount designated shall be reduced to the remaining amount of the refund or the remaining amount remitted with the return. The designation of a contribution to the Iowa state fair foundation under this section is irrevocable.

2. The director of revenue shall draft the income tax form to allow the designation of contributions to the Iowa state fair foundation on the tax return. The department, on or before January 31, shall transfer the total amount designated on the tax form due in the preceding year to the foundation fund created pursuant to section 173.22.

3. The Iowa state fair board may authorize payment from the foundation fund for purposes of supporting foundation activities.

4. The department shall adopt rules to implement this section. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of administrative services and accounts identified as owing under section 8A.504 and the political contribution allowed under section 68A.601 shall be satisfied.

93 Acts, ch 144, §3, 5, 6; 94 Acts, ch 1199, §36; 2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §45

#### **Footnotes**

Limitation on number of income tax return checkoffs; automatic repeal of certain checkoffs; see §422.12E

#### **422.12E Income tax return checkoffs limited.**

For tax years beginning on or after January 1, 2004, there shall be allowed no more than four income tax return checkoffs on each income tax return. When the same four income tax return checkoffs have been provided on the income tax return for two consecutive years, the two checkoffs for which the least amount has been contributed, in the aggregate for the first tax year and through March 15 of the second tax year, are repealed. This section does not apply to the income tax return checkoff provided in section 68A.601.

If more checkoffs are enacted in the same session of the general assembly than there is space for inclusion on the individual tax return form, the earliest enacted checkoffs for which there is space for inclusion on the return form shall be included on the return form, and all other checkoffs enacted during that session of the general assembly are repealed.

93 Acts, ch 144, §4, 6; 94 Acts, ch 1199, §36; 2004 Acts, ch 1175, §437, 439

Checkoff for Iowa state fair foundation; § 422.12D

Checkoff for fish and game protection fund; § 422.12H, 456A.16

Joint checkoff for keep Iowa beautiful fund and volunteer fire fighter preparedness fund; § 422.12G

Checkoff for veterans trust fund; §422.12I

**422.12F Income tax checkoff for volunteer fire fighter preparedness.** Repealed by its own terms; 2004 Acts, ch 1175, § 438, 439. See § 422.12G.

**422.12G Joint income tax refund checkoff for keep Iowa beautiful fund and volunteer fire fighter preparedness fund.**

1. A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate one dollar or more to be paid jointly to the keep Iowa beautiful fund created in section 314.28 and to the volunteer fire fighter preparedness fund created in section 100B.13. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer, the amount designated shall be reduced to the remaining amount of refund or the remaining amount remitted with the return. The designation of a contribution under this section is irrevocable.
2. The director of revenue shall draft the income tax form to allow the designation of contributions to the keep Iowa beautiful fund and to the volunteer fire fighter preparedness fund as one checkoff on the tax return. The department of revenue, on or before January 31, shall transfer one-half of the total amount designated on the tax return forms due in the preceding calendar year to the keep Iowa beautiful fund and the remaining one-half to the volunteer fire fighter preparedness fund. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of administrative services and accounts identified as owing under section 8A.504 and the political contribution allowed under section 68A.601 shall be satisfied.
3. The department of revenue shall adopt rules to administer this section.
4. This section is subject to repeal under section 422.12E.

2006 Acts, ch 1182, §61

Section applies retroactively to tax years beginning on or after January 1, 2006; 2006 Acts, ch 1182, §67

**422.12H Income tax checkoff for fish and game protection fund.**

A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate a contribution to the state fish and game protection fund authorized pursuant to section 456A.16.

2006 Acts, ch 1158, §28

**Footnotes**

Limitation on number of income tax return checkoffs;  
automatic repeal of certain checkoffs; see §422.12E

**422.12I Income tax checkoff for veterans trust fund.**

1. A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate one dollar or more to be credited to the veterans trust fund created in section 35A.13. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the veterans trust fund, the amount designated shall be reduced to the remaining amount of the refund or the remaining amount remitted with the return. The designation of a contribution to the veterans trust fund under this section is irrevocable.
2. The director of revenue shall draft the income tax form to allow the designation of contributions to the veterans trust fund on the tax return. The department of revenue, on or before January 31, shall transfer the total amount designated on the tax return forms due in the preceding calendar year to the veterans trust fund created in section 35A.13. However, before a checkoff pursuant to this section shall be permitted, all

liabilities on the books of the department of revenue and accounts identified as owing under section 421.17 and the political contribution allowed under section 68A.601 shall be satisfied.

3. The department of revenue shall adopt rules to administer this section.

4. This section is subject to repeal under section 422.12E.

2006 Acts, ch 1110, §35

Section applies retroactively to the tax year beginning January 1, 2006, and is eligible for placement on the income tax return form for that tax year; 2006 Acts, ch 1110, §4, 5

#### **422.12J Income tax checkoff for Iowa election campaign fund.**

A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate a contribution to the Iowa election campaign fund authorized pursuant to section 68A.601.

2006 Acts, ch 1158, §27

#### **422.13 Return by individual.**

1. Except as provided in subsection 1A, a resident or nonresident of this state shall make a return, signed in accordance with forms and rules prescribed by the director, if any of the following are applicable:

*a.* The individual has net income of nine thousand dollars or more for the tax year from sources taxable under this division.

*b.* The individual is claimed as a dependent on another person's return and has net income of five thousand dollars or more for the tax year from sources taxable under this division.

*c.* However, if that part of the net income of a nonresident which is allocated to Iowa pursuant to section 422.8, subsection 2, is less than one thousand dollars the nonresident is not required to make and sign a return except when the nonresident is subject to the state alternative minimum tax imposed pursuant to section 422.5, subsection 1, paragraph "k".

1A. Notwithstanding any other provision in this section, a resident of this state is not required to make and file a return if the person's net income is equal to or less than the appropriate dollar amount listed in section 422.5, subsection 2, upon which tax is not imposed. A nonresident of this state is not required to make and file a return if the person's total net income in section 422.5, subsection 1, paragraph "j", is equal to or less than the appropriate dollar amount provided in section 422.5, subsection 2, upon which tax is not imposed. For purposes of this subsection, the amount of a lump sum distribution subject to separate federal tax shall be included in net income for purposes of determining if a resident is required to file a return and the portion of the lump sum distribution that is allocable to Iowa is included in total net income for purposes of determining if a nonresident is required to make and file a return.

2. For purposes of determining the requirement for filing a return under subsection 1, the combined net income of a husband and wife from sources taxable under this division shall be considered.

3. If the taxpayer is unable to make the return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

4. A nonresident taxpayer shall file a copy of the taxpayer's federal income tax return for the current tax year

with the return required by this section.

5. Notwithstanding subsections 1 through 4 and sections 422.15 and 422.36, a partnership, a limited liability company whose members are taxed on the company's income under provisions of the Internal Revenue Code, trust, or corporation whose stockholders are taxed on the corporation's income under the provisions of the Internal Revenue Code may, not later than the due date for filing its return for the taxable year, including any extension thereof, elect to file a composite return for the nonresident partners, members, beneficiaries, or shareholders. The director may require that a composite return be filed under the conditions deemed appropriate by the director. A partnership, limited liability company, 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.

[C35, § 6943-f13; C39, § **6943.045**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.13; 82 Acts, ch 1226, § 5, 6]

87 Acts, ch 214, § 3; 87 Acts, 1st Ex, ch 1, § 4; 87 Acts, ch 196, § 1; 88 Acts, ch 1028, § 24; 89 Acts, ch 251, § 15; 92 Acts, 2nd Ex, ch 1001, § 219, 224, 227; 93 Acts, ch 123, §14; 99 Acts, ch 151, §5, 89; 2000 Acts, ch 1146, §6, 10, 11; 2001 Acts, ch 127, §7, 9, 10

#### **422.14 Return by fiduciary.**

1. A fiduciary subject to taxation under this division, as provided in section 422.6, shall make a return, signed in accordance with forms and rules prescribed by the director, for the individual, estate, or trust for whom or for which the fiduciary acts, if the taxable income thereof amounts to six hundred dollars or more. A nonresident fiduciary shall file a copy of the federal income tax return for the current tax year with the return required by this section.

2. Under such regulations as the director may prescribe, a return may be made by one of two or more joint fiduciaries.

3. Fiduciaries required to make returns under this division shall be subject to all the provisions of this division which apply to individuals.

[C35, § 6943-f14; C39, § **6943.046**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.14]

89 Acts, ch 251, §16

#### **422.15 Information at source.**

1. Every person or corporation being a resident of or having a place of business in this state, including lessees or mortgagors of real or personal property, fiduciaries, employers and all officers and employees of the state or of any political subdivision of the state, or agent of the person or corporation, having the control, receipt, custody, disposal or payment of interest (other than interest coupons payable to bearer), rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, unemployment compensation, royalties, patronage dividends, or other fixed or determinable annual or periodical gains, profits and income, in an amount sufficient to require that an information return be filed under the Internal Revenue Code if the income is subject to federal tax, paid or payable during any year to any individual, whether a resident of this state or not, shall make a complete information return under such regulations and in such form and manner and to such extent as may be prescribed by the director. However, the person or corporation shall not be required to file an information return if the information is available to the department from the internal revenue service.

2. Every partnership including limited partnerships organized under chapter 488, having a place of business

in the state, shall make a return, stating specifically the net income and capital gains (or losses) reported on the federal partnership return, the names and addresses of the partners, and their respective shares in said amounts.

3. Every fiduciary shall make a return for the individual, estate, or trust for whom or for which the fiduciary acts, and shall set forth in such return the taxable income, the names and addresses of the beneficiaries, and the amounts distributed or distributable to each as reported on the federal fiduciary income tax return. Such return may be made by one or two or more joint fiduciaries.

4. Notwithstanding subsections 1, 2, and 3, or any other provision of this chapter, withholding of income tax and any reporting requirement shall not be imposed upon a person, corporation, or withholding agent or any payor of deferred compensation, pensions, or annuities with regard to such payments made to a nonresident of the state.

[C35, § 6943-f15; C39, § **6943.047**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.15; 82 Acts, ch 1103, § 1110]

92 Acts, ch 1224, § 3, 4; 92 Acts, 2nd Ex, ch 1001, § 237, 250; 2004 Acts, ch 1021, §110, 117, 118

#### **422.16 Withholding of income tax at source penalties interest declaration of estimated tax bond.**

1. Every withholding agent and every employer as defined in this chapter and further defined in the Internal Revenue Code, 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 and as allowed for the child and dependent care credit provided in section 422.12C. The claiming of exemptions or credits in excess of entitlement is a serious misdemeanor.

Nonresidents engaged in any facet of feature film, television, or educational production using the film or videotape disciplines in the state are not subject to Iowa withholding if the employer has applied to the department for exemption from the withholding requirement and the department has determined that any nonresident receiving wages would be entitled to a credit against Iowa income taxes paid.

For the purposes of this subsection, state income tax shall be withheld from pensions, annuities, other similar periodic payments, and other income payments of those persons whose primary residence is in Iowa in those circumstances in which those persons have federal income tax withheld from pensions, annuities, other similar periodic payments, and other income payments under sections 3402(o), 3402(p), 3402(s), 3405(a), 3405(b), and 3405(c) of the Internal Revenue Code at a rate to be specified by the department.

For the purposes of this subsection, state income tax shall be withheld on winnings in excess of six hundred dollars derived from gambling activities authorized under chapter 99B or 99G. State income tax shall be withheld on winnings in excess of one thousand dollars from gambling activities authorized under chapter 99D. State income tax shall be withheld on winnings in excess of twelve hundred dollars derived from slot machines authorized under chapter 99F.

For the purposes of this subsection, state income tax at the rate of six percent shall be withheld from supplemental wages of employees in those circumstances in which the employer treats the supplemental

wages as wholly separate from regular wages for purposes of withholding and federal income tax is withheld from the supplemental wages under section 3402(g) of the Internal Revenue Code.

2. A withholding agent required to deduct and withhold tax under subsections 1 and 12 shall file a return and remit to the department the amount of tax on or before the last day of the month following the close of the quarterly period on forms prescribed by the director. However, a withholding agent who withholds more than five hundred dollars in any one month and not more than five thousand dollars in a semimonthly period shall deposit with the department the amount withheld, with a monthly deposit form as prescribed by the director. The monthly deposit form is due on or before the fifteenth day of the month following the month of withholding, except that a deposit is not required for the third month of the calendar quarter. The total quarterly amount, less the amounts deposited for the first two months of the quarter, is due with the quarterly return due on or before the last day of the month following the close of the quarterly period on forms prescribed by the director. However, a withholding agent who withholds more than five thousand dollars in a semimonthly period shall deposit with the department the amount withheld, with a semimonthly deposit form as prescribed by the director. The first semimonthly deposit form for the period from the first of the month through the fifteenth of the month is due on the twenty-fifth day of the month in which the withholding occurs. The second semimonthly deposit form for the period from the sixteenth of the month through the end of the month is due on the tenth day of the month following the month in which the withholding occurs. A withholding agent must also file a quarterly return which reconciles the amount of tax withheld for the quarter with the amount of semimonthly deposits. The quarterly return is due on or before the last day of the month following the close of the quarterly period on forms prescribed by the director.

Every withholding agent on or before the end of the second month following the close of the calendar year in which the withholding occurs shall make an annual reporting of taxes withheld and other information prescribed by the director and send to the department copies of wage and tax statements with the return. At the discretion of the director, the withholding agent shall not be required to send wage statements and tax statements with the annual reporting return form if the information is available from the internal revenue service or other state or federal agencies.

If the director has reason to believe that the collection of the tax provided for in subsections 1 and 12 is in jeopardy, the director may require the employer or withholding agent to make the report and pay the tax at any time, in accordance with section 422.30. The director may authorize incorporated banks, trust companies, or other depositories authorized by law which are depositories or financial agents of the United States or of this state, to receive any tax imposed under this chapter, in the manner, at the times, and under the conditions the director prescribes. The director shall also prescribe the manner, times, and conditions under which the receipt of the tax by those depositories is to be treated as payment of the tax to the department.

The director, in cooperation with the department of management, may periodically change the filing and remittance thresholds by administrative rule if in the best interest of the state and the taxpayer.

3. Every withholding agent employing not more than two persons who expects to employ either or both of such persons for the full calendar year may, with respect to such persons, pay with the withholding tax return due for the first calendar quarter of the year the full amount of income taxes required to be withheld from the wages of such persons for the full calendar year. The amount to be paid shall be computed as if the employee were employed for the full calendar year for the same wages and with the same pay periods as prevailed during the first quarter of the year with respect to such employee. No such lump sum payment of withheld income tax shall be made without the written consent of all employees involved. The withholding agent shall be entitled to recover from the employee any part of such lump sum payment that represents an advance to the employee. If a withholding agent pays a lump sum with the first quarterly return the withholding agent shall be excused from filing further quarterly returns for the calendar year involved unless the withholding agent hires other or additional employees.

4. Every withholding agent who fails to withhold or pay to the department any sums required by this chapter

to be withheld and paid, shall be personally, individually, and corporately liable therefor to the state of Iowa, and any sum or sums withheld in accordance with the provisions of subsections 1 and 12, shall be deemed to be held in trust for the state of Iowa. Notwithstanding sections 490A.601 and 490A.602, this subsection applies to a member or manager of a limited liability company.

5. In the event a withholding agent fails to withhold and pay over to the department any amount required to be withheld under subsections 1 and 12 of this section, such amount may be assessed against such employer or withholding agent in the same manner as prescribed for the assessment of income tax under the provisions of divisions II and VI of this chapter.

6. Whenever the director determines that any employer or withholding agent has failed to withhold or pay over to the department sums required to be withheld under subsections 1 and 12 of this section the unpaid amount thereof shall be a lien as defined in section 422.26, shall attach to the property of said employer or withholding agent as therein provided, and in all other respects the procedure with respect to such lien shall apply as set forth in said section 422.26.

7. Every withholding agent required to deduct and withhold a tax under subsections 1 and 12 of this section shall furnish to such employee, nonresident, or other person in respect of the remuneration paid by such employer or withholding agent to such employee, nonresident, or other person during the calendar year, on or before January 31 of the succeeding year, or, in the case of employees, if the employee's employment is terminated before the close of such calendar year, within thirty days from the day on which the last payment of wages is made, if requested by such employee, but not later than January 31 of the following year, a written statement showing the following:

- a. The name and address of such employer or withholding agent, and the identification number of such employer or withholding agent.
- b. The name of the employee, nonresident, or other person and that person's federal social security account number, together with the last known address of such employee, nonresident, or other person to whom wages have been paid during such period.
- c. The gross amount of wages, or other taxable income, paid to the employee, nonresident, or other person.
- d. The total amount deducted and withheld as tax under the provisions of subsections 1 and 12 of this section.
- e. The total amount of federal income tax withheld.

The statements required to be furnished by this subsection in respect of any wages or other taxable Iowa income shall be in such form or forms as the director may, by regulation, prescribe.

8. An employer or withholding agent shall be liable for the payment of the tax required to be deducted and withheld or the amount actually deducted, whichever is greater, under subsections 1 and 12 of this section; and any amount deducted and withheld as tax under subsections 1 and 12 of this section during any calendar year upon the wages of any employee, nonresident, or other person shall be allowed as a credit to the employee, nonresident, or other person against the tax imposed by section 422.5, irrespective of whether or not such tax has been, or will be, paid over by the employer or withholding agent to the department as provided by this chapter.

9. The amount of any overpayment of the individual income tax liability of the employee taxpayer, nonresident, or other person which may result from the withholding and payment of withheld tax by the employer or withholding agent to the department under subsections 1 and 12, as compared to the individual income tax liability of the employee taxpayer, nonresident, or other person properly and correctly determined under the provisions of section 422.4, to and including section 422.25, may be credited against any income

tax or installment thereof then due the state of Iowa and any balance of one dollar or more shall be refunded to the employee taxpayer, nonresident or other person with interest at the rate in effect under section 421.7 for each month or fraction of a month, the interest to begin to accrue on the first day of the second calendar month following the date the return was due to be filed or was filed, whichever is the later date. Amounts less than one dollar shall be refunded to the taxpayer, nonresident, or other person only upon written application, in accordance with section 422.73, and only if the application is filed within twelve months after the due date of the return. Refunds in the amount of one dollar or more provided for by this subsection shall be paid by the treasurer of state by warrants drawn by the director of the department of administrative services, or an authorized employee of the department, and the taxpayer's return of income shall constitute a claim for refund for this purpose, except in respect to amounts of less than one dollar. There is appropriated, out of any funds in the state treasury not otherwise appropriated, a sum sufficient to carry out the provisions of this subsection.

10. *a.* An employer or withholding agent required under this chapter to furnish a statement required by this chapter who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish the statement is, for each failure, subject to a civil penalty of five hundred dollars, the penalty to be in addition to any criminal penalty otherwise provided by the Code.

*b.* In addition to the tax or additional tax, any person or withholding agent shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the semimonthly, monthly, or quarterly deposit form was required to be filed. The penalty and interest become a part of the tax due from the withholding agent.

*c.* If any withholding agent, being a domestic or foreign corporation, required under the provisions of this section to withhold on wages or other taxable Iowa income subject to this chapter, fails to withhold the amounts required to be withheld, make the required returns or remit to the department the amounts withheld, the director may, having exhausted all other means of enforcement of the provisions of this chapter, certify such fact or facts to the secretary of state, who shall thereupon cancel the articles of incorporation or certificate of authority (as the case may be) of such corporation, and the rights of such corporation to carry on business in the state of Iowa shall thereupon cease. The secretary of state shall immediately notify by registered mail such domestic or foreign corporation of the action taken by the secretary of state. The provisions of section 422.40, subsection 3, shall be applicable.

*d.* The department shall upon request of any fiduciary furnish said fiduciary with a certificate of acquittance showing that no liability as a withholding agent exists with respect to the estate or trust for which said fiduciary acts, provided the department has determined that there is no such liability.

11. *a.* A 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 two hundred dollars or more for the taxable year, except that, in the cases of farmers and fishermen, the exceptions provided in the Internal Revenue Code 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 the last day of the sixth month of the tax year, the last day of the ninth month of the tax year, and the last day of the first month after the tax year. However, at the election of the person or married couple, 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, the person or married couple shall increase or decrease any subsequent estimated tax payments accordingly.

*b.* In the case of persons or married couples filing jointly, the total balance of the tax payable after credits for

taxes paid through withholding, as provided in subsection 1 of this section, or through payment of estimated tax, or a combination of withholding and estimated tax payments is due and payable on or before April 30 following the close of the calendar year, or if the return is to be made on the basis of a fiscal year, then on or before the last day of the fourth month following the close of the fiscal year.

*c.* If a taxpayer is unable to make the taxpayer's estimated tax payments, the payments may be made by a duly authorized agent, or by the guardian or other person charged with the care of the person or property of the taxpayer.

*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 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. Underpayment of estimated tax shall be determined in the same manner as provided under the Internal Revenue Code and the exceptions in the Internal Revenue Code also apply.

*e.* In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return for the taxable year credited to the taxpayer's tax liability for the following taxable year.

12. In the case of nonresidents having income subject to taxation by Iowa, but not subject to withholding of such tax under subsection 1 hereof, withholding agents shall withhold from such income at the same rate as provided in subsection 1 hereof, and such withholding agents and such nonresidents shall be subject to the provisions of this section, according to the context, except that such withholding agents may be absolved of such requirement to withhold taxes from such nonresident's income upon receipt of a certificate from the department issued in accordance with the provisions of section 422.17, as hereby amended. In the case of nonresidents having income from a trade or business carried on by them in whole or in part within the state of Iowa, such nonresident shall be considered to be subject to the provisions of this subsection unless such trade or business is of such nature that the business entity itself, as a withholding agent, is required to and does withhold Iowa income tax from the distributions made to such nonresident from such trade or business.

Notwithstanding this subsection, withholding agents are not required to withhold state income tax from payments subject to taxation made to nonresidents for commodity credit certificates, grain, livestock, domestic fowl, or other agricultural commodities or products sold to the withholding agents by the nonresidents or their representatives, if the withholding agents provide on forms prescribed by the department information relating to the sales required by the department to determine the state income tax liabilities of the nonresidents. However, the withholding agents may elect to make estimated tax payments on behalf of the nonresidents on the basis of the net incomes of the nonresidents from the agricultural commodities or products, if the estimated tax payments are made on or before the last day of the first month after the end of the tax years of the nonresidents.

13. The director shall enter into an agreement with the secretary of the treasury of the United States with respect to withholding of income tax as provided by this chapter, pursuant to an Act of Congress, section 1207 of the Tax Reform Act of 1976, Pub. L. No. 94-455, amending 5 U.S.C. § 5517.

14. The director may, when necessary and advisable in order to secure the collection of the tax required to be deducted and withheld or the amount actually deducted, whichever is greater, require an employer or withholding agent to file with the director a bond, issued by a surety company authorized to conduct business

in this state and approved by the insurance commissioner as to solvency and responsibility, in an amount as the director may fix, to secure the payment of the tax and penalty due or which may become due. In lieu of the bond, securities shall be kept in the custody of the department and may be sold by the director at public or private sale, without notice to the depositor, if it becomes necessary to do so in order to recover any tax and penalty due. Upon a sale, any surplus above the amounts due under this section shall be returned to the employer or withholding agent who deposited the securities.

If the withholding agent fails to file the bond as requested by the director to secure collection of the tax, the withholding agent is subject to penalty for failure to file the bond. The penalty is equal to fifteen percent of the tax the withholding agent is required to withhold on an annual basis. However, the penalty shall not exceed five thousand dollars.

[C39, § **6943.048**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.16; 81 Acts, ch 131, § 46, ch 133, § 1, 4; 82 Acts, ch 1022, § 1, 2, 8, ch 1023, § 29, ch 1180, § 2, 8]

83 Acts, ch 160, § 3, 4; 83 Acts, ch 179, § 11; 84 Acts, ch 1173, § 4; 86 Acts, ch 1007, § 2325; 86 Acts, ch 1208, § 1; 86 Acts, ch 1241, § 16; 87 Acts, ch 115, § 55; 87 Acts, ch 214, § 4; 87 Acts, 1st Ex, ch 1, § 26; 88 Acts, ch 1028, §25, 26; 88 Acts, ch 1157, §1; 89 Acts, ch 6, § 4, 5; 89 Acts, ch 251, § 17, 18; 90 Acts, ch 1172, § 8; 90 Acts, ch 1248, § 11

[Unnumbered paragraph 2 of subsection 1 was inadvertently deleted in the 1991 Code and 1991 Code Supplement]

91 Acts, ch 215, § 4, 8; 92 Acts, 2nd Ex, ch 1001, § 238; 94 Acts, ch 1165, §1315, 45, 47, 48; 99 Acts, ch 151, §6, 89; 2002 Acts, ch 1151, §6; 2003 Acts, ch 145, §286; 2003 Acts, ch 178, §111, 121; 2003 Acts, ch 179, §142; 2004 Acts, ch 1101, §46; 2005 Acts, ch 140, §40, 73; 2006 Acts, ch 1010, §101

2005 amendment to subsection 2, unnumbered paragraph 1, takes effect June 3, 2005, and applies to calendar quarters ending on or after that date for income taxes withheld for tax years beginning on or after January 1, 2005; 2005 Acts, ch 140, §73

#### **422.16A Job training withholding certification and transfer.**

Upon the completion by a business of its repayment obligation for a training project funded under chapter 260E, including a job training project funded under section 15A.8 or repaid in whole or in part by the supplemental new jobs credit from withholding under section 15A.7 or section 15E.197, the sponsoring community college shall report to the department of economic development the amount of withholding paid by the business to the community college during the final twelve months of withholding payments. The department of economic development shall notify the department of revenue of that amount. The department shall credit to the workforce development fund account established in section 15.342A twenty-five percent of that amount each quarter for a period of ten years. If the amount of withholding from the business or employer is insufficient, the department shall prorate the quarterly amount credited to the workforce development fund account. The maximum amount from all employers which shall be transferred to the workforce development fund account in any year is four million dollars.

95 Acts, ch 184, §9; 96 Acts, ch 1180, § 17; 97 Acts, ch 98, §1, 3; 98 Acts, ch 1225, §26; 2000 Acts, ch 1196, §9, 10; 2000 Acts, ch 1230, §23, 35; 2001 Acts, ch 188, §26; 2003 Acts, ch 145, §286; 2005 Acts, ch 150, §61, 69

2005 amendments to this section apply to tax years ending on or after July 1, 2005; 2005 Acts, ch 150, §69

#### **422.17 Certificate issued by department to make payments without withholding.**

Any nonresident whose Iowa income is not subject to section 422.16, subsection 1, in whole or in part, and who elects to be governed by subsection 12 of that section to the extent that the nonresident pays the entire amount of tax properly estimated on or before the last day of the fourth month of the nonresident's tax year, for the year, may for the year of the election and payment, be granted a certificate from the department authorizing each withholding agent, the income from whom the nonresident has considered in the payment of estimated tax and to the extent the income is included in the estimate, to make payments of income to the nonresident without withholding tax from those payments. Withholding agents, if payments exceed the tax liability estimated by the nonresident as indicated upon the certificate, shall withhold tax in accordance with subsection 12 of section 422.16.

[C39, § 6943.049; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.17]

86 Acts, ch 1241, § 17

**422.18** Repealed by 61 Acts, ch 228, § 2.

**422.19 Scope of nonresidents tax.**

The tax herein imposed upon certain income of nonresidents shall apply to all such income actually received by such nonresident regardless of when such income was earned. If the nonresident is reporting on the accrual basis it shall apply to all such income which first became available to the nonresident so that the nonresident might demand payment thereof regardless of when such income was earned. The duty to withhold herein imposed upon withholding agents shall apply only to amounts paid after June 30, 1937.

[C39, § 6943.051; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.19]

**422.20 Information confidential penalty.**

1. It shall be unlawful for any present or former officer or employee of the state to divulge or to make known in any manner whatever not provided by law to any person the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any person committing an offense against the foregoing provision shall be guilty of a serious misdemeanor. If the offender is an officer or employee of the state, such person shall also be dismissed from office or discharged from employment. Nothing herein shall prohibit turning over to duly authorized officers of the United States or tax officials of other states state information and income returns pursuant to agreement between the director and the secretary of the treasury of the United States or the secretary's delegate or pursuant to a reciprocal agreement with another state.

2. It is unlawful for 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. It is unlawful for a person to whom any federal tax return or return information, as defined in section 6103(b) of the Internal Revenue Code, 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. A person violating this provision is guilty of a serious misdemeanor.

3. Unless otherwise expressly permitted by section 8A.504, section 421.17, subsections 22, 23, and 26, sections 252B.9, 421.19, 421.28, 422.72, and 452A.63, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

This prohibition precludes persons or entities other than the taxpayer, the department, or the internal revenue service from obtaining such information from the department, and a subpoena, order, or process which requires the department to produce such information to a person or entity, other than the taxpayer, the department, or internal revenue service for use in a nontax proceeding is void.

4. The director may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the director, after reasonable effort and lapse of time, has been unable to locate the persons.

[C62, 66, 71, 73, 75, 77, 79, 81, § 422.20]

87 Acts, ch 199, § 6; 88 Acts, ch 1028, § 27; 91 Acts, ch 159, § 16; 97 Acts, ch 158, §12; 2003 Acts, ch 145, §256

#### **422.21 Form and time of return.**

Returns shall be in the form the director prescribes, and shall be filed with the department on or before the last day of the fourth month after the expiration of the tax year. However, co-operative associations as defined in section 6072(d) of the Internal Revenue Code shall file their returns on or before the fifteenth day of the ninth month following the close of the taxable year and nonprofit corporations subject to the unrelated business income tax imposed by section 422.33, subsection 1A, shall file their returns on or before the fifteenth day of the fifth month following the close of the taxable year. If, under the Internal Revenue Code, a corporation is required to file a return covering a tax period of less than twelve months, the state return shall be for the same period and is due forty-five days after the due date of the federal tax return, excluding any extension of time to file. In case of sickness, absence, or other disability, or if good cause exists, the director may allow further time for filing returns. The director shall cause to be prepared blank forms for the returns and shall cause them to be distributed throughout the state and to be furnished upon application, but failure to receive or secure the form does not relieve the taxpayer from the obligation of making a return that is required. The department may as far as consistent with the Code draft income tax forms to conform to the income tax forms of the internal revenue department of the United States government. Each return by a taxpayer upon whom a tax is imposed by section 422.5 shall show the county of the residence of the taxpayer.

An individual in the armed forces of the United States serving in an area designated by the president of the United States or the United States Congress as a combat zone or as a qualified hazardous duty area, or deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the United States secretary of defense as a contingency operation as defined in 10 U.S.C. § 101(a)(13), or which became such a contingency operation by the operation of law, or an individual serving in support of those forces, is allowed the same additional time period after leaving the combat zone or the qualified hazardous duty area, or ceasing to participate in such contingency operation, or after a period of continuous hospitalization, to file a state income tax return or perform other acts related to the department, as would constitute timely filing of the return or timely performance of other acts described in section 7508(a) of the Internal Revenue Code. For the purposes of this paragraph, "*other acts related to the department*" includes filing claims for refund for any tax administered by the department, making tax payments other than withholding payments, filing appeals on the tax matters, filing other tax returns, and performing other acts described in the department's rules. The additional time period allowed applies to the spouse of the individual described in this paragraph to the extent the spouse files jointly or separately on the combined return form with the individual or when the spouse is a party with the individual to any matter for which the additional time period is allowed.

The department shall make available to persons required to make personal income tax returns under the provisions of this chapter, and when such income is derived mainly from salaries and wages or from the operation of a business or profession, a form which shall take into consideration the normal deductions and

credits allowable to any such taxpayer, and which will permit the computation of the tax payable without requiring the listing of specific deductions and credits. In arriving at schedules for payment of taxation under such forms the department shall as nearly as possible base such schedules upon a total of deductions and credits which will result in substantially the same payment as would have been made by such taxpayer were the taxpayer to specifically list the taxpayer's allowable deductions and credits. In lieu of such return any taxpayer may elect to list permissible deductions and credits as provided by law. It is the intent and purpose of this provision to simplify the procedure of collection of personal income tax, and the director shall have the power in any case when deemed necessary or advisable to require any taxpayer, who has made a return in accordance with the schedule herein provided for, to make an additional return in which all deductions and credits are specifically listed. The department may revise the schedules adopted in connection with such simplified form whenever such revision is necessitated by changes in federal income tax laws, or to maintain the collection of substantially the same amounts from taxpayers as would be received were the specific listing of deductions and credits required.

The department shall provide space on the prescribed income tax form, wherein the taxpayer shall enter the name of the school district of the taxpayer's residence. Such place shall be indicated by prominent type. A nonresident taxpayer shall so indicate. If such information is not supplied on the tax return it shall be deemed an incompleting return.

The director shall determine for the 1989 and each subsequent calendar year the annual and cumulative inflation factors for each calendar 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 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 11. The director shall determine for the 1990 calendar year and each subsequent calendar year the annual and cumulative standard deduction factors to be applied to tax years beginning on or after January 1 of that calendar year. The director shall compute the new dollar amounts of the standard deductions specified in section 422.9, subsection 1, by the latest cumulative standard deduction factor and round off the result to the nearest ten dollars. The annual and cumulative standard deduction factors determined by the director are not rules as defined in section 17A.2, subsection 11.

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 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 or state child and dependent care credit. The statement shall also contain notice of where the taxpayer may check on the taxpayer's eligibility for these credits.

If married taxpayers file a joint return or file separately on a combined return in accordance with rules prescribed by the director, both spouses are jointly and severally liable for the total tax due on the return, except when one spouse is considered to be an innocent spouse under criteria established pursuant to section 6015 of the Internal Revenue Code.

[C35, § 6943-f17; C39, § **6943.053**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.21]

85 Acts, ch 230, §6; 87 Acts, ch 115, § 56; 87 Acts, 2nd Ex, ch 1, §11; 88 Acts, ch 1028, §28; 89 Acts, ch 268, § 7, 8; 90 Acts, ch 1248, § 13; 91 Acts, ch 159, §17; 91 Acts, ch 196, §3; 94 Acts, ch 1165, §16, 48; 2000 Acts, ch 1146, §9, 11; 2002 Acts, ch 1069, §8, 11, 14; 2003 Acts, ch 142, §8, 11

2003 amendment to unnumbered paragraph 2 takes effect May 21, 2003, and applies to any period for performing an act that has not expired before May 21, 2003; 2003 Acts, ch 142, §11

#### **422.22 Supplementary returns.**

If the director shall be of the opinion that any taxpayer required under this division to file a return has failed to file such a return or to include in a return filed, either intentionally or through error, items of taxable income, the director may require from such taxpayer a return or supplementary return in such form as the director shall prescribe, of all the items of income which the taxpayer received during the year for which the return is made, whether or not taxable under the provisions of this division. If from a supplementary return, or otherwise, the director finds that any items of income, taxable under this division, have been omitted from the original return, the director may require the items so omitted to be added to the original return. Such supplementary return and the correction of the original return shall not relieve the taxpayer from any of the penalties to which the taxpayer may be liable under any provisions of this division, whether or not the director required a return or a supplementary return under this section.

[C35, § 6943-f18; C39, § **6943.054**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.22]

#### **422.23 Return by administrator.**

The return by an individual, who, while living, was subject to income tax in the state during the tax year, and who has died before making the return, shall be made in the individual's name and behalf by the administrator or executor of the estate and the tax shall be levied upon and collected from the individual's estate. In the making of said return, the executor or administrator shall use the same method of computation, either cash or accrual, as was last used by the deceased taxpayer.

[C35, § 6943-f19; C39, § **6943.055**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.23]

86 Acts, ch 1241, § 18; 99 Acts, ch 151, §7, 89

#### **422.24 Payment interest.**

1. For all taxpayers the total tax due shall be paid in full at the time of filing the return.
2. When, at the request of the taxpayer, the time for filing the return is extended, interest at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, on the total tax due, from the time when the return was required to be filed to the time of payment, shall be added and paid.

[C35, § 6943-f20; C39, § **6943.056**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.24; 81 Acts, ch 131, § 7]

#### **422.24A Start-up business tax deferment.**

1. For purposes of this section, "*start-up business*" does not include any of the following:
  - a. An existing business locating in this state from another state or from another location in this state.
  - b. A newly created business which is the result of the merger of two or more businesses.
  - c. A newly created subsidiary or new business of a corporation.
  - d. A previously existing business which has been dissolved and reincorporated.
  - e. An existing business operating under a different name and located in a different location.
  - f. A newly created partnership owned by two or more of the same partners as an existing business and engaging in similar business activity as the existing business.

- g. A business entity that reorganizes or experiences a change in either the legal or trade name of the business.
- h. A joint venture.
2. In order to qualify for a deferment of taxable income and the tax to be imposed on it pursuant to this section, a taxpayer must meet all of the following criteria:
- a. The taxpayer is a business that is a wholly new start-up business beginning operations during the first tax year for which the deferment of taxable income is claimed.
- b. The business has its commercial domicile, as defined in section 422.32, in the state.
- c. The operations of the business are at least twenty-five percent funded by venture capital moneys. For purposes of this section, "*venture capital moneys*" means an equity investment from an individual or a private seed and venture capital fund whose only business is investing in seed and venture capital opportunities. "*Venture capital moneys*" does not mean a loan or other nonequity financing from a person, financial institution, or other entity.
- d. The taxpayer does not have any delinquent taxes or other debt outstanding and owed to the state.
3. A taxpayer meeting the criteria provided in subsection 2 may submit a request to the department for the deferment of taxable income for the first three tax years that the taxpayer's business is in operation. If a deferment is approved by the department pursuant to subsection 4, the taxpayer shall pay taxes on the deferred taxable income in five equal annual installments during the five tax years following the three years of taxable income deferment. Section 422.26 shall apply if the taxpayer refuses or neglects to pay the taxes owed on the deferred taxable income in the manner provided in this section. A taxpayer receiving a deferment shall file a return for each tax year in which a deferment is approved. If the taxpayer has a net loss during a tax year during the three-year period in which taxable income is deferred, the loss may be applied to any deferred taxable income during that period.
4. Upon a determination that the criteria provided in subsection 2 have been met, the department shall approve a request for deferment of taxable income.
5. For purposes of assessing penalty and interest, the tax on any deferred taxable income is not due and payable until the tax years in which the annual installments as provided in subsection 3 are due and payable.
6. The department shall adopt rules pursuant to chapter 17A necessary for the administration of this section.

2002 Acts, ch 1123, §1, 2

#### **422.25 Computation of tax, interest, and penalties limitation.**

1. a. 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 the return and determine the tax. However, if the taxpayer omits from income an amount which will, under the Internal Revenue Code, 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-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.

*b.* The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return. In lieu of the period of limitation for any prior year for which an overpayment of tax or an elimination or reduction of an underpayment of tax due for that prior year results from the carryback to that prior year of a net operating loss or net capital loss, the period is the period of limitation for the taxable year of the net operating loss or net capital loss which results in the carryback. If the tax found due is greater than the amount paid, the department shall compute the amount due, together with interest and penalties as provided in subsection 2, and shall mail a notice of assessment to the taxpayer and, if applicable, to the taxpayer's authorized representative of the total, which shall be computed as a sum certain if paid on or before the last day of the month in which the notice is dated, or on or before the last day of the following month if the notice is dated after the twentieth day of any month. The notice shall also inform the taxpayer of the additional interest and penalty which will be added to the total due if not paid on or before the last day of the applicable month.

2. In addition to the tax or additional tax determined by the department under subsection 1, the taxpayer shall pay interest on the tax or additional tax at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. In addition to the tax or additional tax, the taxpayer shall pay a penalty as provided in section 421.27.

3. If the amount of the tax as determined by the department is less than the amount paid, the excess shall be refunded with interest, the interest to begin to accrue on the first day of the second calendar month following the date of payment or the date the return was due to be filed, or the extended due date by which the return was due to be filed if ninety percent of the tax was paid by the original due date, or was filed, whichever is the latest, at the rate in effect under section 421.7 counting each fraction of a month as an entire month under the rules prescribed by the director. If an overpayment of tax results from a net operating loss or net capital loss which is carried back to a prior year, the overpayment, for purposes of computing interest on refunds, shall be considered as having been made on the date a claim for refund or amended return carrying back the net operating loss or net capital loss is filed with the department or on the first day of the second calendar month following the date of the actual payment of the tax, whichever is later. However, when the net operating loss or net capital loss carryback to a prior year eliminates or reduces an underpayment of tax due for an earlier year, the full amount of the underpayment of tax shall bear interest at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month from the due date of the tax for the earlier year to the last day of the taxable year in which the net operating loss or net capital loss occurred.

4. All payments received must be credited first, to the penalty and interest accrued, and then to the tax due. For purposes of this subsection, the department shall not reapply prior payments made by the taxpayer to penalty or interest determined to be due after the date of those prior payments, except that the taxpayer and the department may agree to apply payments in accordance with rules adopted by the director when there are both agreed and unagreed to items as a result of an examination.

5. A person or withholding agent required to supply information, to pay tax, or to make, sign, or file a deposit form or return required by this division, who willfully makes a false or fraudulent deposit form or return, or willfully fails to pay the tax, supply the information, or make, sign, or file the deposit form or return, at the time or times required by law, is guilty of a fraudulent practice.

6. The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied, as required under the provisions of this division shall be prima facie evidence thereof except as otherwise provided in this section.

7. The periods of limitation provided by this section may be extended by the taxpayer by signing a waiver agreement to be provided by the department. The agreement shall stipulate the period of extension and the year or years to which the extension applies. It shall provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

8. A person or withholding agent who willfully attempts in any manner to defeat or evade a tax imposed by this division or the payment of the tax, upon conviction for each offense is guilty of a class "D" felony.

9. A prosecution for any offense defined in this section must be commenced within six years after the commission thereof, and not after.

10. If a taxpayer files an amended return within sixty days prior to the expiration of the applicable period of limitations described in subsection 1, the department has sixty days from the date of receipt of the amended return to issue an assessment for any applicable tax, interest, or penalty.

[C35, § 6943-f21; C39, § **6943.057**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.25; 81 Acts, ch 131, § 8, ch 133, § 2, 4, ch 134, § 1, 2; 82 Acts, ch 1180, § 3, 8]

83 Acts, ch 160, § 5; 84 Acts, ch 1025, § 1; 84 Acts, ch 1173, § 5; 86 Acts, ch 1007, § 26; 86 Acts, ch 1241, § 19; 88 Acts, ch 1028, §29; 89 Acts, ch 251, § 19; 90 Acts, ch 1172, § 9; 94 Acts, ch 1133, §3, 4, 16; 95 Acts, ch 83, §3, 34; 99 Acts, ch 151, §8, 9, 89; 99 Acts, ch 152, §3, 40; 2002 Acts, ch 1150, §5

#### **422.26 Lien of tax collection action authorized.**

1. Whenever any taxpayer liable to pay a tax and penalty imposed refuses or neglects to pay the same, the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to said taxpayer.

2. The lien shall attach at the time the tax becomes due and payable and shall continue for ten years from the date an assessment is issued unless sooner released or otherwise discharged. The lien may, within ten years from the date 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. 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.

3. In order to preserve the aforesaid lien against subsequent mortgagees, purchasers or judgment creditors, for value and without notice of the lien, on any property situated in a county, the director shall file with the recorder of the county, in which said property is located, a notice of said lien.

4. The county recorder of each county shall keep in the recorder's office an index and record to show the following data, under the names of taxpayers, arranged alphabetically:

*a.* The name of the taxpayer.

*b.* The name "State of Iowa" as claimant.

*c.* Time notice of lien was received.

*d.* Date of notice.

*e.* Amount of lien then due.

*f.* Date of assessment.

g. When satisfied.

The recorder shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall index the notice in the index and shall record the lien in the manner provided for recording real estate mortgages, and the lien shall be effective from the time of the indexing of the lien.

5. The department shall pay a recording fee as provided in section 331.604, for the recording of the lien, or for its satisfaction.

6. Upon the payment of a tax as to which the director has filed notice with a county recorder, the director shall forthwith file with said recorder a satisfaction of said tax and the recorder shall enter said satisfaction on the notice on file in the recorder's office and indicate said fact on the index aforesaid.

7. The department shall, substantially as provided in this chapter and chapter 626, proceed to collect all taxes and penalties as soon as practicable after they become delinquent, except that no property of the taxpayer is exempt from payment of the tax. If service has not been made on a distress warrant by the officer to whom addressed within five days from the date the distress warrant was received by the officer, the authorized revenue agents of the department may serve and make return of the warrant to the clerk of the district court of the county named in the distress warrant, and all subsequent procedure shall be in compliance with chapter 626.

The distress warrant shall be in a form as prescribed by the director. It shall be directed to the sheriff of the appropriate county and it shall identify the taxpayer, the tax type, and the delinquent amount. It shall direct the sheriff to distrain, seize, garnish, or levy upon, and sell, as provided by law, any real or personal property belonging to the taxpayer to satisfy the amount of the delinquency plus costs. It shall also direct the sheriff to make due and prompt return to the department or to the district court under chapters 626 and 642 of all amounts collected.

8. The attorney general shall, upon the request of the director, bring an action at law or in equity, as the facts may justify, without bond, to enforce payment of any taxes and penalties, and in such action the attorney general shall have the assistance of the county attorney of the county in which the action is pending.

9. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the director or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

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

[C35, § 6943-f22; C39, § **6943.058**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, § 422.26; 81 Acts, ch 117, § 1220]

90 Acts, ch 1232, § 810; 91 Acts, ch 191, § 18, 124; 91 Acts, ch 267, § 522; 92 Acts, ch 1016, § 12; 97 Acts, ch 23, §45; 2001 Acts, ch 44, §18; 2006 Acts, ch 1177, §30

## Footnotes

Garnishment proceedings for collection of tax, §626.29626.31

### **422.27 Final report of fiduciary conditions.**

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 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.

2. For the purpose of facilitating the settlement and distribution of estates held by fiduciaries, the director may, on behalf of the state, agree upon the amount of taxes at any time due or to become due from such fiduciaries under the provisions of this division, and payment in accordance with such agreement shall be full satisfaction of the taxes to which the agreement relates.

[C35, § 6943-f23; C39, § **6943.059**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.27]

85 Acts, ch 148, § 1; 86 Acts, ch 1054, § 1; 86 Acts, ch 1238, § 19; 86 Acts, ch 1241, § 20; 90 Acts, ch 1232, § 11; 2003 Acts, ch 145, §286

### **Footnotes**

Fiduciaries' reports, § 636.33

Similar provision, § 450.58

### **422.28 Revision of tax.**

A taxpayer may appeal to the director for revision of the tax, interest, or penalties assessed at any time within sixty days from the date of the notice of the assessment of tax, additional tax, interest, or penalties. The director shall grant a hearing and if, upon the hearing, the director determines that the tax, interest, or penalties are excessive or incorrect, the director shall revise them according to the law and the facts and adjust the computation of the tax, interest, or penalties accordingly. The director shall notify the taxpayer by mail of the result of the hearing and shall refund to the taxpayer the amount, if any, paid in excess of the tax, interest, or penalties found by the director to be due, with interest after sixty days from the date of payment by the taxpayer at the rate in effect under section 421.7 for each month or a fraction of a month.

[C35, § 6943-f24; C39, § **6943.060**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.28; 81 Acts, ch 131, § 9]

86 Acts, ch 1007, § 27; 86 Acts, ch 1241, § 21; 94 Acts, ch 1133, §5, 16

### **Footnotes**

See state board of tax review, § 421.1

### **422.29 Judicial review.**

1. Judicial review of actions of the director may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of said Act, petitions for judicial review may be filed in the district court of the county in which the petitioner resides, or in which the petitioner's principal place of business is located, or in the case of a nonresident not maintaining a place of business in this state either in any county in which the income involved was earned or derived or in Polk county, within sixty days after the petitioner shall have received notice of a determination by the director as provided for in section 422.28.

2. For cause and upon a showing by the director that collection of the tax in dispute is in doubt, the court may

order the petitioner to file with the clerk a bond for the use of the respondent, with sureties approved by the clerk, in the amount of tax appealed from, conditioned that the petitioner shall perform the orders of the court.

3. An appeal may be taken by the taxpayer or the director to the supreme court of this state irrespective of the amount involved.

[C35, § 6943-f25; C39, § **6943.061**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.29]

94 Acts, ch 1133, §6, 16; 2003 Acts, ch 44, §114

#### **422.30 Jeopardy assessments.**

If the director believes that the assessment or collection of taxes will be jeopardized by delay, the director may immediately make an assessment of the estimated amount of tax due, together with all interest, additional amounts, or penalties, as provided by law. The director shall serve the taxpayer by regular mail at the taxpayer's last known address or in person, with a written notice of the amount of tax, interest, and penalty due, which notice may include a demand for immediate payment. Service of the notice by regular mail is complete upon mailing. A distress warrant may be issued or a lien filed against the taxpayer immediately.

The director shall be permitted to accept a bond from the taxpayer to satisfy collection until the amount of tax legally due shall be determined. Such bond to be in an amount deemed necessary, but not more than double the amount of the tax involved, and with securities satisfactory to the director.

[C35, § 6943-f26; C39, § **6943.062**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.30]

94 Acts, ch 1165, §17

#### **422.31 Statute applicable to personal tax.**

All the provisions of section 422.36, subsection 3, shall be applicable to persons taxable under this division.

[C35, § 6943-f27; C39, § **6943.063**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.31]

#### **422.32 Definitions.**

For the purpose of this division and unless otherwise required by the context:

1. The term "*affiliated group*" means a group of corporations as defined in section 1504(a) of the Internal Revenue Code.

2. "*Business income*" means income arising from transactions and activity in the regular course of the taxpayer's trade or business; or income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations; or gain or loss resulting from the sale, exchange, or other disposition of real property or of tangible or intangible personal property, if the property while owned by the taxpayer was operationally related to the taxpayer's trade or business carried on in Iowa or operationally related to sources within Iowa, or the property was operationally related to sources outside this state and to the taxpayer's trade or business carried on in Iowa; or gain or loss resulting from the sale, exchange, or other disposition of stock in another corporation if the activities of the other corporation were operationally related to the taxpayer's trade or business carried on in Iowa while the stock was owned by the taxpayer. A taxpayer may have more than one regular trade or business in determining whether income is business income.

It is the intent of the general assembly to treat as apportionable business income all income that may be treated as apportionable business income under the Constitution of the United States.

The filing of an Iowa income tax return on a combined report basis is neither allowed nor required by this subsection.

3. "*Commercial domicile*" means the principal place from which the trade of business of the taxpayer is directed or managed.

4. "*Corporation*" includes joint stock companies, and associations organized for pecuniary profit, and partnerships and limited liability companies taxed as corporations under the Internal Revenue Code.

5. The words "*domestic corporation*" mean any corporation organized under the laws of this state.

6. The words "*foreign corporation*" mean any corporation other than a domestic corporation.

7. "*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, 2006.

8. "*Nonbusiness income*" means all income other than business income.

9. "*State*" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

10. "*Taxable in another state*". For purposes of allocation and apportionment of income under this division, a taxpayer is taxable in another state if:

a. In that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

b. That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

11. The term "*unitary business*" means a business carried on partly within and partly without a state where the portion of the business carried on within the state depends on or contributes to the business outside the state.

The words, terms, and phrases defined in division II, section 422.4, subsections 4 to 6, 8, 9, 13, and 15 to 17, when used in this division, shall have the meanings ascribed to them in said section except where the context clearly indicates a different meaning.

[C35, § 6943-f28; C39, § **6943.064**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.32; 81 Acts, ch 132, § 7, 9; 82 Acts, ch 1023, § 11, 30, ch 1103, § 1111, ch 1203, § 1]

83 Acts, ch 179, § 12, 13, 21, 23; 84 Acts, ch 1305, § 33, 34; 87 Acts, 1st Ex, ch 1, § 5; 88 Acts, ch 1028, § 3032, 55; 92 Acts, ch 1151, § 7; 94 Acts, ch 1165, §18; 95 Acts, ch 141, §13; 97 Acts, ch 158, §13, 49; 99 Acts, ch 152, §4, 40; 2003 Acts, ch 139, §8, 11, 12; 2004 Acts, 1st Ex, ch 1001, §39, 41, 42; 2005 Acts, ch 24, §7, 10, 11; 2006 Acts, ch 1140, §6, 10, 11

## Footnotes

Internal Revenue Code definition is updated regularly; for

applicable definition in a prior tax year, refer to Iowa Acts and Code for that year

2006 amendment to subsection 7 takes effect May 30, 2006, and applies retroactively to January 1, 2005, for tax years beginning on or after that date; 2006 Acts, ch 1140, §10, 11

#### **422.33 Corporate tax imposed credit.**

1. A tax is imposed annually upon each corporation doing business in this state, or deriving income from sources within this state, in an amount computed by applying the following rates of taxation to the net income received by the corporation during the income year:

- a. On the first twenty-five thousand dollars of taxable income, or any part thereof, the rate of six percent.
- b. On taxable income between twenty-five thousand dollars and one hundred thousand dollars or any part thereof, the rate of eight percent.
- c. On taxable income between one hundred thousand dollars and two hundred fifty thousand dollars or any part thereof, the rate of ten percent.
- d. On taxable income of two hundred fifty thousand dollars or more, the rate of twelve percent.

*"Income from sources within this state"* means income from real, tangible, or intangible property located or having a situs in this state.

1A. There is imposed upon each corporation exempt from the general business tax on corporations by section 422.34, subsection 2, 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.

2. If the trade or business of the corporation is carried on entirely within the state, the tax shall be imposed on the entire net income, but if the trade or business is carried on partly within and partly without the state or if income is derived from sources partly within and partly without the state, or if income is derived from trade or business and sources, all of which are not entirely in the state, the tax shall be imposed only on the portion of the net income reasonably attributable to the trade or business or sources within the state, with the net income attributable to the state to be determined as follows:

a. Nonbusiness interest, dividends, rents and royalties, less related expenses, shall be allocated within and without the state in the following manner:

(1) Nonbusiness interest, dividends, and royalties from patents and copyrights shall be allocable to this state if the taxpayer's commercial domicile is in this state.

(2) Nonbusiness rents and royalties received from real property located in this state are allocable to this state.

(3) Nonbusiness rents and royalties received from tangible personal property are allocable to this state to the extent that the property is utilized in this state; or in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property is utilized. The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of

the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown, or unascertainable by the taxpayer tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payor obtained possession.

(4) Nonbusiness capital gains and losses from the sale or other disposition of assets shall be allocated as follows:

Gains and losses from the sale or other disposition of real property located in this state are allocable to this state.

Gains and losses from the sale or other disposition of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale or disposition or if the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

Gains and losses from the sale or disposition of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

*b.* Net nonbusiness income of the above class having been separately allocated and deducted as above provided, the remaining net business income of the taxpayer shall be allocated and apportioned as follows:

(1) Business interest, dividends, rents, and royalties shall be reasonably apportioned within and without the state under rules adopted by the director.

(2) Capital gains and losses from the sale or other disposition of assets shall be apportioned to the state based upon the business activity ratio applicable to the year the gain or loss is determined if the corporation determines Iowa taxable income by a sales, gross receipts or other business activity ratio. If the corporation has only allocable income, capital gains and losses from the sale or other disposition of assets shall be allocated in accordance with paragraph "a", subparagraph (4).

(3) Where income is derived from business other than the manufacture or sale of tangible personal property, the income shall be specifically allocated or equitably apportioned within and without the state under rules of the director.

(4) Where income is derived from the manufacture or sale of tangible personal property, the part attributable to business within the state shall be in that proportion which the gross sales made within the state bear to the total gross sales.

(5) Where income consists of more than one class of income as provided in subparagraphs (1) to (4) of this paragraph, it shall be reasonably apportioned by the business activity ratio provided in rules adopted by the director.

(6) The gross sales of the corporation within the state shall be taken to be the gross sales from goods delivered or shipped to a purchaser within the state regardless of the F.O.B. point or other conditions of the sale, excluding deliveries for transportation out of the state.

For the purpose of this section, the word "*sale*" shall include exchange, and the word "*manufacture*" shall include the extraction and recovery of natural resources and all processes of fabricating and curing. The words "*tangible personal property*" shall be taken to mean corporeal personal property, such as machinery, tools, implements, goods, wares, and merchandise, and shall not be taken to mean money deposits in banks, shares of stock, bonds, notes, credits, or evidence of an interest in property and evidences of debt.

3. If any taxpayer believes that the method of allocation and apportionment hereinbefore prescribed, as

administered by the director and applied to the taxpayer's business, has operated or will so operate as to subject the taxpayer to taxation on a greater portion of the taxpayer's net income than is reasonably attributable to business or sources within the state, the taxpayer shall be entitled to file with the director a statement of the taxpayer's objections and of such alternative method of allocation and apportionment as the taxpayer believes to be proper under the circumstances with such detail and proof and within such time as the director may reasonably prescribe; and if the director shall conclude that the method of allocation and apportionment theretofore employed is in fact inapplicable and inequitable, the director shall redetermine the taxable income by such other method of allocation and apportionment as seems best calculated to assign to the state for taxation the portion of the income reasonably attributable to business and sources within the state, not exceeding, however, the amount which would be arrived at by application of the statutory rules for apportionment.

4. In addition to all taxes imposed under this division, there is imposed upon each corporation doing business within the state the greater of the tax determined in subsection 1, paragraphs "a" through "d" or the state alternative minimum tax equal to sixty percent of the maximum state corporate income tax rate, rounded to the nearest one-tenth of one percent, of the state alternative minimum taxable income of the taxpayer computed under this subsection.

The state alternative minimum taxable income of a taxpayer is equal to the taxpayer's state taxable income as computed with the adjustments in section 422.35 and with the following adjustments:

*a.* Add items of tax preference included in federal alternative minimum taxable income under section 57, except subsections (a)(1) and (a)(5), of the Internal Revenue Code, make the adjustments included in federal alternative minimum taxable income under section 56, except subsections (a)(4) and (d), of the Internal Revenue Code, and add losses as required by section 58 of the Internal Revenue Code. In making the adjustment under section 56(c)(1) of the Internal Revenue Code, interest and dividends from federal securities and interest and dividends from state and other political subdivisions and from regulated investment companies exempt from federal income tax under the Internal Revenue Code, net of amortization of any discount or premium, shall be subtracted.

*b.* Apply the allocation and apportionment provisions of subsection 2.

*c.* Subtract an exemption amount of forty thousand dollars. This exemption amount shall be reduced, but not below zero, by an amount equal to twenty-five percent of the amount by which the alternative minimum taxable income of the taxpayer, computed without regard to the exemption amount in this paragraph, exceeds one hundred fifty thousand dollars.

*d.* In the case of a net operating loss computed for a tax year beginning after December 31, 1986, which is carried back or carried forward to the current taxable year, the net operating loss shall be reduced by the amount of items of tax preference and adjustments arising in the tax year which is taken into account in computing the net operating loss in section 422.35, subsection 11. The deduction for a net operating loss for a tax year beginning after December 31, 1986, which is carried back or carried forward to the current taxable year shall not exceed ninety percent of the alternative minimum taxable income determined without regard for the net operating loss deduction.

5. *a.* The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state equal to the sum of the following:

(1) Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

(2) Six and one-half percent of the basic research payments determined under section 41(e)(1)(A) of the

Internal Revenue Code during the tax year based upon 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 the total qualified research expenditures.

*b.* In lieu of the credit amount computed in paragraph "a", subparagraph (1), a corporation may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative incremental credit described in section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used for the taxpayer's federal income tax. The election made under this paragraph is for the tax year and the taxpayer may use another or the same method for any subsequent year.

*c.* For purposes of the alternate credit computation method in paragraph "b", the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of section 41(c)(4)(A) of the Internal Revenue Code are one and sixty-five hundredths percent, two and twenty hundredths percent, and two and seventy-five hundredths percent, respectively.

*d.* For purposes of this subsection, "*base amount*", "*basic research payment*", and "*qualified research expense*" mean the same as defined for the federal credit for increasing research activities under section 41 of the Internal Revenue Code, except that for the alternative incremental credit such amounts are for research conducted within this state.

For purposes of this subsection, "*Internal Revenue Code*" means the Internal Revenue Code in effect on January 1, 2006.

*e.* Any credit in excess of the tax liability for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on its final, completed return credited to the tax liability for the following taxable year.

*f.* A corporation which is a primary business or a supporting business in a quality jobs enterprise zone may claim the research activities credit authorized pursuant to section 15A.9, subsection 8, in lieu of the credit computed in paragraph "a" or "b".

*g.* A corporation which is an eligible business may claim an additional research activities credit authorized pursuant to section 15.335.

6. The taxes imposed under this division shall be reduced by a new jobs tax credit. An industry which has entered into an agreement under chapter 260E and which has increased its base employment level by at least ten percent within the time set in the agreement or, in the case of an industry without a base employment level, adds new jobs within the time set in the agreement is entitled to this new jobs tax credit for the tax year selected by the industry. In determining if the industry has increased its base employment level by ten percent or added new jobs, only those new jobs directly resulting from the project covered by the agreement and those directly related to those new jobs shall be counted. The amount of this credit is equal to the product of six percent of the taxable wages upon which an employer is required to contribute to the state unemployment compensation fund, as defined in section 96.19, subsection 37, times the number of new jobs existing in the tax year that directly result from the project covered by the agreement or new jobs that directly result from those new jobs. The tax year chosen by the industry shall either begin or end during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten tax years or until depleted in less than the ten years. For purposes of this section, "*agreement*",

*"industry"*, *"new job"* and *"project"* mean the same as defined in section 260E.2 and *"base employment level"* means the number of full-time jobs an industry employs at the plant site which is covered by an agreement under chapter 260E on the date of that agreement.

7. *a.* There is allowed as a credit against the tax determined in subsection 1 for a tax year an amount equal to the minimum tax credit for that tax year.

The minimum tax credit for a tax year is the excess, if any, of the net minimum tax imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this subsection for those prior tax years.

*b.* The allowable credit under paragraph *"a"* for a tax year shall not exceed the excess, if any, of the tax determined in subsection 1 over the state alternative minimum tax as determined in subsection 4.

The net minimum tax for a tax year is the excess, if any, of the tax determined in subsection 4 for the tax year over the tax determined in subsection 1 for the tax year.

8. The taxes imposed under this division shall be reduced by a franchise tax credit. A taxpayer who is a shareholder in a financial institution, as defined in section 581 of the Internal Revenue Code, which has in effect for the tax year an election under subchapter S of the Internal Revenue Code shall compute the amount of the tax credit by recomputing the amount of tax under this division by reducing the taxable income of the taxpayer by the taxpayer's pro rata share of the items of income and expense of the financial institution. This recomputed tax shall be subtracted from the tax computed under this division and the resulting amount, which shall not exceed the taxpayer's pro rata share of franchise tax paid by the financial institution, is the amount of the franchise tax credit allowed.

9. *a.* The taxes imposed under this division shall be reduced by an assistive device tax credit. A small business purchasing, renting, or modifying an assistive device or making workplace modifications for an individual with a disability who is employed or will be employed by the small business is eligible, subject to availability of credits, to receive this assistive device tax credit which is equal to fifty percent of the first five thousand dollars paid during the tax year for the purchase, rental, or modification of the assistive device or for making the workplace modifications. Any credit in excess of the tax liability shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year. If the small business elects to take the assistive device tax credit, the small business shall not deduct for Iowa tax purposes any amount of the cost of an assistive device or workplace modifications which is deductible for federal income tax purposes.

*b.* To receive the assistive device tax credit, the eligible small business must submit an application to the department of economic development. If the taxpayer meets the criteria for eligibility, the department of economic development shall issue to the taxpayer a certification of entitlement for the assistive device tax credit. However, the combined amount of tax credits that may be approved for a fiscal year under this subsection and section 422.11E shall not exceed five hundred thousand dollars. Tax credit certificates shall be issued on an earliest filed basis. The certification shall contain the taxpayer's name, address, tax identification number, the amount of the credit, and tax year for which the certificate applies. The taxpayer must file the tax credit certificate with the taxpayer's corporate income tax return in order to claim the tax credit. The departments of economic development and revenue shall each adopt rules to jointly administer this subsection and shall provide by rule for the method to be used to determine for which fiscal year the tax credits are approved.

*c.* For purposes of this subsection:

(1) *"Assistive device"* means any item, piece of equipment, or product system which is used to increase,

maintain, or improve the functional capabilities of an individual with a disability in the workplace or on the job. "Assistive device" does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. "Assistive device" does not include any device for which a certificate of title is issued by the state department of transportation, but does include any item, piece of equipment, or product system otherwise meeting the definition of "assistive device" that is incorporated, attached, or included as a modification in or to such a device issued a certificate of title.

(2) "Disability" means the same as defined in section 15.102, except that it does not include alcoholism.

(3) "Small business" means a business that either had gross receipts for its preceding tax year of three million dollars or less or employed not more than fourteen full-time employees during its preceding tax year.

(4) "Workplace modifications" means physical alterations to the work environment.

10. a. The taxes imposed under this division shall be reduced by a historic preservation and cultural and entertainment district tax credit equal to the amount as computed under chapter 404A for rehabilitating eligible property. Any credit in excess of the tax liability shall be refunded as provided in section 404A.4, subsection 3.

b. For purposes of this subsection, "eligible property" means the same as used in section 404A.1.

11. a. As used in this subsection, unless the context otherwise requires:

(1) "E-85 gasoline", "ethanol blended gasoline", "gasoline", "motor fuel pump", "retail dealer", "retail motor fuel site", and "sell" mean the same as defined in section 422.11C.

(2) "Tax credit" means the designated ethanol blended gasoline tax credit as provided in this subsection.

b. The taxes imposed under this division shall be reduced by an ethanol blended gasoline tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection. In order to be eligible, all of the following must apply:

(1) The taxpayer is a retail dealer.

(2) The taxpayer operates at least one retail motor fuel site at which more than sixty percent of the total gallons of gasoline sold and dispensed through one or more motor fuel pumps by the taxpayer is ethanol blended gasoline.

(3) The taxpayer complies with requirements of the department required to administer this subsection.

c. (1) The tax credit shall be calculated separately for each retail motor fuel site operated by the taxpayer.

(2) The amount of the tax credit for each eligible retail motor fuel site is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all motor fuel pumps located at that retail motor fuel site during the tax year in excess of sixty percent of all gasoline sold and dispensed through motor fuel pumps at that retail motor fuel site during the tax year.

d. Any credit in excess of the taxpayer's tax liability shall be refunded. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

e. This subsection is repealed on January 1, 2009.

11A. The taxes imposed under this division shall be reduced by an ethanol promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection.

*a.* The taxpayer shall claim the tax credit in the same manner as provided in section 422.11N. The taxpayer may claim the tax credit according to the same requirements, for the same amount, and calculated in the same manner, as provided for the ethanol promotion tax credit pursuant to section 422.11N.

*b.* Any ethanol promotion tax credit which is in excess of the taxpayer's tax liability shall be refunded or may be shown on the taxpayer's final, completed return credited to the tax liability for the following tax year in the same manner as provided in section 422.11N.

*c.* This subsection is repealed on January 1, 2021.

11B. The taxes imposed under this division shall be reduced by an E-85 gasoline promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection.

*a.* The taxpayer shall claim the tax credit in the same manner as provided in section 422.11O. The taxpayer may claim the tax credit according to the same requirements, for the same amount, and calculated in the same manner, as provided for the E-85 gasoline promotion tax credit pursuant to section 422.11O.

*b.* Any E-85 gasoline promotion tax credit which is in excess of the taxpayer's tax liability shall be refunded or may be shown on the taxpayer's final, completed return credited to the tax liability for the following tax year in the same manner as provided in section 422.11O.

*c.* This subsection is repealed on January 1, 2021.

11C. The taxes imposed under this division shall be reduced by a biodiesel blended fuel tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection.

*a.* The taxpayer may claim the biodiesel blended fuel tax credit according to the same requirements, for the same amount, and calculated in the same manner, as provided for the biodiesel blended fuel tax credit pursuant to section 422.11P.

*b.* Any biodiesel blended fuel tax credit which is in excess of the taxpayer's tax liability shall be refunded or may be shown on the taxpayer's final, completed return credited to the tax liability for the following tax year in the same manner as provided in section 422.11P.

*c.* This subsection is repealed on January 1, 2012.

12. *a.* The taxes imposed under this division shall be reduced by an investment tax credit authorized pursuant to section 15E.43 for an investment in a qualifying business or a community-based seed capital fund.

*b.* The taxes imposed under this division shall be reduced by investment tax credits authorized pursuant to sections 15.333, 15A.9, subsection 4, and section 15E.193B, subsection 6.

13. The taxes imposed under this division shall be reduced by a venture capital fund investment tax credit authorized pursuant to section 15E.51.

14. The taxes imposed under this division shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

15. Reserved.

16. The taxes imposed under this division shall be reduced by tax credits for wind energy production allowed under chapter 476B and for renewable energy allowed under chapter 476C.

17. The taxes imposed under this division shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

18. The taxes imposed under this division shall be reduced by a wage-benefits tax credit authorized pursuant to section 15I.2.

19. *a.* The taxes imposed under this division shall be reduced by a soy-based cutting tool oil tax credit. A manufacturer, as defined in section 428.20, is eligible to receive a soy-based cutting tool oil tax credit which is equal to the costs incurred by the manufacturer during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil. The costs eligible for the credit are limited to those costs meeting all of the following requirements:

(1) The costs were incurred after June 30, 2005, and before January 1, 2007.

(2) The costs were incurred in the first twelve months of the transition to using soy-based cutting tool oil.

(3) The costs of the purchase and replacement do not exceed two dollars per gallon of soy-based cutting tool oil used in the transition. The total number of gallons used in the transition under this subparagraph shall not exceed two thousand gallons.

If the manufacturer elects to take the soy-based cutting tool oil tax credit, the manufacturer shall not deduct for Iowa tax purposes any amount of the costs incurred in the transition to using soy-based cutting tool oil which is deductible for federal tax purposes.

*b.* Any credit in excess of the tax liability shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

*c.* For purposes of this subsection, "*soy-based cutting tool oil*" means cutting tool oil that contains at least fifty-one percent soy-based products.

*d.* This subsection is repealed December 31, 2007.

20. The taxes imposed under this division shall be reduced by a corporate tax credit authorized pursuant to section 15.331C for certain sales taxes paid by a third-party developer.

21. The taxes imposed under this division shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

22. The taxes imposed under this division shall be reduced by an agricultural assets transfer tax credit as allowed under section 175.37.

23. The taxes imposed under this division shall be reduced by a soy-based transformer fluid tax credit allowed under chapter 476D.

This subsection is repealed December 31, 2008.

[C35, § 6943-f29; C39, § **6943.065**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.33; 81 Acts, ch 135, § 13; 82 Acts, ch 1023, § 12, 13, 30, 31, ch 1234, § 1]

83 Acts, ch 179, § 14, 15, 22, 25; 83 Acts, ch 207, § 90, 93; 85 Acts, ch 32, § 81; 85 Acts, ch 230, § 7; 86 Acts, ch 1007, § 28; 86 Acts, ch 1194, § 1; 86 Acts, ch 1236, § 8; 86 Acts, ch 1241, § 22; 87 Acts, ch 22, § 11; 87 Acts, 1st Ex, ch 1, § 6, 7; 88 Acts, ch 1028, §33; 88 Acts, ch 1099, §1; 89 Acts, ch 251, § 2022; 89 Acts, ch 285, § 5; 90 Acts, ch 1171, § 5; 90 Acts, ch 1196, § 2; 91 Acts, ch 215, §5; 92 Acts, ch 1200, § 1, 4; 93 Acts, ch 113, §3; 94 Acts, ch 1165, §19; 94 Acts, ch 1166, §8, 11; 95 Acts, ch 83, §4, 35; 95 Acts, ch 152, §5, 7; 97 Acts, ch 135, §7, 9; 98 Acts, ch 1078, § 7, 10; 99 Acts, ch 95, § 8, 9, 12, 13; 99 Acts, ch 151, § 10, 11, 89; 2000 Acts, ch 1146, §8, 9, 11; 2000 Acts, ch 1194, §1214, 21; 2001 Acts, ch 123, §3, 6; 2001 Acts, ch 127, §810; 2002 Acts, ch 1006, §8, 13; 2002 Acts, ch 1069, §9, 10, 14; 2002 Acts, ch 1156, §3, 8; 2003 Acts, ch 139, §9, 11, 12; 2003 Acts, ch 145, §286; 2003 Acts, 1st Ex, ch 1, §113, 133; 2003 Acts, 1st Ex, ch 2, §85, 89

[2003 Acts, 1st Ex, ch 1, § 113, 133 amendment adding new subsection 15 stricken pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2004 Acts, ch 1073, §18; 2004 Acts, ch 1175, §405, 418; 2005 Acts, ch 24, §8, 10, 11; 2005 Acts, ch 146, §2, 3; 2005 Acts, ch 150, §14, 62, 69; 2005 Acts, ch 160, §2, 14; 2006 Acts, ch 1136, §2; 2006 Acts, ch 1140, §7, 10, 11; 2006 Acts, ch 1142, §4249; 2006 Acts, ch 1158, §2933; 2006 Acts, ch 1159, §26; 2006 Acts, ch 1161, §4, 7; 2006 Acts, ch 1175, §16, 17, 23

## Footnotes

Internal Revenue Code definition is updated regularly; for applicable definition in a prior tax year, refer to Iowa Acts and Code for that year

Subsection 14 is effective June 19, 2003, and applies retroactively to January 1, 2003, for tax years beginning on or after that date; 2003 Acts, 1st Ex, ch 2, §89

For future repeal of subsection 14 effective June 30, 2010, and the strike of that repeal effective July 1, 2007, see 2003 Acts, 1st Ex, ch 2, §93; 2006 Acts, ch 1151, §7, 8

Subsection 18 takes effect June 9, 2005, and applies to qualified new jobs created and to tax years ending on or after July 1, 2005; 2005 Acts, ch 150, §69

Subsection 19 applies to tax years ending after June 30, 2005, and beginning before January 1, 2007; 2005 Acts, ch 146, §3

2006 amendment to subsection 5, paragraph d, takes effect May 30, 2006, and applies retroactively to January 1, 2005, for tax years beginning on or after that date; 2006 Acts, ch 1140, §10, 11

For provisions relating to availability and calculation of an ethanol blended gasoline tax credit under subsection 11 in calendar year 2008 for a retail dealer whose tax year ends prior to December 31, 2008, see 2006 Acts, ch 1142, §49

For provisions relating to availability and calculation of an

ethanol promotion tax credit under subsection 11A in calendar year 2020 for a retail dealer whose tax year ends prior to December 31, 2020, see 2006 Acts, ch 1142, §49; 2006 Acts, ch 1175, §17

Subsection 11B applies retroactively to tax years beginning on or after January 1, 2006; 2006 Acts, ch 1142, §48; for provisions relating to availability and calculation of an E-85 gasoline promotion tax credit in calendar year 2020 for a retail dealer whose tax year ends prior to December 31, 2020, see 2006 Acts, ch 1142, §49

Subsection 11C applies retroactively to tax years beginning on or after January 1, 2006; 2006 Acts, ch 1142, §48; for provisions relating to requirements for claiming a biodiesel blended fuel tax credit in calendar year 2006 for a retail dealer whose tax year ends before December 31, 2006, and for availability and calculation of the tax credit for calendar year 2011 for a retail dealer whose tax year ends prior to December 31, 2011, see 2006 Acts, ch 1142, §49

Subsection 22 takes effect January 1, 2007, and applies to tax years beginning on or after that date; 2006 Acts, ch 1161, §7

#### **422.34 Exempted corporations and organizations.**

The following organizations and corporations shall be exempt from taxation under this division:

1. All state, national, private, co-operative, and savings banks, credit unions, title insurance and trust companies, savings and loan associations, production credit associations, insurance companies or insurance associations, reciprocal or inter-insurance exchanges, and fraternal beneficiary associations.
2. An organization described in section 501 of the Internal Revenue Code unless the exemption is denied under section 501, 502, 503, or 504 of the Internal Revenue Code.

An organization that would have qualified as an organization exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code but for the fact that the requirement that substantially all of the members who are not past or present members of the United States armed forces is not met because such members include ancestors or lineal descendants, shall be considered for purposes of the exemption from taxation under this division as an organization exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code.

[C35, § 6943-f30; C39, § **6943.066**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.34]

92 Acts, 2nd Ex, ch 1001, § 239, 251; 94 Acts, ch 1165, §20; 2003 Acts, ch 142, §9

2003 amendment adding a new unnumbered paragraph 2 to subsection 2 takes effect May 21, 2003, and applies to tax years beginning after May 21, 2003; 2003 Acts, ch 142, §11

#### **422.34A Exempt activities of foreign corporations.**

A foreign corporation shall not be considered doing business in this state or deriving income from sources within this state for the purposes of this division by reason of carrying on in this state one or more of the

following activities:

1. Holding meetings of the board of directors or shareholders or holiday parties or employee appreciation dinners.
2. Maintaining bank accounts.
3. Borrowing money, with or without security.
4. Utilizing Iowa courts for litigation.
5. Owning and controlling a subsidiary corporation which is incorporated in or which is transacting business within this state where the holding or parent company has no physical presence in the state as that presence relates to the ownership or control of the subsidiary.
6. Recruiting personnel where hiring occurs outside the state.
7. Training employees or educating employees, or using facilities in Iowa for this purpose.
8. Utilizing a distribution facility within this state, owning or leasing property at a distribution facility within this state that is used at or distributed from the distribution facility, or selling property shipped or distributed from a distribution facility. For purposes of this subsection, "*distribution facility*" means an establishment where shipments of tangible personal property are processed for delivery to customers. "*Distribution facility*" does not include an establishment where retail sales of tangible personal property or returns of such property are undertaken with respect to retail customers on more than twelve days a year except for a distribution facility which processes customer sales orders by mail, telephone, or electronic means, if the distribution facility also processes shipments of tangible personal property to customers provided that not more than ten percent of the dollar amount of goods are delivered and shipped so as to be included in the gross sales of the corporation within this state as provided in section 422.33, subsection 2, paragraph "b", subparagraph (6).

96 Acts, ch 1123, §1, 2; 97 Acts, ch 46, §1, 2; 2006 Acts, ch 1179, §58, 66

Subsection 8 takes effect May 31, 2006, and applies retroactively to January 1, 2006, for tax years beginning on or after that date; 2006 Acts, ch 1179, §66

#### **422.35 Net income of corporation how computed.**

The term "*net income*" means the taxable income before the net operating loss deduction, as properly computed for federal income tax purposes under the Internal Revenue Code, with the following adjustments:

1. Subtract interest and dividends from federal securities.
2. Add interest and dividends from foreign securities, from securities of state and other political subdivisions, and from regulated investment companies exempt from federal income tax under the Internal Revenue Code.
3. Where the net income includes capital gains or losses, or gains or losses from property other than capital assets, and such gains or losses have been determined by using a basis established prior to January 1, 1934, an adjustment may be made, under rules and regulations prescribed by the director, to reflect the difference resulting from the use of a basis of cost or January 1, 1934, fair market value, less depreciation allowed or allowable, whichever is higher. Provided that the basis shall be fair market value as of January 1, 1955, less depreciation allowed or allowable, in the case of property acquired prior to that date if use of a prior basis is declared to be invalid.

4. Subtract fifty percent of the federal income taxes paid or accrued, as the case may be, during the tax year, adjusted by any federal income tax refunds; and add the Iowa income tax deducted in computing said taxable income.

5. Subtract the amount of the work opportunity tax credit allowable for the tax year under section 51 of the Internal Revenue Code to the extent that the credit increased federal taxable income.

6. If the taxpayer is a small business corporation, subtract an amount equal to sixty-five percent of the wages paid to individuals, but not to exceed twenty thousand dollars per individual, named in paragraphs "a", "b", and "c" who were hired for the first time by the taxpayer during the tax year for work done in this state:

a. An individual with a disability domiciled in this state at the time of the hiring who meets any of the following conditions:

- (1) Has a physical or mental impairment which substantially limits one or more major life activities.
- (2) Has a record of that impairment.
- (3) Is regarded as having that impairment.

b. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

- (1) Has been convicted of a felony in this or any other state or the District of Columbia.
- (2) Is on parole pursuant to chapter 906.
- (3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.
- (4) Is in a work release program pursuant to chapter 904, division IX.

c. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 907A.1, Code 2001, applies, or to whom the interstate compact for adult offender supervision under chapter 907B applies.

This deduction is allowed for the wages paid to the individuals successfully completing a probationary period named in paragraphs "a", "b", and "c" during the twelve months following the date of first employment by the taxpayer and shall be deducted in the tax years when paid.

For purposes of this subsection, "*physical or mental impairment*" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

For purposes of this subsection, "*small business*" means small business as defined in section 16.1, subsection 36, except that it shall also include the operation of a farm.

6A. If the taxpayer is a business corporation and does not qualify for the adjustment under subsection 6, subtract an amount equal to sixty-five percent of the wages paid to individuals, but shall not exceed twenty thousand dollars per individual, named in paragraphs "a" and "b" who were hired for the first time by the taxpayer during the tax year for work done in this state:

a. An individual domiciled in this state at the time of the hiring who meets any of the following conditions:

- (1) Has been convicted of a felony in this or any other state or the District of Columbia.
- (2) Is on parole pursuant to chapter 906.
- (3) Is on probation pursuant to chapter 907, for an offense other than a simple misdemeanor.
- (4) Is in a work release program pursuant to chapter 904, division IX.

*b.* An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under section 907A.1, Code 2001, applies, or to whom the interstate compact for adult offender supervision under chapter 907B applies.

This deduction is allowed for the wages paid to the individuals successfully completing a probationary period named in paragraphs "*a*" and "*b*" during the twelve months following the date of first employment by the taxpayer and shall be deducted in the tax years when paid.

The department shall develop and distribute information concerning the deduction available for businesses employing persons named in paragraphs "*a*" and "*b*".

7. Subtract the amount of the alcohol fuel credit allowable for the tax year under section 40 of the Internal Revenue Code to the extent that the credit increased federal taxable income.
8. Add the amounts deducted and subtract the amounts included in income as a result of the treatment provided sale-leaseback agreements under section 168(f)(8) of the Internal Revenue Code 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 other provisions of the Internal Revenue Code as amended to and including December 31, 1985. Entitlement to depreciation on any property involved 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 as amended to and including December 31, 1985, excluding section 168(f)(8) in making the determination.
9. Reserved.
10. Add the percentage depletion amount determined with respect to an oil, gas, or geothermal well using methods in section 613 of the Internal Revenue Code that is in excess of the cost depletion amount determined under section 611 of the Internal Revenue Code.
11. If after applying all of the adjustments provided for in this section and the allocation and apportionment provisions of section 422.33, the Iowa taxable income results in a net operating loss, such net operating loss shall be deducted as follows:
  - a.* The Iowa net operating loss shall be carried back three taxable years for a net operating loss incurred in a presidentially declared disaster area by a taxpayer engaged in a small business or in the trade or business of farming. For all other Iowa net operating losses, the net operating loss shall be carried back two taxable years or to the taxable year in which the corporation first commenced doing business in this state, whichever is later.
  - b.* The Iowa net operating loss remaining after being carried back as required in paragraph "*a*" or "*f*" or if not required to be carried back shall be carried forward twenty taxable years.
  - c.* If the election under section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward twenty taxable years.

d. No portion of a net operating loss which was sustained from that portion of the trade or business carried on outside the state of Iowa shall be deducted.

e. The limitations on net operating loss carryback and carryforward under sections 172(b)(1)(E) and 172(h) of the Internal Revenue Code shall apply.

f. Notwithstanding paragraph "a", for a taxpayer who is engaged in the trade or business of farming as defined in section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in section 172(b)(1)(F) of the Internal Revenue Code including modifications prescribed by rule by the director, the Iowa loss from the trade or business of farming is a net operating loss which may be carried back five taxable years prior to the taxable year of the loss.

Provided, however, that a corporation affected by the allocation provisions of section 422.33 shall be permitted to deduct only such portion of the deductions for net operating loss and federal income taxes as is fairly and equitably allocable to Iowa, under rules prescribed by the director.

12. 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.

13. Subtract the interest earned from bonds and notes issued by the agricultural development authority as provided in section 175.17, subsection 10.

14. Reserved.

15. Reserved.

16. Add depreciation taken for federal income tax purposes on a speculative shell building defined in section 427.1, subsection 27, which is owned by a for-profit entity and the for-profit entity is receiving the proper tax exemption. Subtract depreciation computed as if the speculative shell building were classified as fifteen-year property during the period during which it is owned by the taxpayer and is receiving the property tax exemption. However, this subsection does not apply to a speculative shell building which is used by the taxpayer, subsidiary of the taxpayer, or majority owners of the taxpayer, for other than as a speculative shell building, as defined in section 427.1, subsection 27.

17. Subtract the amount of the employer social security credit allowable for the tax year under section 45B of the Internal Revenue Code to the extent that the credit increases federal adjusted gross income.

18. Add, to the extent not already included, income from the sale of obligations of the state and its political subdivisions. Income from the sale of these obligations is exempt from the taxes imposed by this division only if the law authorizing these obligations specifically exempts the income from the sale from the state corporate income tax.

19. a. The additional first-year depreciation allowance authorized in section 168(k) of the Internal Revenue Code, as enacted by Pub. L. No. 107-147, section 101, does not apply in computing net income for state tax purposes. If the taxpayer has taken such deduction in computing taxable income, the following adjustments shall be made:

(1) Add the total amount of depreciation taken on all property for which the election under section 168(k) of the Internal Revenue Code was made for the tax year.

(2) Subtract an amount equal to depreciation allowed on such property for the tax year using the modified accelerated cost recovery system depreciation method applicable under section 168 of the Internal Revenue Code without regard to section 168(k).

(3) Any other adjustments to gains or losses to reflect the adjustments made in subparagraphs (1) and (2) pursuant to rules adopted by the director.

*b.* A taxpayer may elect to apply the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code, as enacted by Pub. L. No. 108-27, in computing net income for state tax purposes, for qualified property acquired after May 5, 2003, and before January 1, 2005. If the taxpayer elects to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the deduction may be taken on amended state tax returns, if necessary. If the taxpayer does not elect to take the additional first-year depreciation allowance authorized in section 168(k)(4) of the Internal Revenue Code for state tax purposes, the following adjustment shall be made:

(1) Add the total amount of depreciation taken on all property for which the election under section 168(k)(4) of the Internal Revenue Code was made for the tax year.

(2) Subtract an amount equal to depreciation allowed on such property for the tax year using the modified accelerated cost recovery system depreciation method applicable under section 168 of the Internal Revenue Code without regard to section 168(k)(4).

(3) Any other adjustments to gains or losses to reflect the adjustments made in subparagraphs (1) and (2) pursuant to rules adopted by the director.

20. A taxpayer may elect not to take the increased expensing allowance under section 179 of the Internal Revenue Code, as amended by Pub. L. No. 108-27, section 202, in computing state tax purposes. If the taxpayer does not take the increased expensing allowance under section 179 of the Internal Revenue Code for state tax purposes, the following adjustments shall be made:

*a.* Add the total amount of expense deduction taken on section 179 property for federal tax purposes under section 179 of the Internal Revenue Code.

*b.* Subtract the amount of expense deduction on section 179 property allowable for federal tax purposes under section 179 of the Internal Revenue Code prior to enactment of Pub. L. No. 108-27, section 202.

*c.* Any other adjustments to gains and losses to the adjustments made in paragraphs "a" and "b" pursuant to rules adopted by the director.

21. Subtract the amount of foreign dividend income, including subpart F income as defined in section 952 of the Internal Revenue Code, based upon the percentage of ownership as set forth in section 243 of the Internal Revenue Code.

22. Subtract, to the extent included, the amount of ordinary or capital gain realized by the taxpayer as a result of the involuntary conversion of property due to eminent domain. However, if the total amount of such realized ordinary or capital gain is not recognized because the converted property is replaced with property that is similar to, or related in use to, the converted property, the amount of such realized ordinary or capital gain shall not be subtracted under this subsection until the remaining realized ordinary or capital gain is subject to federal taxation or until the time of disposition of the replacement property as provided under rules of the director. The subtraction allowed under this subsection shall not alter the basis as established for federal tax purposes of any property owned by the taxpayer.

[C35, § 6943-f31; C39, § **6943.067**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.35; 81 Acts, ch 132, § 8, 9; 82 Acts, ch 1023, § 14, 15, 30, 31, ch 1203, § 2, ch 1206, § 1]

83 Acts, ch 174, § 2, 3; 83 Acts, ch 179, § 16, 24; 86 Acts, ch 1236, § 9; 86 Acts, ch 1238, § 20; 86 Acts, ch 1241, § 23; 87 Acts, 1st Ex, ch 1, § 811; 89 Acts, ch 175, § 3; 89 Acts, ch 225, § 20, 21; 90 Acts, ch 1168, §

46; 90 Acts, ch 1171, § 6; 90 Acts, ch 1195, § 2; 90 Acts, ch 1251, § 53; 91 Acts, ch 210, § 3; 92 Acts, ch 1222, § 5, 6; 92 Acts, ch 1225, § 2, 5; 94 Acts, ch 1107, §26; 94 Acts, ch 1166, §9, 10, 12; 95 Acts, ch 152, §6, 7; 96 Acts, ch 1129, § 113; 97 Acts, ch 135, §8, 9; 98 Acts, ch 1078, §8, 12; 98 Acts, ch 1172, §13, 14; 99 Acts, ch 95, § 1013; 2001 Acts, ch 15, §3, 4; 2001 Acts, ch 116, §7, 28; 2001 Acts, 2nd Ex, ch 6, §2326, 37; 2003 Acts, ch 139, §1012; 2004 Acts, ch 1101, §47; 2004 Acts, 1st Ex, ch 1001, §4042; 2005 Acts, ch 2, §3, 4, 6; 2005 Acts, ch 19, §54; 2005 Acts, ch 24, §911; 2005 Acts, ch 140, §41, 73; 2006 Acts, 1st Ex, ch 1001, §42, 49

2001 amendments to subsection 6, paragraph c, and subsection 6A, paragraph b, take effect July 1, 2002; 2001 Acts, 2nd Ex, ch 6, §25, 26, 37; 2003 Acts, ch 44, §109, 116

Subsection 19 takes effect May 21, 2003, and applies retroactively to tax years ending on or after September 10, 2001; 2003 Acts, ch 139, §11, 12

2004 amendment to subsection 19 takes effect September 7, 2004, and applies retroactively to tax years ending after May 5, 2003; 2004 Acts, 1st Ex, ch 1001, § 41, 42

2005 amendment striking subsection 15 applies retroactively to January 1, 2005, for tax years beginning on or after that date; 2005 Acts, ch 140, § 73

2005 amendments to subsection 19, paragraph b, take effect February 24, 2005, and apply retroactively to tax years ending after May 5, 2003; special filing provisions; 2005 Acts, ch 2, § 5, 6

2005 amendment adding NEW subsection 20 takes effect February 24, 2005, and applies retroactively to tax years beginning on or after January 1, 2003; special filing provisions; 2005 Acts, ch 2, § 5, 6

2005 amendment adding NEW subsection 21 takes effect April 13, 2005, and applies retroactively to tax years beginning on or after January 1, 2003; 2005 Acts, ch 24, § 10, 11

Subsection 22 applies retroactively to January 1, 2006, for tax years beginning on or after that date; 2006 Acts, 1st Ex, ch 1001, §49

#### **422.36 Returns.**

1. A corporation shall make a return and the return shall be signed by the president or other duly authorized officer in accordance with forms and rules prescribed by the director. Before a corporation is dissolved and its assets distributed it shall make a return for settlement of the tax for income earned in the income year up to its final date of dissolution.

2. When any corporation, liable to taxation under this division, conducts its business in such a manner as either directly or indirectly to benefit the members or stockholders thereof or any person interested in such business by selling its products or the goods or commodities in which it deals at less than the fair price which might be obtained therefor, or where a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products, goods or commodities of the corporation so owning a substantial portion of its stock in such a manner as to create a loss or improper net income for either of said corporations, or where a corporation, owning directly or indirectly a substantial portion of the stock of another corporation, acquires and disposes of the products, goods, or commodities, of the corporation of which it so owns a substantial portion of the stock, in such a manner as to create a loss or improper net income for either of said corporations, the department may determine the amount of taxable income of either or any of such corporations for the calendar or fiscal year, having due regard to the reasonable profits which, but for such arrangement or understanding, might or could have been obtained, by the corporation or corporations liable to taxation under this division, from dealing in such products, goods, or commodities.

3. Where the director has reason to believe that any person or corporation so conducts a trade or business as either directly or indirectly to distort the person's or corporation's true net income and the net income properly attributable to the state, whether by the arbitrary shifting of income, through price fixing, charges for services, or otherwise, whereby the net income is arbitrarily assigned to one or another unit in a group of taxpayers carrying on business under a substantially common control, the director may require such facts as are necessary for the proper computation of the entire net income and the net income properly attributable to the state, and shall determine the same, and in the determination thereof the director shall have regard to the fair profits which would normally arise from the conduct of the trade or business.

4. Foreign corporations shall file a copy of their federal income tax return for the current tax year with the return required by this section.

5. Where a corporation is not subject to income tax and the stockholders of such corporation are taxed on the corporation's income under the provisions of the Internal Revenue Code, the same tax treatment shall apply to such corporation and such stockholders for Iowa income tax purposes.

6. A foreign corporation is not required to file a return if its only activities in Iowa are the storage of goods for a period of sixty consecutive days or less in a warehouse for hire located in this state whereby the foreign corporation transports or causes a carrier to transport such goods to that warehouse and provided that none of the goods are delivered or shipped so as to be included in the gross sales of the corporation within this state as provided in section 422.33, subsection 2, paragraph "b", subparagraph (6).

[C35, § 6943-f32; C39, § **6943.068**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.36]

87 Acts, 1st Ex, ch 1, §12; 89 Acts, ch 251, §23; 2001 Acts, ch 97, §1, 2

#### **422.37 Consolidated returns.**

Any affiliated group of corporations may, not later than the due date for filing its return for the taxable year, including any extensions thereof, under rules to be prescribed by the director, elect, and upon demand of the director shall be required, to make a consolidated return showing the consolidated net income of all such corporations and other information as the director may require, subject to the following:

1. The affiliated group filing under this section shall file a consolidated return for federal income tax purposes for the same taxable year.
2. All members of the affiliated group shall join in the filing of an Iowa consolidated return to the extent they are subject to the tax imposed by section 422.33.
3. Members of the affiliated group exempt from taxation by section 422.34 of the Code shall not be included in a consolidated return.
4. All members of the affiliated group shall use the statutory method of allocation and apportionment unless the director has granted permission to all members to use an alternative method of allocation and apportionment.
5. Each member of the affiliated group shall consent to the rules governing a consolidated return prescribed by the director at the time the consolidated return is filed, unless the director requires the filing of a consolidated return. The filing of a consolidated return shall be considered the affiliated group's consent.
6. The filing of a consolidated return for any taxable year shall require the filing of consolidated returns for all subsequent taxable years so long as the filing taxpayers remain members of the affiliated group unless the director determines that the filing of separate returns will more clearly disclose the taxable incomes of each

member of the affiliated group. This determination shall be made after specific request by the taxpayer for the filing of separate returns.

7. The computation of consolidated taxable income for the members of an affiliated group of corporations subject to tax shall be made in the same manner and under the same procedures, including all intercompany adjustments and eliminations, as are required for consolidating the incomes of affiliated corporations for the taxable year for federal income tax purposes in accordance with section 1502 of the Internal Revenue Code.

[C35, § 6943-f33; C39, § **6943.069**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.37]

86 Acts, ch 1213, § 10; 87 Acts, 1st Ex, ch 1, § 13; 92 Acts, 2nd Ex, ch 1001, § 240, 252

#### **422.38 Statutes governing corporations.**

All the provisions of sections 422.15 to 422.22 of division II, insofar as the same are applicable, shall apply to corporations taxable under this division.

[C35, § 6943-f34; C39, § **6943.070**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.38]

#### **422.39 Statutes applicable to corporation tax.**

All the provisions of sections 422.24 to 422.27 of division II, respecting payment and collection, shall apply in respect to the tax due and payable by a corporation taxable under this division.

[C35, § 6943-f35; C39, § **6943.071**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.39]

#### **422.40 Cancellation of authority penalty offenses.**

1. If a corporation required by the provisions of this division to file any report or return or to pay any tax or fee, either as a corporation organized under the laws of this state, or as a foreign corporation doing business in this state for profit, or owning and using a part or all of its capital or plant in this state, fails or neglects to make any such report or return or to pay any such tax or fee for ninety days after the time prescribed in this division for making such report or return, or for paying such tax or fee, the director may certify such fact to the secretary of state. The secretary of state shall thereupon cancel the articles of incorporation of any such corporation which is organized under the laws of this state by appropriate entry upon the margin of the record thereof, or cancel the certificate of authority of any such foreign corporation to do business in this state by proper entry. Thereupon all the powers, privileges, and franchises conferred upon such corporation by such articles of incorporation or by such certificate of authority shall cease and determine. The secretary of state shall immediately notify by registered mail such domestic or foreign corporation of the action taken by the secretary of state.

2. Any person or persons who shall exercise or attempt to exercise any powers, privileges, or franchises under articles of incorporation or certificate of authority after the same are canceled, as provided in any section of this division, shall pay a penalty of not less than one hundred dollars nor more than one thousand dollars, to be recovered by an action to be brought by the director.

3. Any corporation whose articles of incorporation or certificate of authority to do business in this state have been canceled by the secretary of state, as provided in subsection 1, or similar provisions of prior revenue laws, upon the filing, within ten years after such cancellation, with the secretary of state, of a certificate from the department that it has complied with all the requirements of this division and paid all state taxes, fees, or penalties due from it, and upon the payment to the secretary of state of an additional penalty of fifty dollars, shall be entitled again to exercise its rights, privileges, and franchises in this state; and the secretary of state shall cancel the entry made by the secretary under the provisions of subsection 1 or similar provisions of

prior revenue laws, and shall issue a certificate entitling such corporation to exercise its rights, privileges and franchises.

4. A person, officer or employee of a corporation, or member or employee of a partnership, who, with intent to evade a requirement of this division or a lawful requirement of the director, fails to pay tax or fails to make, sign, or verify a return or fails to supply information required under this division, is guilty of a fraudulent practice. A person, corporation, officer or employee of a corporation, or member or employee of a partnership, who, with intent to evade any of the requirements of this division, or any lawful requirements of the director, makes, renders, signs, or verifies a false or fraudulent return or statement, or supplies false or fraudulent information, or who aids, abets, directs, causes, or procures anyone so to do, is guilty of a class "D" felony. The penalty is in addition to all other penalties in this division.

[C35, § 6943-f36; C39, § **6943.072**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.40]

83 Acts, ch 160, § 6

#### **422.41 Corporations.**

All the provisions of sections 422.28, 422.29, and 422.30 of division II in respect to revision, appeal, and jeopardy assessments shall be applicable to corporations taxable under this division.

[C35, § 6943-f37; C39, § **6943.073**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 422.41]

**422.42 through 422.47** Repealed by 2003 Acts, 1st Ex, ch 2, § 151, 205. See chapter 423.

2004 amendment adding new paragraph c to subsection 6 of former § 422.42 takes effect April 14, 2004, applies retroactively to January 1, 1997, and is void effective July 1, 2004; September 30, 2004, filing deadline for refunds of taxes, interest, or penalties arising from noninclusion of trade discounts in computing gross receipts on sales occurring between January 1, 1997, and April 14, 2004; proration of refund amounts; 2004 Acts, ch 1073, §19, 52, 53

**422.47A through 422.47C** Repealed by 96 Acts, ch 1034, § 70.

**422.48 through 422.59** Repealed by 2003 Acts, 1st Ex, ch 2, § 151, 205. See chapter 423.

#### **422.60 Imposition of tax credit.**

1. A franchise tax according to and measured by net income is imposed on financial institutions for the privilege of doing business in this state as financial institutions.

2. In addition to all taxes imposed under this division, there is imposed upon each financial institution doing business within the state the greater of the tax determined in section 422.63 or the state alternative minimum tax equal to sixty percent of the maximum state franchise tax rate, rounded to the nearest one-tenth of one percent, of the state alternative minimum taxable income of the taxpayer computed under this subsection.

The state alternative minimum taxable income of a taxpayer is equal to the taxpayer's state taxable income as computed with the adjustments in section 422.61, subsection 3, and with the following adjustments:

*a.* Add items of tax preference included in federal alternative minimum taxable income under section 57, except subsections (a)(1) and (a)(5), of the Internal Revenue Code, make the adjustments included in federal alternative minimum taxable income under section 56, except subsections (a)(4), (c)(1), (d), and (g), of the Internal Revenue Code, and add losses as required by section 58 of the Internal Revenue Code.

b. Make the adjustments provided in section 56(c)(1) of the Internal Revenue Code, except that in making the calculation under section 56(g)(1) of the Internal Revenue Code the state alternative minimum taxable income, computed without regard to the adjustments made by this paragraph, the exemption provided for in paragraph "d", and the state alternative tax net operating loss described in paragraph "e", shall be substituted for the items described in section 56(g)(1)(B) of the Internal Revenue Code.

c. Apply the allocation and apportionment provisions of section 422.63.

d. Subtract an exemption amount of forty thousand dollars. This exemption amount shall be reduced, but not below zero, by an amount equal to twenty-five percent of the amount by which the alternative minimum taxable income of the taxpayer, computed without regard to the exemption amount in this paragraph, exceeds one hundred fifty thousand dollars.

e. In the case of a net operating loss beginning after December 31, 1986, which is carried back or carried forward to the current taxable year, the net operating loss shall be reduced by the amount of items of tax preference and adjustments arising in the tax year which was taken into account in computing the net operating loss in section 422.35, subsection 11. The deduction for a net operating loss for a tax year beginning after December 31, 1986, which is carried back or carried forward to the current taxable year shall not exceed ninety percent of the alternative minimum taxable income determined without regard for the net operating loss deduction.

3. a. There is allowed as a credit against the tax determined in section 422.63 for a tax year an amount equal to the minimum tax credit for that tax year.

The minimum tax credit for a tax year is the excess, if any, of the net minimum tax imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this subsection for those prior tax years.

b. The allowable credit under paragraph "a" for a tax year shall not exceed the excess, if any, of the tax determined in section 422.63 over the state alternative minimum tax as determined in subsection 2.

The net minimum tax for a tax year is the excess, if any, of the tax determined in subsection 2 for the tax year over the tax determined in section 422.63 for the tax year.

4. a. The taxes imposed under this division shall be reduced by a historic preservation and cultural and entertainment district tax credit equal to the amount as computed under chapter 404A for rehabilitating eligible property. Any credit in excess of the tax liability shall be refunded as provided in section 404A.4, subsection 3.

b. For purposes of this subsection, "*eligible property*" means the same as used in section 404A.1.

5. a. The taxes imposed under this division shall be reduced by an investment tax credit authorized pursuant to section 15E.43 for an investment in a qualifying business or a community-based seed capital fund.

b. The taxes imposed under this division shall be reduced by investment tax credits authorized pursuant to sections 15.333 and 15E.193B, subsection 6.

6. The taxes imposed under this division shall be reduced by a venture capital fund investment tax credit authorized pursuant to section 15E.51.

7. The taxes imposed under this division shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

8. The taxes imposed under this division shall be reduced by tax credits for wind energy production allowed under chapter 476B and for renewable energy allowed under chapter 476C.

9. The taxes imposed under this division shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

10. The taxes imposed under this division shall be reduced by a wage-benefits tax credit authorized pursuant to section 15I.2.

11. The taxes imposed under this division shall be reduced by a corporate tax credit authorized pursuant to section 15.331C for certain sales taxes paid by a third-party developer.

12. The taxes imposed under this division shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

[C71, 73, 75, 77, 79, 81, § 422.60; 82 Acts, ch 1023, § 16, 31]

83 Acts, ch 179, § 17, 22; 86 Acts, ch 1241, § 28; 87 Acts, 1st Ex, ch 1, § 14; 89 Acts, ch 285, §6; 2002 Acts, ch 1003, §3, 5; 2002 Acts, ch 1006, §9, 13; 2002 Acts, ch 1156, §4, 8; 2003 Acts, 1st Ex, ch 2, §86, 89; 2004 Acts, ch 1175, §406, 418; 2005 Acts, ch 150, §15, 63, 69; 2005 Acts, ch 160, §3, 14; 2006 Acts, ch 1158, §3438

Subsection 7 is effective June 19, 2003, and applies retroactively to January 1, 2003, for tax years beginning on or after that date; 2003 Acts, 1st Ex, ch 2, §89

For future repeal of subsection 7 effective June 30, 2010, and the strike of that repeal effective July 1, 2007, see 2003 Acts, 1st Ex, ch 2, §93; 2006 Acts, ch 1151, §7, 8

Subsection 10 takes effect June 9, 2005, and applies to qualified new jobs created and to tax years ending on or after July 1, 2005; 2005 Acts, ch 150, §69

#### **422.61 Definitions.**

In this division, unless the context otherwise requires:

1. *"Financial institution"* means a state bank as defined in section 524.103, subsection 38, a state bank chartered under the laws of any other state, a national banking association, a trust company, a federally chartered savings and loan association, an out-of-state state chartered savings bank, a financial institution chartered by the federal home loan bank board, a non-Iowa chartered savings and loan association, an association incorporated or authorized to do business under chapter 534, or a production credit association.

2. *"Investment subsidiary"* means an affiliate that is owned, capitalized, or utilized by a financial institution with one of its purposes being to make, hold, or manage, for and on behalf of the financial institution, investments in securities which the financial institution would be permitted by applicable law to make for its own account.

3. *"Net income"* means the net income of the financial institution computed in accordance with section 422.35, with the following adjustments:

a. Federal income taxes paid or accrued shall not be subtracted.

b. Notwithstanding sections 262.41 and 262.51, or any other provisions of law, income from obligations of the state and its political subdivisions and franchise taxes paid or accrued under this division during the

taxable year shall be added. Income from sales of obligations of the state and its political subdivisions and interest and dividend income from these obligations are exempt from the taxes imposed by this division only if the law authorizing the obligations specifically exempts the income from the sale and interest and dividend income from the state franchise tax.

c. Interest and dividends from federal securities shall not be subtracted.

d. Interest and dividends derived from obligations of United States possessions, agencies, and instrumentalities, including bonds which were purchased after January 1, 1991, and issued by the governments of Puerto Rico, Guam, and the Virgin Islands shall be added, to the extent they were not included in computing federal taxable income.

e. A deduction disallowed under section 265(b) or section 291(e)(1)(B) of the Internal Revenue Code shall be subtracted.

f. A deduction shall not be allowed for that portion of the taxpayer's expenses computed under this paragraph which is allocable to an investment in an investment subsidiary. The portion of the taxpayer's expenses which is allocable to an investment in an investment subsidiary is an amount which bears the same ratio to the taxpayer's expenses as the taxpayer's average adjusted basis, as computed pursuant to section 1016 of the Internal Revenue Code, of investment in that investment subsidiary bears to the average adjusted basis for all assets of the taxpayer. The portion of the taxpayer's expenses that is computed and disallowed under this paragraph shall be added.

g. Where a financial institution as defined in section 581 of the Internal Revenue Code is not subject to income tax and the shareholders of the financial institution are taxed on the financial institution's income under the provisions of the Internal Revenue Code, such tax treatment shall be disregarded and the financial institution shall compute its net income for franchise tax purposes in the same manner under this subsection as a financial institution that is subject to or liable for federal income tax under the Internal Revenue Code in effect for the applicable year.

4. "*Taxable year*" means the calendar year or the fiscal year ending during a calendar year, for which the tax is payable. "*Fiscal year*" includes a tax period of less than twelve months if, under the Internal Revenue Code, a corporation is required to file a tax return covering a tax period of less than twelve months.

5. "*Taxpayer*" means a financial institution subject to any tax imposed by this division.

[C71, 73, 75, 77, 79, 81, § 422.61]

85 Acts, ch 230, §8; 87 Acts, ch 18, § 2; 87 Acts, 1st Ex, ch 1, § 15, 16; 89 Acts, ch 285, § 7; 91 Acts, ch 217, §1; 95 Acts, ch 193, §13; 97 Acts, ch 154, §2, 3; 2001 Acts, ch 116, §10, 28

#### **422.62 Due and delinquent dates.**

The franchise tax is due and payable on the first day following the end of the taxable year of each financial institution, and is delinquent after the last day of the fourth month following the due date or forty-five days after the due date of the federal tax return, excluding extensions of time to file, whichever is the later. Every financial institution shall file a return as prescribed by the director on or before the delinquency date.

[C71, 73, 75, 77, 79, 81, § 422.62]

85 Acts, ch 230, § 9; 86 Acts, ch 1237, § 25

#### **422.63 Amount of tax.**

The franchise tax is imposed annually in an amount equal to five percent of the net income received or accrued during the taxable year. If the net income of the financial institution is derived from its business carried on entirely within the state, the tax shall be imposed on the entire net income, but if the business is carried on partly within and partly without the state, the portion of net income reasonably attributable to the business within the state shall be specifically allocated or equitably apportioned within and without the state under rules of the director.

[C71, 73, 75, 77, 79, 81, § 422.63]

86 Acts, ch 1194, § 2

**422.63A United community bank office franchise tax treatment.** Repealed by 90 Acts, ch 1232, § 24, 30.

**422.64 Tax payable to treasurer.** Repealed by 90 Acts, ch 1232, § 23.

**422.65 Allocation of revenue.** Repealed by 2003 Acts, ch 178, § 11.

**422.66 Department to enforce.**

The department shall administer and enforce the provisions of this division, and all applicable provisions of sections 422.24, 422.25, 422.26, 422.28, 422.29, and 422.30, and division VI of this chapter, apply to financial institutions and to the franchise tax imposed by this division.

[C71, 73, 75, 77, 79, 81, § 422.66]

**422.67 Generally bond approval.**

The director shall administer the taxes imposed by this chapter. The director shall give a bond in an amount to be fixed by the governor, which has been issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility. The reasonable cost of said bond shall be paid by the state, out of the proceeds of the taxes collected under the provisions of this chapter.

[C35, § 6943-f54; C39, § 6943.091; C46, 50, 54, 58, 62, 66, § 422.60; C71, 73, 75, 77, 79, 81, § 422.67]

**422.68 Powers and duties.**

1. The director shall have the power and authority to prescribe all rules not inconsistent with the provisions of this chapter, necessary and advisable for its detailed administration and to effectuate its purposes.
2. The director may, for administrative purposes, divide the state into districts, provided that in no case shall a county be divided in forming a district.
3. The director may destroy useless records and returns, reports, and communications of any taxpayer filed with or kept by the department after those returns, records, reports, or communications have been in the custody of the department for a period of not less than three years or such time as the director prescribes by rule. However, after the accounts of a person have been examined by the director and the amount of tax and penalty due have been finally determined, the director may order the destruction of any records previously filed by that taxpayer, notwithstanding the fact that those records have been in the custody of the department for a period less than three years. These records and documents shall be destroyed in the manner prescribed by the director.
4. The department may make photostat, microfilm, electronic, or other photographic copies of records,

reports, and other papers either filed by the taxpayer or prepared by the department. In addition, the department may create and use any system of recordkeeping reasonably calculated to preserve its records for any time period required by law. When these photostat, electronic, microfilm, or other copies have been made, the department may destroy the original records which are the basis for the copies in any manner prescribed by the director. These photostat, electronic, microfilm, or other types of copies, when no longer of use, may be destroyed as provided in subsection 3. These photostat, microfilm, electronic, or other records shall be admissible in evidence when duly certified and authenticated by the officer having custody and control of them.

[C35, § 6943-f55; C39, § **6943.092**; C46, 50, 54, 58, 62, 66, § 422.61; C71, 73, 75, 77, 79, 81, § 422.68]

85 Acts, ch 230, §10; 99 Acts, ch 151, § 24, 89; 99 Acts, ch 152, §9, 40

#### **422.69 Moneys paid and deposited.**

1. All fees, taxes, interest and penalties imposed under this chapter shall be paid to the department in the form of remittances payable to the state treasurer and the department shall transmit each payment daily to the state treasurer.

2. Unless otherwise provided the fees, taxes, interest and penalties collected under this chapter shall be credited to the general fund.

[C35, § 6943-f56; C39, § **6943.093, 6943.101**; C46, § 422.62, 422.70; C50, 54, 58, 62, 66, § 422.62; C71, 73, 75, 77, 79, 81, § 422.69]

85 Acts, ch 32, § 88; 85 Acts, ch 258, § 13; 88 Acts, ch 1154, § 2; 89 Acts, ch 236, § 15; 91 Acts, ch 260, § 1231; 92 Acts, ch 1227, § 29; 96 Acts, ch 1034, § 37

#### **422.70 General powers hearings.**

1. The director, for the purpose of ascertaining the correctness of a return or for the purpose of making an estimate of the taxable income or receipts of a taxpayer, has power: To examine or cause to be examined by an agent or representative designated by the director, books, papers, records, or memoranda; to require by subpoena the attendance and testimony of witnesses; to issue and sign subpoenas; to administer oaths, to examine witnesses and receive evidence; to compel witnesses to produce for examination books, papers, records, and documents relating to any matter which the director has the authority to investigate or determine.

2. Where the director finds the taxpayer has made a fraudulent return, the costs of any hearing, including a contested case hearing, shall be taxed to the taxpayer. In all other cases the costs shall be paid by the state.

3. The fees and mileage to be paid witnesses and charged as costs shall be the same as prescribed by law in proceedings in the district court of this state in civil cases. All costs shall be charged in the manner provided by law in proceedings in civil cases. If the costs are charged to the taxpayer they shall be added to the taxes assessed against the taxpayer and shall be collected in the same manner. Costs charged to the state shall be certified by the director and the department of administrative services shall issue warrants on the state treasurer for the amount of the costs, to be paid out of the proceeds of the taxes collected under this chapter.

4. In case of disobedience to a subpoena the director may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and production of records, books, papers, and documents, and such court may issue an order requiring the person to appear before the director and give evidence or produce records, books, papers, and documents, as the case may be, and any failure to obey such order of court may be punished by the court as a contempt thereof.

5. Testimony on hearings before the director may be taken by a deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

[C35, § 6943-f57; C39, § **6943.094**; C46, 50, 54, 58, 62, 66, § 422.63; C71, 73, 75, 77, 79, 81, § 422.70]

88 Acts, ch 1134, §79; 88 Acts, ch 1243, §9; 95 Acts, ch 83, §10; 2004 Acts, ch 1101, §48

## **Footnotes**

Contempts, chapter 665

### **422.71 Assistants salaries expenses bonds.**

1. The director may appoint and remove such agents, auditors, clerks, and employees as the director may deem necessary, such persons to have such duties and powers as the director may, from time to time, prescribe.
2. The salaries of all assistants, agents, and employees shall be fixed by the director in a budget to be submitted to the department of management and approved by the legislature.
3. All such agents and employees shall be allowed such reasonable and necessary traveling and other expenses as may be incurred in the performance of their duties.
4. The director may require certain officers, agents, and employees to give bond for the faithful performance of the duties in such sum and with such sureties as the director may determine and the state shall pay, out of the proceeds of the taxes collected under the provisions of this chapter, the premiums on such bonds.
5. The director may utilize the office of treasurer of the various counties in order to administer this chapter and effectuate its purposes, and may appoint the treasurers of the various counties as agents to collect any or all of the taxes imposed by this chapter, provided, however, that no additional compensation shall be paid to said treasurer by reason thereof.

[C35, § 6943-f58; C39, § **6943.095**; C46, 50, 54, 58, 62, 66, § 422.64; C71, 73, 75, 77, 79, 81, § 422.71]

88 Acts, ch 1134, §80

### **422.72 Information deemed confidential informational exchange agreement subpoenas.**

1. 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. It is unlawful for any person to willfully inspect, except as authorized by the director, any return or return information. 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 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.

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 services agency. 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 database which contains similar information from a number of returns. The legislative services agency 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 services agency that the individual income tax information received by the legislative services agency 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.

The director shall provide state tax returns and return information to the auditor of state, to the extent that the information is necessary to complete the annual audit of the department required by section 11.2. The state tax returns and return information provided by the director shall remain confidential and shall not be included in any public documents issued by the auditor of state.

2. Federal tax returns, copies of returns, and return information as defined in section 6103(b) of the Internal Revenue Code, which are required to be filed with the department for the enforcement of the income tax laws of this state, shall be held as confidential by the department and subject to the disclosure limitations in subsection 1.

3. Unless otherwise expressly permitted by section 8A.504, section 421.17, subsections 22, 23, and 26, sections 252B.9, 421.19, 421.28, 422.20, and 452A.63, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

This prohibition precludes persons or entities other than the taxpayer, the department, or the internal revenue service from obtaining such information from the department, and a subpoena, order, or process which requires the department to produce such information to a person or entity, other than the taxpayer, the department, or internal revenue service for use in a nontax proceeding is void.

4. A person violating subsection 1, 2, 3, or 6 is guilty of a serious misdemeanor.

5. The director may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the director, after reasonable effort and lapse of time, has been unable to locate the persons.

6. The department may enter into a written informational exchange agreement for tax administration purposes with a city or county which is entitled to receive funds due to a local hotel and motel tax or a local sales and services tax. The written informational exchange agreement shall designate no more than two paid city or county employees that have access to actual return information relating to that city's or county's receipts from a local hotel and motel tax or a local sales and services tax.

City or county employees designated to have access to information under this subsection are deemed to be

officers and employees of the state for purposes of the restrictions pursuant to subsection 1 pertaining to confidential information. The department may refuse to enter into a written informational exchange agreement if the city or county does not agree to pay the actual cost of providing the information and the department may refuse to abide by a written informational exchange agreement if the city or county does not promptly pay the actual cost of providing the information or take reasonable precautions to protect the information's confidentiality.

7. Notwithstanding subsection 3, the director shall provide state tax returns and return information in response to a subpoena issued by the court pursuant to rule of criminal procedure 2.5 commanding the appearance before the attorney general or an assistant attorney general if the subpoena is accompanied by affidavits from such person and from a sworn peace officer member of the department of public safety affirming that the information is necessary for the investigation of a felony violation of chapter 124 or chapter 706B. The affidavits accompanying the subpoenas and the information provided by the director shall remain a confidential record which may be disseminated only to a prosecutor or peace officer involved in the investigation, or to the taxpayer who filed the information and to the court in connection with the filing of criminal charges or institution of a forfeiture action. A person who knowingly files a false affidavit with the director to secure information or who divulges information received under this subsection in a manner prohibited by this subsection commits a serious misdemeanor.

[C35, § 6943-f59; C39, § **6943.096**; C46, 50, 54, 58, 62, 66, §422.65; C71, 73, 75, 77, 79, 81, § 422.72]

83 Acts, ch 32, § 1, 2; 87 Acts, ch 199, § 9; 88 Acts, ch 1028, §34; 88 Acts, ch 1153, §3, 4; 90 Acts, ch 1232, § 19; 91 Acts, ch 159, §20; 97 Acts, ch 158, §22, 23; 99 Acts, ch 151, §25, 89; 99 Acts, ch 152, §10, 40; 2003 Acts, ch 35, §45, 46, 49; 2003 Acts, ch 145, §257

#### **422.73 Correction of errors refunds, credits, and carrybacks.**

1. If it appears that an amount of tax, penalty, or interest has been paid which was not due under division II, III or V of this chapter, then that amount shall be credited against any tax due on the books of the department by the person who made the excessive payment, or that amount shall be refunded to the person or with the person's approval, credited to tax to become due. A claim for refund or credit that has not been filed with the department within three years after the return upon which a refund or credit claimed became due, or within one year after the payment of the tax upon which a refund or credit is claimed was made, whichever time is the later, shall not be allowed by the director. If, as a result of a carryback of a net operating loss or a net capital loss, the amount of tax in a prior period is reduced and an overpayment results, the claim for refund or credit of the overpayment shall be filed with the department within the three years after the return for the taxable year of the net operating loss or net capital loss became due. Notwithstanding the period of limitation specified, the taxpayer shall have six months from the day of final disposition of any income tax matter between the taxpayer and the internal revenue service with respect to the particular tax year to claim an income tax refund or credit.

The department shall enter into an agreement with the internal revenue service for the transmission of federal income tax reports on individuals required to file an Iowa income tax return who have been involved in an income tax matter with the internal revenue service. After final disposition of the income tax matter between the taxpayer and the internal revenue service, the department shall determine whether the individual is due a state income tax refund as a result of final disposition of such income tax matter. If the individual is due a state income tax refund, the department shall notify the individual within thirty days and request the individual to file a claim for refund or credit with the department.

2. Notwithstanding subsection 1, a claim for credit or refund of the income tax paid is considered timely if the claim is filed with the department on or before June 30, 1999, if the taxpayer's federal income tax was

refunded due to a provision in the federal Taxpayer Relief Act of 1997, Pub. L. No. 105-34, which affected the federal adjusted gross incomes of individuals or estates and trusts, or affected the taxable incomes of corporate taxpayers.

3. Notwithstanding subsection 1, a claim for credit or refund of the income tax paid on the gain realized from the involuntary conversion of property due to a condemnation action is timely filed with the department as provided in this subsection if the taxpayer's claim is the result of the reacquisition by the taxpayer, as the prior owner, of the property condemned pursuant to section 6B.56, subsection 2, or section 6B.56A. The claim under this subsection shall be timely filed only if the claim is made prior to the end of the sixth month following the month in which the reacquisition occurs.

[C35, § 6943-f60; C39, § **6943.097**; C46, 50, 54, 58, 62, 66, §422.66; C71, 73, 75, 77, 79, 81, § 422.73; 81 Acts, ch 138, § 1]

83 Acts, ch 154, § 1, 2; 83 Acts, ch 155, § 1, 2, 3; 84 Acts, ch 1155, § 1; 85 Acts, ch 230, § 11; 86 Acts, ch 1194, § 3; 86 Acts, ch 1237, § 26; 87 Acts, 2nd Ex, ch 1, § 12; 89 Acts, ch 285, §8; 91 Acts, ch 221, §1, 2; 94 Acts, ch 1023, §51; 98 Acts, ch 1078, §9, 13; 99 Acts, ch 156, §4, 23; 2003 Acts, 1st Ex, ch 2, §185, 205; 2006 Acts, 1st Ex, ch 1001, §43, 49

Subsection 3 takes effect July 14, 2006, and applies to reacquisitions of property occurring on or after that date; 2006 Acts, 1st Ex, ch 1001, §49

#### **422.74 Certification of refund.**

If a refund is authorized in any division of this chapter, the director shall certify the amount of the refund and the name of the payee and draw a warrant on the general fund of the state in the amount specified payable to the named payee, and the treasurer of state shall pay the warrant.

[C35, § 6943-f61; C39, § **6943.098**; C46, 50, 54, 58, 62, 66, § 422.67; C71, 73, 75, 77, 79, 81, § 422.74]

91 Acts, ch 97, §47

#### **422.75 Statistics publication.**

The department shall prepare and publish an annual report which shall include statistics reasonably available, with respect to the operation of this chapter, including amounts collected, classification of taxpayers, and such other facts as are deemed pertinent and valuable. The annual report shall also include the reports and information required pursuant to section 421.1, subsection 4, paragraph "e"; section 421.17, subsection 13; section 421.17, subsection 27, paragraph "h"; section 421.60, subsection 2, paragraphs "i" and "l"; and 1997 Iowa Acts, ch. 211, section 22, subsection 5, paragraph "a".

[C35, § 6943-f62; C39, § **6943.099**; C46, 50, 54, 58, 62, 66, § 422.68; C71, 73, 75, 77, 79, 81, § 422.75]

98 Acts, ch 1119, §28; 2006 Acts, ch 1010, §102

**422.76 to 422.84** Reserved.

#### **422.85 Imposition of estimated tax.**

A taxpayer subject to the tax imposed by sections 422.33 and 422.60 shall make payments of estimated tax for the taxable year if the amount of tax payable, less credits, can reasonably be expected to be more than one

thousand dollars for the taxable year. For purposes of this division, "*estimated tax*" means the amount which the taxpayer estimates to be the tax due and payable under division III or V of this chapter for the taxable year.

[C79, 81, § 422.85]

89 Acts, ch 251, §26

#### **422.86 Payment of estimated tax.**

A taxpayer required to pay estimated tax under section 422.85 shall pay the estimated tax in accordance with the following schedule:

1. If it is first determined that the estimated tax will be greater than one thousand dollars on or before the last day of the fourth month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid not later than the last day of the fourth month of the taxable year. The second and third installments shall be paid not later than the last day of the sixth and ninth months of the taxable year, and the final installment shall be paid on or before the last day of the taxable year.
2. If it is first determined that the estimated tax will be greater than one thousand dollars after the last day of the fourth month but not later than the last day of the sixth month of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid not later than the last day of the sixth month of the taxable year. The second installment shall be paid on or before the last day of the ninth month of the taxable year and the third installment shall be paid on or before the last day of the taxable year.
3. If it is first determined that the estimated tax will be greater than one thousand dollars after the last day of the sixth month but not later than the last day of the ninth month of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid not later than the last day of the ninth month and the second installment shall be paid on or before the last day of the taxable year.
4. If it is first determined that the estimated tax will be greater than one thousand dollars after the last day of the ninth month of the taxable year, the estimated tax shall be paid in full on or before the last day of the taxable year.
5. If, after paying any installment of estimated tax, the taxpayer makes a new estimate, the remaining installments shall be ratably adjusted to reflect the increase or decrease in the estimated tax.

[C79, 81, § 422.86]

89 Acts, ch 251, § 27

**422.87 Transitional period.** Repealed by 84 Acts, ch 1067, § 51.

#### **422.88 Failure to pay estimated tax.**

1. If the taxpayer submits an underpayment of the estimated tax, the taxpayer is subject to an underpayment penalty at the rate established under section 421.7 upon the amount of the underpayment for the period of the underpayment.
2. The amount of the underpayment shall be the excess of the amount of the installment which would be required to be paid if the estimated tax was equal to ninety percent of the tax shown on the return of the taxpayer for the taxable year over the amount of installments paid on or before the date prescribed for payment.

3. If the taxpayer did not file a return during the taxable year, the amount of the underpayment shall be equal to ninety percent of the taxpayer's tax liability for the taxable year over the amount of installments paid on or before the date prescribed for payment.

4. The period of the underpayment shall run from the date the installment was required to be paid to the last day of the fourth month following the close of the taxable year or the date on which such portion is paid, whichever date first occurs.

5. A payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subsection 2 or 3 of this section for such installment date.

[C79, 81, § 422.88; 82 Acts, ch 1180, § 4, 9]

95 Acts, ch 83, §11, 36

#### **422.89 Exception to penalty.**

The penalty for underpayment of any installment of estimated tax imposed under section 422.88 shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax amount at least to one of the following:

1. The tax shown on the return of the taxpayer for the preceding taxable year, if a return showing a liability for tax was filed by the taxpayer for the preceding taxable year and such preceding year was a taxable year of twelve months.

2. An amount equal to the tax computed at the rates applicable to the taxable year but otherwise on the basis of the facts shown on the return of the taxpayer for, and the law applicable to, the preceding taxable year.

3. An amount equal to ninety percent of the tax for the taxable year computed by placing on an annualized basis the taxable income:

*a.* For the first three months of the taxable year if an installment is required to be paid in the fourth month;

*b.* For the first three months or for the first five months of the taxable year if an installment is required to be paid in the sixth month;

*c.* For the first six months or for the first eight months of the taxable year if an installment is required to be paid in the ninth month; and

*d.* For the first nine months or for the first eleven months of the taxable year if an installment is required to be paid in the twelfth month of the taxable year.

The taxable income shall be placed on an annualized basis by multiplying the taxable income as determined under this subsection by twelve and dividing the resulting amount by the number of months in the taxable year (three, five, six, eight, nine, or eleven months, as the case may be) referred to in this subsection.

[C79, 81, § 422.89]

95 Acts, ch 83, §12, 36

**422.90 Penalty not subject to waiver.** Repealed by 99 Acts, ch 151, § 85, 89.

#### **422.91 Credit for estimated tax.**

Any amount of estimated tax paid is a credit against the amount of tax due on a final, completed return, and any overpayment of five dollars or more shall be refunded to the taxpayer with interest, the interest to begin to accrue on the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest, at the rate established under section 421.7, and the return constitutes a claim for refund for this purpose. Amounts less than five dollars shall be refunded to the taxpayer only upon written application in accordance with section 422.73, and only if the application is filed within twelve months after the due date for the return.

In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on its final, completed return for the taxable year credited to the tax liability for the following taxable year.

[C79, 81, § 422.91; 81 Acts, ch 133, § 3, 4; 82 Acts, ch 1180, § 5, 9]

89 Acts, ch 251, §28

#### **422.92 Rules for short taxable year.**

A taxpayer having a taxable year of less than twelve months shall pay estimated tax under rules adopted by the director.

[C79, 81, § 422.92]

89 Acts, ch 251, §29

#### **422.93 Public utility accounting method.**

Nothing in this chapter shall be construed to require the utilities board of the department of commerce to allow or require the use of any particular method of accounting by any public utility to compute its tax expense, depreciation expense, or operating expense for purposes of establishing its cost of service for rate-making purposes and for reflecting operating results in its regulated books of account.

[82 Acts, ch 1023, § 17]

**422.94 to 422.99** Reserved.

#### **422.100 Allocation to the child care credit fund.**

The treasurer of state shall credit during the first month of each quarter of each fiscal year to the child care credit fund created in section 237A.28 the sum of six hundred fifty thousand dollars from the individual income tax withholding receipts.

93 Acts, ch 172, §45; 99 Acts, ch 192, § 33

**422.101 through 422.104** Repealed by 2002 Acts, ch 1150, §22.

**422.105 to 422.109** Reserved.

#### **422.110 Income tax credit in lieu of refund.**

In lieu of the fuel tax refund provided in section 452A.17, a person or corporation subject to taxation under

division II or III of this chapter may elect to receive an income tax credit. The person or corporation which elects to receive an income tax credit shall cancel its refund permit obtained under section 452A.18 within thirty days after the first day of its tax year or the permit becomes invalid at that time. For the purposes of this section, "*person*" includes a person claiming a tax credit based upon the person's pro rata share of the earnings from a partnership, limited liability company, or corporation which is not subject to a tax under division II or III of this chapter as a partnership, limited liability company, or corporation. If the election to receive an income tax credit has been made, it remains effective for at least one tax year, and for subsequent tax years unless a change is requested and a new refund permit applied for within thirty days after the first day of the person's or corporation's tax year. The income tax credit shall be the amount of the Iowa fuel tax paid on fuel purchased by the person or corporation and is subject to the conditions provided in section 452A.17 with the exception that the income tax credit is not available for refunds relating to casualty losses, transport diversions, pumping credits, blending errors, idle time, power takeoffs, reefer units, and exports by distributors.

The right to a credit under this section is not assignable and the credit may be claimed only by the person or corporation that purchased the fuel.

[C75, 77, § 422.86; C79, 81, § 422.110; 82 Acts, ch 1176, § 2]

86 Acts, ch 1141, § 19; 86 Acts, ch 1241, § 29; 88 Acts, ch 1205, §22, 23; 95 Acts, ch 155, §6, 7, 44; 99 Acts, ch 151, §26, 89; 2001 Acts, ch 116, §11

#### **422.111 Fuel tax credit as income tax credit.**

The fuel tax credit may be applied against the income tax liability of the person or corporation as determined on the tax return filed for the year in which the fuel tax was paid. The department shall provide forms for claiming the fuel tax credit. If the fuel tax credit would result in an overpayment of income tax, the person or corporation may apply for a refund of the amount of overpayment or may have the overpayment credited to income tax due in subsequent years. Each person or corporation that claims a fuel tax credit shall maintain the original invoices showing the purchase of the fuel on which a credit is claimed. An invoice is not acceptable in support of a claim for credit unless the invoice is a separate serially numbered invoice covering no more than one purchase of motor fuel or undyed special fuel, prepared by the seller on a form approved by the department, or unless the invoice is legibly written with no corrections or erasures and shows the date of sale, the name and address of the seller and of the purchaser, the kind of fuel, the gallonage in figures, the per gallon price of the fuel, the total purchase price including the Iowa fuel tax, and that the total purchase price has been paid. However, as to refund invoices made on a billing machine, the department may waive these requirements. If an original invoice is lost or destroyed, the department may approve a credit supported by a copy identified and certified by the seller as being a true copy of the original. Each person or corporation that claims a fuel tax credit shall maintain complete records of purchases of motor fuel or undyed special fuel on which Iowa fuel tax was paid, and for which a fuel tax credit is claimed.

In order to verify the validity of a claim for credit the department shall have the right to require the claimant to furnish such additional proof of validity as the department may determine and to examine the books and records of the claimant. Failure of the claimant to furnish the books and records for examination shall constitute a waiver of rights to claim a credit related to that taxpayer's year and the department may disallow the entire credit claimed by the taxpayer for that year.

[C75, 77, § 422.87; C79, 81, § 422.111]

88 Acts, ch 1205, §24; 99 Acts, ch 151, §27, 28, 89

#### **422.112 Aircraft fuel tax transfer.**

The department shall certify quarterly to the treasurer of state the amount of credit that has been taken against income tax liability since the time of the last certification, for the Iowa fuel tax paid on motor fuel, special fuel and motor fuel used for the purpose of operating aircraft, and the treasurer of state shall transfer the amount of the total credit from the motor fuel tax fund, or in the case of aircraft motor fuel, from the separate fund established by section 452A.82, to the general fund of the state.

[C75, 77, § 422.88; C79, 81, § 422.112]

**422.113 through 422.119** Reserved.

**422.120 Livestock production tax credit allowed cow-calf operation.**

1. *a.* There is allowed a state tax credit for livestock production operations located in the state. The amount of the credit equals ten cents for each corn equivalent consumed by the livestock in the production operation as specified under this section. The credit shall be refunded as provided in section 422.122.

*b.* (1) The credit shall be available to an individual or corporate taxpayer if the taxpayer's federal taxable income is not more than ninety-nine thousand six hundred dollars for the tax year. In the case of married taxpayers, their combined federal taxable income shall be used to determine if they qualify for the credit.

(2) For each subsequent tax year, the maximum taxable income amount specified in subparagraph (1) shall be multiplied by the cumulative index factor for that tax year. "*Cumulative index factor*" means the product of the annual index factor for the 1997 calendar year and all annual index factors for subsequent calendar years. The cumulative index factor applies to all tax years beginning on or after January 1 of the calendar year for which the latest annual index factor has been determined.

(3) The annual index factor for the 1997 calendar year is one hundred percent. For each subsequent calendar year, the annual index factor equals the annual inflation factor for that calendar year as computed in section 422.4 for purposes of the individual income tax.

2. The amount of the credit per operation is determined by adding together for each head of livestock in the operation the product of ten cents times the number of corn equivalents consumed by that head of livestock. The amount of livestock production credit per operation per tax year shall not exceed three thousand dollars and the amount of livestock production credit per taxpayer per tax year shall not exceed three thousand dollars.

The maximum amount of corn equivalents for a head of livestock in a production operation is the following:

*a.* Hog operations: Corn equivalents:

(1) Farrow to finish 13.0

(2) Farrow to feeder pig 2.6

(3) Finishing feeder pigs 10.4

*b.* Poultry operations:

(1) Layers 0.88

(2) Turkeys 1.5

(3) Broilers 0.15

c. Beef operations:

- (1) Cow-calf 111.5
- (2) Stocker 41.5
- (3) Feedlot 75.0
- (4) Dairy 350.0

d. Sheep operations:

- (1) Ewe flock 20.5
- (2) Feedlot 4.1

3. As used in this division, "*cow-calf operation*" means any of the following:

- a. Mature beef cows bred or for breeding.
- b. Bred yearling heifers.
- c. Breeding bulls.

4. If the livestock operation is carried on partly within and partly without the state, the portion of the operation attributable to this state shall be determined pursuant to rules adopted by the department. The department may adjust the allocation upon request of the taxpayer in order to reflect the actual livestock operation carried on within this state.

5. An individual may claim the livestock production tax credit allowed a partnership, limited liability company, subchapter S corporation, or 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 earning of the partnership, limited liability company, subchapter S corporation, or estate or trust.

6. A fraudulent claim for a credit refund under this division shall cause the forfeiture of any right or interest to a tax credit refund in subsequent tax years under this division.

96 Acts, ch 1197, §19, 23; 97 Acts, ch 206, §1, 2; 98 Acts, ch 1100, §58

Credit allowed only for cow-calf operations; § 422.121

**422.121 Appropriation limitation.**

Beginning with the fiscal year beginning July 1, 1997, there is appropriated annually from the general fund of the state two million dollars to refund the credits allowed under this division. Notwithstanding section 422.120, for tax years beginning on or after January 1, 1997, the livestock production tax credit shall only be allowed for cow-calf operations. In calculating the tax credit for cow-calf operations for tax years beginning in the 1997 calendar year, mature beef cows bred or for breeding, bred yearling heifers, and breeding bulls in the operations' inventory on December 31 of the tax year which were also in the operations' inventory on July 1 of the tax year and stockers and feeders sold during the tax year may be counted. In calculating the tax credit for cow-calf operations for tax years beginning on or after January 1, 1998, only those bred cows, bred heifers, and breeding bulls in the operations' inventory on December 31 of the tax year which were also in the operations' inventory on July 1 of the tax year may be counted.

## Footnotes

See annual Iowa Acts for temporary exceptions, changes, or other noncodified enactments modifying these statutory provisions

### **422.122 Refund of livestock production credit claims.**

1. Each tax year the total amount of livestock production credit refund claims that shall be paid pursuant to section 422.120 shall not exceed the amount appropriated by the general assembly for that purpose. If the total dollar amount of the refund claims exceeds that amount, each claim shall be paid an amount equal to that amount divided by the total number of claims, not to exceed the amount of the taxpayer's claim. Remaining funds shall be prorated among those claims not paid in full in the proportion that each such claim bears to the total amount of such claims not paid in full.
2. In the case where refund claims are not paid in full, the amount of the refund to which the taxpayer is entitled is the amount computed in subsection 1, and paid to the taxpayer, and the taxpayer is not entitled to any unpaid portion of a claim and is not entitled to carry forward or backward to another tax year any unpaid portion of a claim. A taxpayer shall not use a refund as an estimated payment for the succeeding tax year.
3. A taxpayer must file a claim for refund within ten months from the last day of the taxpayer's tax year. An extension for filing shall not be allowed. The department shall determine by February 28 of the calendar year following the calendar year in which the claims were filed if the total amount of claims for refund exceeds the amount appropriated for that purpose by the general assembly for the tax year. If the claim is not payable on February 28 because the taxpayer is a fiscal year filer, the claim shall be considered as a claim filed for the following tax year.
4. A claim for refund shall be made on claim forms to be made available by the department. In order for a taxpayer to have a valid refund claim, the taxpayer must supply legible copies of documents the director deems necessary to verify the amount of the refund.

96 Acts, ch 1197, §21, 23

Credit allowed only for cow-calf operations; §422.121