

House File 2464

AN ACT

PROVIDING FOR THE REBATE OF STATE SALES AND USE TAX TO THE OWNER OR OPERATOR OF A RACEWAY FACILITY, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 423.2, subsection 11, paragraph b, Code 2014, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) Beginning the first day of the quarter following the effective date of this Act, transfer to the raceway facility tax rebate fund created in section 423.4, subsection 11, paragraph "e", that portion of the sales tax receipts collected and remitted upon sales of tangible personal property or services furnished by retailers at a raceway facility meeting the qualifications of section 423.4, subsection 11, that remains after the transfers required in subparagraphs (1) through (6) of this paragraph "b". This subparagraph is repealed June 30, 2025, or thirty days

following the date on which an amount of total rebates specified in section 423.4, subsection 11, paragraph "c", subparagraph (4), subparagraph division (a) or (b), whichever is applicable, has been provided or thirty days following the date on which rebates cease as provided in section 423.4, subsection 11, paragraph "c", subparagraph (5), whichever is earliest.

Sec. 2. Section 423.4, Code 2014, is amended by adding the following new subsection:

NEW SUBSECTION. 11. *a.* For purposes of this subsection:

(1) "*Change of control*" means a change in ownership such that the fair that was the owner or operator on the effective date of this Act ceases to own a majority of the equity interests in the raceway facility.

(2) "*Fair*" means the same as defined in section 174.1.

(3) "*Owner or operator*" means a fair that is the owner or operator of a raceway facility and is a promoter of races.

(4) "*Population*" means the population based upon the 2010 certified federal census.

(5) "*Raceway facility*" means a raceway facility located as part of a racetrack and entertainment complex and located on fairgrounds, as defined in section 174.1, in a city with a population of at least seven thousand but not more than seven thousand five hundred residents, which city is located in a county with a population of at least thirty-three thousand but not more than thirty-three thousand four hundred fifty residents, and which facility was placed in service before the effective date of this Act.

b. The owner or operator of a raceway facility may apply to the department for a rebate of the following:

(1) Sales tax imposed and collected by retailers upon sales of tangible personal property or services furnished to purchasers at the raceway facility. Notwithstanding the state sales tax imposed in section 423.2, a sales tax rebate issued pursuant to this subparagraph shall not exceed the amounts transferred to the raceway facility tax rebate fund pursuant to section 423.2, subsection 11, paragraph "b", subparagraph (7).

(2) (a) Sales or use tax upon the sales price of all tangible personal property, or from services furnished to a contractor, used in the fulfillment of a written contract with the owner or operator if the property becomes an integral part of the project under contract and at the completion of the project becomes part of the raceway facility.

(b) The rebate available under this subparagraph shall be limited to one project per raceway facility. If such a project is undertaken, the owner or operator of the raceway facility shall notify the department upon completion of the project.

(c) Notwithstanding the state sales tax imposed in section 423.2, a sales tax rebate issued pursuant to this subparagraph shall not exceed the amounts remaining after the transfers required under section 423.2, subsection 11, paragraph "b", subparagraphs (1) through (6), have been made from the total amount of sales tax for which the rebate is requested.

(d) Notwithstanding the state use tax imposed in section 423.5, a use tax rebate issued pursuant to this subparagraph shall not exceed the amounts remaining after the transfers required under section 423.43, subsection 1, have been made from the total amount of use tax for which the rebate is requested.

c. The rebate may be obtained only in the following amounts and manner and only under the following conditions:

(1) For rebates pursuant to paragraph "b", subparagraph (1), on forms furnished by the department within the time period provided by the department by rule, which time period shall not be longer than quarterly.

(2) For rebates pursuant to paragraph "b", subparagraph (2), on forms furnished by the department within the time period provided by the department by rule, but not more than one year after the final settlement has been made.

(3) The owner or operator shall provide information as deemed necessary by the department.

(4) The transactions for which sales or use tax was collected and the rebate is sought occurred on or after January 1, 2015, but before January 1, 2025. However, the total amount of rebates provided pursuant to this subsection shall not exceed the lesser of the following amounts:

(a) Twenty-five percent of the project costs, as determined by the department, if such a project is undertaken by the owner or operator. For purposes of this subparagraph division, "project costs" means costs incurred by the owner or operator in connection with the planning, design, construction, and installation of property that becomes an integral part of the project under contract which project upon completion becomes part of the raceway facility, and other costs incurred by the owner or operator in connection with the project that are customarily associated with the renovation, remodeling,

reconstruction, expansion, equipping, or improvement of real property. Project costs shall be determined after the department receives notification of completion of the project pursuant to paragraph "b", subparagraph (2), subparagraph division (b). However, if rebates cease because of a change of control of the raceway facility as provided in paragraph "c", subparagraph (5), project costs shall be determined as of the date the change of control occurs.

(b) Two million dollars.

(5) Notwithstanding subparagraph (4), the rebate of sales or use tax shall cease for transactions occurring on or after the date of the change of control of the raceway facility.

(6) The raceway facility has not received or shall not receive any grants under the community attraction and tourism program pursuant to chapter 15F, subchapter II, or the vision Iowa program pursuant to chapter 15F, subchapter III.

d. To assist the department in determining the amount of the rebate, the following shall occur:

(1) For rebates pursuant to paragraph "b", subparagraph (1), the owner or operator shall identify to the department retailers located at the raceway facility who will be collecting sales tax. The department shall verify such identity and ensure that all proper permits have been issued. For purposes of this subsection, advance ticket and admissions sales shall be considered occurring at the raceway facility regardless of where the transactions actually occur.

(2) For rebates pursuant to paragraph "b", subparagraph (2), the contractor shall state under oath, on forms provided by the department, the amount of such sales of tangible personal property, or services furnished and used in the performance of a contract, and upon which sales or use tax has been paid, and shall file such forms with the owner or operator which has made any written contract for performance by the contractor. The forms shall be filed by the contractor with the owner or operator before final settlement is made. Any contractor who willfully makes a false report of tax paid under the provisions of this subsection is guilty of a simple misdemeanor and in addition shall be liable for the payment of the tax and any applicable penalty and interest.

e. There is established within the state treasury under the control of the department a raceway facility tax rebate fund consisting of the amount of state sales tax revenues transferred pursuant to section 423.2, subsection 11, paragraph

"b", subparagraph (7). An account is created within the fund for each raceway facility meeting the qualifications of this subsection. Moneys in the fund shall only be used to provide rebates of state sales tax pursuant to paragraph "b", subparagraph (1). The total amount of rebates paid from the fund shall not exceed the amount specified in paragraph "c", subparagraph (4), subparagraph division (a) or (b), whichever is applicable. Any moneys in the fund which represent state sales tax revenue for which the time period in paragraph "c" for receiving a rebate has expired, or which otherwise represent state sales tax revenue that has become ineligible for rebate pursuant to this subsection shall immediately revert to the general fund of the state.

f. Upon determining that the conditions and requirements of this subsection and the department are met, the department shall issue a warrant to the owner or operator in the amount equal to the amount claimed and verified by the department.

g. This subsection is repealed June 30, 2025, or thirty days following the date on which an amount of total rebates specified in paragraph "c", subparagraph (4), subparagraph division (a) or (b), whichever is applicable, has been provided and no overpayment of rebates exists, or thirty days following the date on which rebates cease as provided in paragraph "c", subparagraph (5), and no overpayment of rebates exists, whichever is earliest.

h. If the amount of rebates issued to an owner or operator under this subsection exceeds the amount allowed under this subsection, the department shall seek repayment of such excess amount. The repayment of rebates pursuant to this paragraph shall be considered a tax payment due and payable to the department by any person who has received such rebates, and the failure to make such a repayment may be treated by the department in the same manner as a failure to pay the tax shown due or required to be shown due with the filing of a return or deposit form. In addition, the amount of rebates required to be repaid shall constitute a lien upon the real property that comprises the raceway facility that was the subject of the rebate regardless of the identity of the owner or operator of said raceway facility, and the liability shall be collected in the same manner as provided in section 422.26. Amounts required to be repaid pursuant to this paragraph shall accrue interest at the rate in effect under section 421.7 from the date of the warrant issued under paragraph "f".

i. The director shall adopt rules for the administration of this subsection.

KRAIG PAULSEN
Speaker of the House

PAM JOCHUM
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2464, Eighty-fifth General Assembly.

CARMINE BOAL
Chief Clerk of the House

Approved _____, 2014

TERRY E. BRANSTAD
Governor