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Fiscal Note

Fiscal Services Division

SF 2419 – Department of Revenue, Omnibus Bill (LSB5409SV)
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Fiscal Note Version – New

Description

Senate File 2419 contains 26 divisions. Please note that for this ***Fiscal Note,*** the term "Department" refers to the Iowa Department of Revenue and the term "sales tax" also refers to the use tax when applicable.

- **Division I** relates to Iowa tax administration and tax penalties. The Division:
  - Allows the Department, through agreements, to collect taxes and fees from sellers making sales at the State fair and at county fairs.
  - Creates monetary penalties for persons who fail to file certain income tax forms.
  - Expands and creates criminal penalties for situations where a person willfully makes false or frivolous applications for tax refunds, rebates, credits, or other tax benefits (perjury).
  - Expands the availability of power of attorney or other authority procedures that allow others to act and receive information on behalf of a taxpayer.
  - Allows the Department to distribute a website reference (instead of a physical document) specifying the rights of the taxpayer and obligations of the Department during an audit, taxpayer appeal procedures, and the procedures the Department may use in enforcing the tax laws, including notices of assessment and jeopardy assessment and the filing and enforcement of liens (Taxpayer Bill of Rights).
  - Allows a taxpayer to elect to receive correspondence from the Department electronically.
  - Allows the Department to redact information prior to disclosure of a record in a court or contested case.
  - Provides that the period of examination is unlimited in any action by the Department to recover or rescind a tax expenditure.
  - Removes the role of the Department in the application for reinstatement for various forms of corporations.
  - Establishes a due date that is the last day of the fourth month following the end of the taxpayer's tax year (April 30 for calendar year filers) for the moneys and credits tax (credit unions) and requires that the tax return be on a form prepared by the Department.
- **Division II** relates to sales and use tax. The Division:
  - Requires that, at the time of registration of a snowmobile or all-terrain vehicle, and in situations where there is not satisfactory evidence that the sales tax has already been paid, the county recorder shall collect sales tax. The tax shall be remitted to the Department on a monthly basis.
  - Adds services arising from software sold as tangible personal property to the description of services subject to the State sales tax.
  - Adds the term "specified digital product" to the description of components of a transaction that make that transaction not a bundled transaction.
  - Expands the existing sales tax exemption for preserve whitetail deer to apply the exemption to the commercial service of preserve whitetail deer hunting. Based on existing language, the exemption applies to sales that occurred between July 1, 2005, and December 31, 2015. Specifies that refunds of taxes already paid on these

transactions are not allowed. The tax exemption will only apply to taxpayers who have yet to pay the tax on the exempted service.

  - Clarifies existing sales tax exemptions available for tribal governments, designated exempt entities, and governmental entity construction contracts.
  - Removes language that applies the use tax at a rate of 6.0% to the purchase or installed price of manufactured housing. A reference applying the use tax at a rate of 5.0% remains.
  - Clarifies the duty to collect and remit sales and use taxes and also clarifies the joint liability of the purchaser and retailer for the payment of the tax until the tax is paid.
- **Division III** modifies required loss carryback provisions for taxpayers who report a net operating loss. Specifies that a taxpayer may elect to waive a carryback period in favor of a loss carryforward period of up to 20 years. The change applies to tax year 2020 and after.
- **Division IV** updates federal Internal Revenue Code references related to the Research Activities Tax Credit. The changes are effective upon enactment and apply to tax year 2019 and after.
- **Division V** relates to partnership and other pass-through entity tax returns and audits.
- **Division VI** amends 2020 Iowa Acts, SF 2328 or HF 2565 (Public Agency Payment Setoff Bill), if either is enacted by making changes to effective dates and requiring the adoption of administrative rules. The changes are effective upon enactment and apply beginning with the enactment date of either SF 2328 or HF 2565.
- **Division VII** specifies how an Iowa resident's share of a business entity's entity-level tax payments to another state or foreign country on income that is also subject to Iowa income tax is to be determined for Iowa income tax purposes. This change will reduce Iowa taxable income.
- **Division VIII** changes how Iowa tax law couples with federal Internal Revenue Code references to depreciation schedules known as "Section 179 expensing." The current coupling provision in the Iowa Code does not automatically couple with future changes to the federal tax code related to Section 179 expensing. With this change, Iowa will automatically couple with future federal tax law changes in this tax item.
- **Division IX** clarifies that Iowa tax relief from spousal joint and several liability is available under all circumstances for which such relief would be granted through the federal Internal Revenue Code. The change also provides a mechanism for the Department to allow the nonrequesting spouse to intervene in the Department's process for deciding whether to grant relief.
- **Division X** relates to the corporate tax credit under the High Quality Jobs Program for sales tax paid by a third-party developer (Iowa Code section 15.331C). The change allows a pass-through business entity to transfer the credit to the entity's owners for tax credit redemption.
- **Division XI** allows funds in an Iowa Educational Savings Plan Trust (529 Plan) to be used for participation in a certified apprenticeship program.
- **Division XII** extends the tax year 2019 contribution deadline for 529 Plan and First-Time Homebuyer Account contributions until July 31, 2020.
- **Division XIII** exempts personal protective equipment and materials assembled to become personal protective equipment and donated by a business during a specified time frame from the State use tax. The change is retroactive to January 1, 2020.
- **Division XIV** prohibits counties and cities from adopting or enforcing an ordinance that prohibits short-term rental properties. The language also prohibits local restrictions related to distance separation requirements for single-family homes and duplexes and cities and counties are required to consider short-term rental properties as residential land for zoning purposes.
- **Division XV** removes the two statutory requirements (triggers) that are necessary under current law in order for the contingent individual income tax system established in 2018 Iowa

Acts, chapter 1161, Division IX, to become effective. Under current law, the contingent system could first become effective for tax year 2023 if General Fund revenue for FY 2022 reaches at least a specified dollar amount and percentage growth. With the triggers removed, the contingent system will become effective beginning tax year 2023.

- **Division XVI** relates to business taxation, the business interest expense deduction, and Global Intangible Low-Taxed Income (GILTI). The Division:
  - Decouples Iowa tax law from recent federal Internal Revenue Code changes that limit the deduction of business interest expenses for income tax purposes, beginning tax year 2020. The change will reduce business taxable income.
  - Allows business taxpayers to deduct GILTI from Iowa business taxable income. The change will reduce business taxable income.
  - Rescinds recent Department rules related to the GILTI deduction.
- **Division XVII** expands the existing State sales tax and State hotel and motel tax diversion for the support of reinvestment districts. The Division:
  - Expands the definition of “municipality” to include a joint board or other legal entity established between two or more contiguous municipalities. Under current law, the term only refers to a county or a city.
  - Allows the Economic Development Authority Board to approve additional reinvestment districts for a time period beginning July 1, 2020, through June 30, 2025. The aggregate amount of State sales tax and State hotel and motel tax diversions allowed for all districts approved during the new time frame may total up to $100.0 million. The maximum size allowed for a single new district is 75 acres.
  - Allows the Economic Development Authority Board to extend the 20-year maximum number of years a reinvestment district may receive State sales tax and State hotel and motel tax diversions for up to an additional 5 years under specified circumstances.
- **Division XVIII** modifies the required distribution of an existing annual $10.0 million tax credit cap that is divided between two economic development programs administered by the Economic Development Authority.
- **Division XIX** provides a capital gains income tax deduction equal to 15.0% of the net capital gain reported by the taxpayer. The change is effective for tax year 2020 and after.
- **Division XX** relates to local assessors. The Division:
  - Requires local assessor appointments to be confirmed by the Director of the Department before the appointment is effective.
  - Prohibits a local assessor from personally assessing property the assessor or a member of the assessor’s immediate family owns.
  - Requires approval of the relevant city attorney or county attorney when a Conference Board employs special counsel to assist with litigation involving assessments.
- **Division XXI** modifies the conditions under which a Rural Improvement Zone (RIZ or Zone) may be created or exist. The change removes a requirement that a RIZ be associated with a private lake and instead allows the creation or existence of a RIZ that is a private development that is adjacent to or abuts a private or public lake. The change applies to any RIZ currently in existence or created in the future.
- **Division XXII** allows for an increase in the total annual maximum dollar amount of School Tuition Organization Tax Credits that may be issued in a calendar year, beginning after January 1, 2022. Under current law, the annual maximum is $15.0 million. Under the Bill, the annual amount could reach a maximum of $20.0 million.
- **Division XXIII** excludes the forgiven loan proceeds a business receives through the federal Paycheck Protection Program (PPP) from taxable income for Iowa income tax purposes.
- **Division XXIV** exempts income taxpayers receive through the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act in the form of emergency student grants from the State income tax. The exemption applies to any tax year ending after March 27, 2020.

- **Division XXV** exempts the income taxpayers receive through the federal CARES Act in the form of stimulus tax refund payments from the State income tax. The CARES Act payments equal a maximum of $1,200 per taxpayer and $500 per dependent.
- **Division XXVI** relates to deer and turkey hunting on a farm by the land owner or tenant. The changes expand the coverage of owner/tenant deer and turkey hunting licenses so as to make a single license applicable to all seasons (bow and firearm) of the license year.

Provisions with No Fiscal Impact

The Department has determined that the following provisions have no fiscal impact on tax revenue:

- Department Administrative Changes (Division I)
- Research Activities Tax Credit Update (Division IV)
- Partnership and Pass-Through Entity Audits (Division V)
- Setoff Procedures Effective Date (Division VI)
- Section 179 Expensing Conformity (Division VIII)
- Married Taxpayers Joint Liability (Division IX)
- 529 Plan and First-Time Homebuyer Contribution Date Change (Division XII)
- Short-Term Rental Property (Division XIV)
- Local Assessor Changes (Division XX)
- Emergency Student Grant Exemption (Division XXIV)

Fiscal Impact Assumptions

Preserve Whitetail Deer Hunting. The estimated amount of sales tax owed by taxpayers for preserve whitetail deer hunting over the applicable time frame is estimated from Department records to be $0.2 million.

Net Operating Loss Carryforward. The estimate for this change was provided by the Department.

Entity-Level Exemption for Income Tax Paid to Others. In tax year 2017, Iowa Out-of-State Tax Credit claims totaled $102.8 million. Of this amount, $12.6 million was claimed for income earned in 11 states that impose income tax at the entity level for pass-through entities. Of the taxpayers who claimed the Iowa credit who also identified states that taxed pass-through entities at the entity level, approximately 33.3% of claim amounts were identified by taxpayers who reported pass-through income on their Iowa Schedule E tax form. It is therefore assumed that claims for the Out-of-State Tax Credit will increase by 33.3% of $12.6 million under the proposal and reduce General Fund or State income tax revenue by $4.2 million annually.

Third-Party Developer Tax Credit. The Department estimates that this change will increase annual tax credit redemptions by $75,000.

529 Plan Apprenticeship Program. The Department estimates that this change will decrease annual State income taxes for qualified taxpayers by $50,000.

Personal Protective Equipment. The Department estimates that Iowa business will utilize $72.2 million in materials to manufacture qualified (donated) personal protective equipment in FY 2020 and $36.1 million in FY 2021. The use tax rate is 6.0%, with 5.0% retained by the State General Fund and 1.0% dedicated to school infrastructure.

Contingent Individual Income Tax System Triggers. The Department concludes that the contingent individual income tax system will be activated beginning with tax year 2023 under current law by assuming that the two General Fund revenue triggers will be met at the end of FY 2022. While the recent public health and economic situation has significantly reduced the likelihood that both triggers will be met in FY 2022, the Legislative Services Agency (LSA) agrees that in order to be consistent with past fiscal estimates, the Department's assumption is valid. Should the Iowa economic situation not improve sufficiently by the end of FY 2022, the assumption may turn out to be invalid.

Business Interest Expense Deduction. The estimate for this change was developed by the Department based on the business interest expense deduction from tax year 2018 corporate income tax filings, projected interest rates provided by Moody's Analytics, and a projected 25.0%/75.0% spread of the impact between the current fiscal year and the succeeding fiscal year.

Global Intangible Low-Taxed Income Exemption. The Department bases the fiscal impact estimate for this provision on the Joint Committee on Taxation estimated national impact of the provision when the provision was adopted by Congress. The Department warns that the actual impact of the Iowa exemption could differ significantly from this estimate.

Reinvestment District Sales Tax. The Department assumes that the maximum $100.0 million State sales and State hotel and motel sales tax diversion will occur in 20 equal installments, which is estimated to reduce State sales tax revenue by $5.0 million per year.

Innovation Fund Tax Credit Allocation. Under current law, $2.0 million in tax credits per year may be awarded through the Qualifying Business Tax Credit (also known as the Angel Investor Tax Credit) and $8.0 million per year through the Innovation Fund Tax Credit. This change would move up to $2.0 million per year from the Innovation Fund Tax Credit to the Qualifying Business Tax Credit. Since the Innovation Fund Tax Credit does not approach using its full $8.0 million per year but the Qualifying Business Tax Credit is fully awarded each year, the shifting of unused tax credit authorization from one tax credit to a credit that will use the authorization is expected to result in more tax credit redemptions than under current law.

The Qualifying Business Tax Credit is refundable if redeemed on an individual income tax return so the credits can be expected to be redeemed at nearly 100.0% of awards. The redemption pattern assumed follows the pattern for previous awards of Qualifying Business Tax Credits.

Although the change is effective upon enactment and could potentially impact tax year 2019 tax returns and FY 2020, the first fiscal year of credit redemptions is assumed to be FY 2021.

Capital Gains Deduction from Income. The State individual income tax reduction associated with a 15.0% capital gains deduction is estimated by the Department to be $45.6 million for FY 2021 and $41.8 million in FY 2022 with similar reductions for future fiscal years.

Rural Improvement Zones. Currently, the location of a Rural Improvement Zone (RIZ or Zone) is restricted to areas around private lakes. The change in the Bill will allow new Zones near or abutted to public lakes. This could expand the number of RIZ areas. Rural Improvement Zones impact the State General Fund through the interaction of the school aid formula and the tax increment financing (TIF) option available to a RIZ. Rural Improvement Zones also impact local government property tax revenue by concentrating development in areas that are subject to TIF. While this change is assumed for the purposes of this ***Fiscal Note*** to have no immediate fiscal impact, the impact on property tax and the State School Aid appropriation could become significant in future years if new Zones develop as a result of this change.

School Tuition Organization Tax Credit Increase. The estimate for this change was provided by the Department based on the previous patterns of tax credit award and redemption for this tax credit and further assuming that the tax credit limit will reach the maximum $20.0 million in annual credits in the shortest time frame allowed under the change (calendar year 2025). The Department also assumes that the change is first applicable to calendar year 2022.

Federal Paycheck Protection Program (PPP). The exemption for business income generated through forgiven PPP loans applies to a subset of Iowa business entities whose forgiven PPP loans are not already tax-exempt under current law. The Department estimates that the total amount of PPP loans forgiven in Iowa will be $4,959.1 million and that the new exemption will impact $1,105.0 million of that amount. The Department assumes that the associated exclusion of business expenses paid for with forgiven PPP loans will equal 90.0% of the $1,105.0 million and this will result in a net statewide decrease in taxable business income of $110.5 million. The Department estimates that across all types of businesses with projected PPP loans forgiven, the average tax rate will equal 5.2%. The combination of assumptions results in a tax decrease of $5.8 million as a result of this provision.

Federal Stimulus Tax Refund Payment Exemption. The Department has determined that the stimulus tax refund payments distributed to Iowans through the federal CARES Act are exempt from Iowa income tax under existing law.

Deer and Turkey Hunting Licenses. The Department of Natural Resources estimates that the changes to the farm owner/tenant license will reduce turkey license purchases by 1,100 each year and deer license purchases by 11,100 each year. The license reduction is estimated to reduce Fish and Game Trust Fund income by $397,000 per year.

Fiscal Impact

Table 1 provides the projected net State General Fund fiscal impact of the various provisions of the Bill.

Table 1

General Fund Estimated Fiscal Impact by Provision
In Millions

Division	Provision	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
II	Preserve Whitetail Deer Sales Tax	$ 0.0	$ -0.2	$ 0.0	$ 0.0	$ 0.0	$ 0.0
III	Net Operating Loss	0.0	-1.0	-1.0	-1.1	-1.1	-1.1
VII	Entity-Level Income Tax Paid	0.0	-4.2	-4.2	-4.3	-4.3	-4.4
X	Third-Party Developers Sales Tax Exemption	0.0	-0.1	-0.1	-0.1	-0.1	-0.1
XI	Section 529 Plan Apprenticeship Programs	0.0	-0.1	-0.1	-0.1	-0.1	-0.1
XIII	Personal Protective Equipment Sales Tax Exemption	-3.6	-1.8	0.0	0.0	0.0	0.0
XV	Contingent Individual Income Tax Triggers	0.0	0.0	0.0	0.0	0.0	0.0
XVI	Business Interest Expense	0.0	-6.2	-4.1	-8.8	-14.4	-16.7
XVI	Global Intangible Low-Taxed Income	0.0	-13.8	-5.1	-5.1	-5.2	-5.3
XVII	Reinvestment Districts Sales Tax Diversion	0.0	-5.0	-5.0	-5.0	-5.0	-5.0
XVIII	Innovation Fund and Qualifying Business Tax Credits	0.0	-2.0	-2.0	-2.0	-2.0	-2.0
XIX	Capital Gains Deduction	0.0	-45.6	-41.8	-42.1	-45.1	-47.1
XXI	Rural Improvement Zone Expansion	0.0	0.0	0.0	0.0	0.0	0.0
XXII	School Tuition Tax Credit	0.0	0.0	0.0	-1.0	-2.5	-4.1
XXIII	Paycheck Protection Program Loans	0.0	-5.8	0.0	0.0	0.0	0.0
XXV	Federal Stimulus Tax Refund Exemption	0.0	0.0	0.0	0.0	0.0	0.0
	Total	$ -3.6	$ -85.8	$ -63.4	$ -69.6	$ -79.8	$ -85.9

A reduction in the yield from the income tax surtax for schools of approximately $2.4 million per year is also projected. In addition, the change to farm owner/tenant deer and turkey hunting licenses is projected to reduce Fish and Game Fund annual total revenue by a projected $397,000 per year.

Correctional Impact

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be $50 per day.

Fraudulent Practice

The amendment to Iowa Code section 421.27(6) makes numerous changes to and expands the criminal offense of fraudulent practice. The penalty for fraudulent practice is defined in Iowa Code sections 714.9 through 714.13. The penalty for fraudulent practice ranges from a simple misdemeanor to a Class C felony depending on the amount of money or value of property involved. In addition to the criminal penalties, a person who commits a fraudulent practice is liable for a penalty of $1,500 or an amount equal to 75.0% of the tax benefit fraudulently claimed.

Correctional Impact

The Bill expands the current offense of fraudulent practice, and the correctional impact cannot be determined due to a lack of data. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, Cost Estimates Used for Correctional Impact Statements, dated January 16, 2020, for information related to the correctional system.

Minority Impact

The Bill expands the definition of an existing offense, and the minority impact cannot be determined due to a lack of data. Refer to the LSA memo addressed to the General Assembly, Minority Impact Statement, dated January 15, 2020, for information related to minorities in the criminal justice system.

Fiscal Impact

The fiscal impact of this section cannot be estimated due to the unknown correctional impact. The State cost for a fraudulent practice conviction ranges from $40 to $350 for a simple misdemeanor and $11,600 to $19,400 for a Class C felony. The estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the Department of Corrections (DOC). The cost would be incurred across multiple fiscal years for prison and parole supervision.

Perjury

The Bill enacts new Iowa Code section 421.27A by creating a criminal offense for perjury and defines the circumstances in which a person commits perjury. A person who commits the criminal offense of perjury under this new language commits a Class D felony. A Class D felony is punishable by confinement for no more than five years and fine of at least $750 but not more than $7,500.

Correctional Impact

The Bill creates a new offense, and the correctional impact cannot be estimated. **Table 2** provides estimates for sentencing to State prison, parole, probation, or community-based corrections (CBC) residential facilities; length of stay (LOS) under those supervisions; and supervision marginal costs per day for all convictions of aggravated misdemeanors and Class D felonies.

Table 2 — Sentencing Estimates and LOS

Conviction Offense Class	Percent to Prison	FY 19 Avg Length of Stay Prison (months)	FY 19 Marginal Cost/Day Prison	FY 19 Avg Length of Stay Parole (months)	FY 19 Marginal Cost/Day Parole	Percent to Probation	FY 19 Avg Length of Stay Probation (months)	FY 19 Avg Cost/Day Probation	Percent to CBC Residential Facility	FY 19 CBC Marginal Cost/Day	Percent to County Jail	Avg Length of Stay in County Jail	Marginal Cost/Day
Class D Felony Non-Persons	76.0%	12.2	$20.38	13.0	$6.12	64.0%	31.8	$6.12	12.0%	$12.58	29.0%	N/A	$50.00

Please refer to the LSA memo addressed to the General Assembly, Cost Estimates Used for Correctional Impact Statements, dated January 16, 2020, for information related to the correctional system.

Minority Impact
The Bill creates a new offense, and the minority impact cannot be determined. Refer to the LSA memo addressed to the General Assembly, Minority Impact Statement, dated January 15, 2020, for information related to minorities in the criminal justice system.

Fiscal Impact
The fiscal impact of this new offense cannot be estimated due to the unknown correctional impact. The State cost for one Class D felony conviction ranges from $10,000 to $14,700. The estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Unlawful Disclosure of Tax Return Information and Tax Investigation Information
The amendment to Iowa Code section 422.20(1) adds an intent element, "willfully or recklessly," to the criminal offense related to the unlawful disclosure of tax return information by State personnel or former State personnel. A person who commits a violation under Iowa Code section 422.20(1) commits a serious misdemeanor.

The amendment to Iowa Code section 422.72(1)(a) adds the intent element of "willfully or recklessly" to the criminal offense related to the unlawful disclosure by State personnel or former State personnel of the business affairs, operations, or information obtained through a tax-related investigation. A person who unlawfully discloses such information commits a serious misdemeanor under Iowa Code section 422.72(4).

A serious misdemeanor is punishable by confinement for no more than one year and a fine of at least $315 but not more than $1,875.

Correctional Impact
The Bill adds an intent element to the current offenses under Iowa Code sections 422.20(1) and 422.72(1)(a), and the correctional impact cannot be determined due to a lack of data. Refer to the LSA memo addressed to the General Assembly, Cost Estimates Used for Correctional Impact Statements, dated January 16, 2020, for information related to the correctional system.

Minority Impact
The Bill modifies the definition of existing offenses, and the minority impact cannot be determined due to a lack of data. Refer to the LSA memo addressed to the General Assembly, Minority Impact Statement, dated January 15, 2020, for information related to minorities in the criminal justice system.

Fiscal Impact
The fiscal impact of the modified offenses cannot be estimated due to the unknown correctional impact. The State cost for one serious misdemeanor conviction ranges from $410 to $4,900. The estimates include operating costs incurred by the Judicial Branch, the State Public Defender, and the DOC. The cost would be incurred across multiple fiscal years for prison and parole supervision.

Sources

Iowa Department of Revenue
Moody's Analytics
House File 2103 Fiscal Note
Cost Estimates Used for Correctional Impact Statements
Minority Impact Statement
Legislative Services Agency calculations

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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