

Senate File 2367 - Enrolled

Senate File 2367

AN ACT

RELATING TO STATE TAXATION BY SPECIFYING WHEN RETURNS ARE DUE, STRIKING SALES TAX EXEMPTIONS AND EXEMPTING OTHER PRODUCTS, AND MODIFYING DISTRIBUTIONS OF REVENUE TO LOCAL GOVERNMENTS AND SCHOOL DISTRICTS, THE LIABILITY OF SELLERS, THE FRANCHISE TAX, MOTOR FUEL TAX REPORTING, TAX REFUNDS AND CREDITS, AND THE INDIVIDUAL STATE INCOME TAX, AND PROVIDING PENALTIES, AND INCLUDING EFFECTIVE DATE, APPLICABILITY, AND RETROACTIVE APPLICABILITY PROVISIONS.

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

DIVISION I

SALES, USE, AND EXCISE TAX — RETURNS DUE

Section 1. Section 9C.3, subsection 3, Code 2022, is amended to read as follows:

3. The application shall state whether or not the applicant has an Iowa retailers sales or use tax permit and if the applicant has such permit, shall state the number of such permit.

Sec. 2. Section 9C.5, Code 2022, is amended to read as follows:

9C.5 Issuance of license.

Upon receiving an application for a transient merchant's license, the secretary of state shall investigate or cause to be investigated, the reputation and character of the applicant. If, upon making such investigation, the secretary of state is

satisfied that the statements and representations contained in the application are true, and that the applicant is of good reputation and character, and the holder of an Iowa ~~retailer's~~ sales or use tax permit, and if a foreign corporation, has authority to do business in the state of Iowa, the secretary shall issue to the applicant a license as a transient merchant upon payment of the fee as herein prescribed for the period of time requested in said application and for use at the location and place where it is stated in said application the sale will be held or the business conducted, both of which shall be set out in said license. Such license shall be valid only for the period of time and at the location and place described therein.

Sec. 3. Section 99G.30A, subsection 2, paragraph c, Code 2022, is amended to read as follows:

c. Frequency of deposits and ~~quarterly~~ monthly reports of the monitor vending machine excise tax with the department of revenue are governed by the tax provisions in [section 423.31](#). Monitor vending machine excise tax collections shall not be included in computation of the total tax to determine frequency of filing under [section 423.31](#).

Sec. 4. Section 321.105A, subsection 4, paragraph b, Code 2022, is amended to read as follows:

b. [Section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection 2, and sections 423.23, 423.24, 423.25, ~~423.32~~, 423.33, 423.35, 423.37 through 423.42, 423.45, and 423.47](#), consistent with the provisions of [this section](#), apply with respect to the fees for new registration authorized under [this section](#) in the same manner and with the same effect as if the fees for new registration were retail use taxes within the meaning of those statutes.

Sec. 5. Section 421.26, Code 2022, is amended to read as follows:

421.26 Personal liability for tax due.

If a licensee or other person under [section 452A.65](#), a retailer or purchaser under [chapter 423A, 423B, 423C, 423D, or 423E](#), or [section 423.14, 423.14A, 423.29, 423.31, ~~423.32~~, or 423.33](#), or a user under [section 423.34](#), or a permit holder

or licensee under [section 453A.13](#), [453A.16](#), or [453A.44](#) fails to pay a tax under those sections when due, an officer of a corporation or association, notwithstanding [section 489.304](#), a member or manager of a limited liability company, or a partner of a partnership, having control or supervision of or the authority for remitting the tax payments and having a substantial legal or equitable interest in the ownership of the corporation, association, limited liability company, or partnership, who has intentionally failed to pay the tax is personally liable for the payment of the tax, interest, and penalty due and unpaid. However, [this section](#) shall not apply to taxes on accounts receivable. The dissolution of a corporation, association, limited liability company, or partnership shall not discharge a person's liability for failure to remit the tax due.

Sec. 6. Section 423.2, subsection 1, paragraph b, Code 2022, is amended to read as follows:

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

shall be treated as the sale of ordinary tangible personal property and subject to the tax imposed under [this subsection](#) and the use tax.

Sec. 7. Section 423.3, subsection 39, paragraph a, subparagraph (2), Code 2022, is amended to read as follows:

(2) The sale of all or substantially all of the tangible personal property, or specified digital products, or services held or used by a seller in the course of the seller's trade or business for which the seller is required to hold a sales or use tax permit when the seller sells or otherwise transfers the trade or business to another person who shall engage in a similar trade or business.

Sec. 8. Section 423.3, subsection 80, paragraph d, Code 2022, is amended to read as follows:

d. Subject to the limitations in paragraph "c", where the owner, contractor, subcontractor, or builder is also a retailer holding a retail sales or use tax permit and transacting retail sales of building materials, supplies, and equipment, the tax shall not be due when materials are withdrawn from inventory for use in construction performed for a designated exempt entity if an exemption certificate is received from such entity.

Sec. 9. Section 423.3, subsection 104, paragraph b, subparagraph (1), Code 2022, is amended to read as follows:

(1) "*Commercial enterprise*" means the same as defined in section 423.3, subsection 47, paragraph "d", subparagraph (1), but also includes professions and occupations, and includes public utilities as defined in section 476.1, subsection 3.

Sec. 10. Section 423.5, subsection 2, Code 2022, is amended to read as follows:

2. The excise tax is imposed upon every person using the property within this state until the tax has been paid directly to the county treasurer, the state department of transportation, a retailer, or the department. This tax is imposed on every person using the services or the product of the services in this state until the user has paid the tax either to an Iowa sales or use tax permit holder or to the department.

Sec. 11. Section 423.14, subsection 2, paragraph b, Code

2022, is amended to read as follows:

b. The tax upon the use of all tangible personal property and specified digital products other than that enumerated in paragraph "a", which is sold by a seller who is a retailer or its agent that is not otherwise required to collect sales tax under the provisions of [this chapter](#), may be collected by the retailer or agent and remitted to the department, pursuant to the provisions of paragraph "e", and [sections 423.24, 423.29, 423.30, ~~423.32~~ 423.31, and 423.33](#).

Sec. 12. Section 423.14A, subsection 3, paragraph c, subparagraph (2), Code 2022, is amended to read as follows:

(2) A marketplace facilitator shall collect sales and use tax on the entire sales price or purchase price paid by a purchaser on each Iowa sale subject to sales and use tax that is made or facilitated by the marketplace facilitator, regardless of whether the marketplace seller for whom an Iowa sale is made or facilitated has or is required to have a ~~retail sales or use tax~~ permit or would have been required to collect sales and use tax had the sale not been facilitated by the marketplace facilitator, and regardless of the amount of the sales price or purchase price that will ultimately accrue to or benefit the marketplace facilitator, the marketplace seller, or any other person. This sales and use tax collection responsibility of a marketplace facilitator applies but shall not be limited to sales facilitated through a computer software application, commonly referred to as in-app purchases, or through another specified digital product.

Sec. 13. Section 423.31, subsections 1, 3, 5, and 6, Code 2022, are amended to read as follows:

1. a. ~~Each~~ Except as provided in paragraph "b", each person subject to [this section](#) and [section 423.36](#) and in accordance with the provisions of [this section](#) and [section 423.36](#) shall, on or before the last day of the month following the close of each calendar ~~quarter~~ month during which such person is or has become or ceased being subject to the provisions of this section and [section 423.36](#), make, sign, and file electronically a return for the calendar ~~quarter~~ month in the form as may be required. Returns shall show information relating to sales prices including tangible personal property, specified digital

products, and services converted to the use of such person, the amounts of sales prices excluded and exempt from the tax, the amounts of sales prices subject to tax, a calculation of tax due, and any other information for the period covered by the return as may be required. Returns shall be signed by the retailer or the retailer's authorized agent and must be certified by the retailer to be correct in accordance with forms and rules prescribed by the director. A person required to file a sales or use tax return who is unable to do so may request permission from the director to file a return by another method.

b. Notwithstanding paragraph "a", each person subject to this section who collects and remits less than one thousand two hundred dollars in sales or use tax to the department per calendar year may file a return on or before the last day of the month following the close of the calendar year.

~~3. The sales tax forms prescribed by the director shall be referred to as "retailers tax deposit". Deposit forms shall be signed by the retailer or the retailer's duly authorized agent, and shall be duly certified by the retailer or agent to be correct. The director may authorize incorporated banks and 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 sales or use tax imposed under [this chapter](#), in the manner, at the times, and under the conditions the director prescribes. The director shall 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.~~

5. *a.* Upon making application and receiving approval from the director, a person and its affiliates that make retail sales of tangible personal property, specified digital products, or taxable enumerated services may make deposits and file a consolidated sales or use tax return for the affiliated group, pursuant to rules adopted by the director. A person and each affiliate that files a consolidated return are jointly and severally liable for all tax, penalty, and interest found due for the tax period for which a consolidated return is filed or required to be filed.

b. A business required to file a consolidated sales or use tax return shall file a form entitled "schedule of consolidated business locations" with its quarterly sales or use tax return that shows the taxpayer's consolidated permit number, the permit number for each Iowa business location, the state sales tax amount by business location, and the amount of state sales tax due on goods consumed that are not assigned to a specific business location. Consolidated quarterly sales or use tax returns that are not accompanied by the schedule of consolidated business locations form are considered incomplete and are subject to penalty under [section 421.27](#).

6. If necessary or advisable in order to ~~insure~~ ensure the payment of the tax, the director may require returns and payment of the tax to be made for other than ~~quarterly~~ monthly periods, the provisions of [this section](#) or other provision to the contrary notwithstanding.

Sec. 14. Section 423.31, subsection 2, Code 2022, is amended by striking the subsection.

Sec. 15. Section 423.33, subsection 1, paragraph a, Code 2022, is amended to read as follows:

a. If a purchaser fails to pay sales tax to the retailer required to collect the tax, then in addition to all of the rights, obligations, and remedies provided, a use tax is payable by the purchaser directly to the department, and sections 423.31, ~~423.32~~, [423.37](#), [423.38](#), [423.39](#), [423.40](#), [423.41](#), and [423.42](#) apply to the purchaser.

Sec. 16. Section 423.33, subsection 3, Code 2022, is amended to read as follows:

3. *Event sponsor's liability for sales tax.* A person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event shall obtain from every retailer selling tangible personal property, specified digital products, or taxable services at the event proof that the retailer possesses a valid sales or use tax permit or secure from the retailer a statement, taken in good faith, that tangible personal property, specified digital products, or services offered for sale are not subject to sales tax. Failure to do so renders a sponsor of the event liable for payment of any sales tax, interest, and penalty due and owing from any retailer

selling property or services at the event. Sections 423.31, ~~423.32~~, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 apply to the sponsors. For purposes of this subsection, a *“person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event”* does not include a marketplace facilitator as defined in section 423.14A, subsection 1, an organization which sponsors an event determined to qualify as an event involving casual sales pursuant to section 423.3, subsection 39, or the state fair or a fair as defined in section 174.1.

Sec. 17. Section 423.34, Code 2022, is amended to read as follows:

423.34 Liability of user.

Any person who uses any tangible personal property, specified digital products, or services enumerated in section 423.2 upon which the use tax has not been paid, either to the county treasurer or to a retailer or direct to the department as required by this subchapter, shall be liable for the payment of tax, and shall on or before the last day of the month next succeeding each ~~quarterly~~ monthly period pay the use tax upon all tangible personal property, specified digital products, or services used by the person during the preceding ~~quarterly~~ monthly period in the manner and accompanied by such returns as the director shall prescribe. All of the provisions of sections ~~423.32~~ 423.31 and 423.33 with reference to the returns and payments shall be applicable to the returns and payments required by this section.

Sec. 18. Section 423.36, subsection 4, paragraph b, Code 2022, is amended to read as follows:

b. If an applicant is making sales outside Iowa for use in this state or furnishing services outside Iowa, the product or result of which will be used in this state, that applicant shall be issued one sales or use tax permit by the department applicable to these out-of-state sales or services.

Sec. 19. Section 423.36, subsection 4, Code 2022, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c.* If an applicant is required to collect sales or use tax and is not included in the definition of a retailer maintaining a place of business in this state in section 423.1, subsection 48, paragraph *“a”*, subparagraph (1),

the applicant shall be issued one sales or use tax permit by the department regardless of the number of locations from which sales are made.

Sec. 20. Section 423.36, subsections 7 and 8, Code 2022, are amended to read as follows:

7. *a.* Sellers who are not regularly engaged in selling at retail and do not have a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at state, county, district, or local fairs, carnivals, or the like, shall report and remit the sales tax on a ~~temporary~~ seasonal basis, under rules the director shall provide for the efficient collection of the sales tax. **This subsection** applies to sellers who are temporarily engaged in furnishing services.

b. Persons engaged in selling tangible personal property, specified digital products, or furnishing services shall not be required to obtain or retain a sales or use tax permit for a place of business at which taxable sales of tangible personal property, specified digital products, or taxable performance of services will not occur.

8. The provisions of **subsection 1**, dealing with the lawful right of a retailer to transact business, as applicable, apply to persons having receipts from furnishing services enumerated in **section 423.2**, except that a person holding a permit pursuant to **subsection 1** shall not be required to obtain any separate sales or use tax permit for the purpose of engaging in business involving the services.

Sec. 21. Section 423.40, subsections 1, 2, 3, and 5, Code 2022, are amended to read as follows:

1. In addition to the sales or use tax or additional sales or use tax, the taxpayer shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the sales or use tax or additional sales or use 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 or monthly tax deposit form~~ or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under **this subchapter**. Unpaid penalties and interest

may be enforced in the same manner as the taxes imposed by this chapter.

2. *a.* Any person who knowingly sells tangible personal property, specified digital products, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, or communication service at retail, or engages in the furnishing of services enumerated in [section 423.2](#), in this state without procuring a permit to collect tax, as provided in [section 423.36](#), or who violates [section 423.24](#) and the officers of any corporation who so act are guilty of a serious misdemeanor.

b. A person who knowingly sells tangible personal property, specified digital products, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, or communication service at retail, or engages in the furnishing of services enumerated in [section 423.2](#), in this state after the person's sales or use tax permit has been revoked and before it has been restored as provided in [section 423.36](#), subsection 6, and the officers of any corporation who so act are guilty of an aggravated misdemeanor.

3. A person who willfully attempts in any manner to evade any tax imposed by [this chapter](#) or the payment of the tax or a person who makes or causes to be made a false or fraudulent ~~semimonthly or monthly tax deposit form or~~ return with intent to evade any tax imposed by [subchapter II](#) or [III](#) or the payment of the tax is guilty of a class "D" felony.

5. A person required to pay sales or use tax, or to make, sign, or file a ~~tax deposit form or~~ return or supplemental return, who willfully makes a false or fraudulent ~~tax deposit form or~~ return, or willfully fails to pay at least ninety percent of the tax or willfully fails to make, sign, or file the ~~tax deposit form or~~ return, at the time required by law, is guilty of a fraudulent practice.

Sec. 22. Section 423.45, subsection 4, paragraph b, Code 2022, is amended to read as follows:

b. The sales tax liability for all sales of tangible personal property and specified digital products and all sales of services is upon the seller and the purchaser unless the seller takes from the purchaser a valid exemption certificate

stating under penalty of perjury that the purchase is for a nontaxable purpose and is not a retail sale as defined in section 423.1, or the seller is not obligated to collect tax due, or unless the seller takes a fuel exemption certificate pursuant to [subsection 5](#). If the tangible personal property, specified digital products, or services are purchased tax free pursuant to a valid exemption certificate and the tangible personal property, specified digital products, or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department and [sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42](#) shall apply to the purchaser.

Sec. 23. Section 423.45, subsection 5, paragraph c, Code 2022, is amended to read as follows:

c. The seller may accept a completed fuel exemption certificate, as prepared by the purchaser, for three years unless the purchaser files a new completed exemption certificate. If the fuel is purchased tax free pursuant to a fuel exemption certificate which is taken by the seller, and the fuel is used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes, and shall remit the taxes directly to the department and [sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42](#) shall apply to the purchaser.

Sec. 24. Section 423.50, subsection 1, Code 2022, is amended to read as follows:

1. Only one remittance of tax per return is required ~~except as provided in [this subsection](#). Sellers that collect more than thirty thousand dollars in sales and use taxes for this state during the preceding calendar year shall be required to make additional remittances as required under rules adopted by the director. The filing of a return is not required with an additional remittance.~~

Sec. 25. Section 423.57, Code 2022, is amended to read as follows:

423.57 Statutes applicable.

The director shall administer [this subchapter](#) as it relates to the taxes imposed in [this chapter](#) in the same manner and

subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in sections 423.14, 423.14A, 423.14B, 423.15, 423.16, 423.17, 423.19, 423.20, 423.21, 423.22, 423.23, 423.24, 423.25, 423.29, 423.31, ~~423.32~~, 423.33, 423.34, 423.34A, 423.35, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42, section 423.43, subsection 1, and sections 423.45, 423.46, and 423.47.

Sec. 26. Section 423.58, Code 2022, is amended to read as follows:

423.58 Collection, permit, and tax return exemption for certain out-of-state businesses.

Notwithstanding sections 423.14, 423.14A, 423.14B, 423.29, 423.31, ~~423.32~~, and 423.36, a person meeting the requirements of section 29C.24 is not required to obtain a sales or use tax permit, collect and remit sales and use tax, or make and file applicable sales or use tax returns, as provided in section 29C.24, subsection 3, paragraph "a", subparagraph (2).

Sec. 27. Section 423A.6, subsection 4, Code 2022, is amended to read as follows:

4. Section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection 1, and sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 through 423.42, and 423.47, consistent with the provisions of this chapter, apply with respect to the taxes authorized under this chapter, in the same manner and with the same effect as if the state and local hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding this subsection, the director shall provide for ~~quarterly~~ monthly filing of returns and for other than ~~quarterly~~ monthly filing of returns both as prescribed in section 423.31. The director may require all persons who are engaged in the business of deriving any sales price subject to tax under this chapter to register with the department. All taxes collected under this chapter by a retailer, lodging provider, lodging facilitator, lodging platform, or any other person are deemed to be held in trust for the state of Iowa and the local jurisdictions imposing the taxes.

Sec. 28. Section 423B.5, subsection 3, Code 2022, is amended

to read as follows:

3. A tax permit other than the state sales or use tax permit required under [section 423.36](#) shall not be required by local authorities.

Sec. 29. Section 423B.6, subsection 2, paragraph c, Code 2022, is amended to read as follows:

c. Frequency of deposits and ~~quarterly~~ monthly reports of a local sales and services tax with the department of revenue are governed by the tax provisions in [section 423.31](#). Local tax collections shall not be included in computation of the total tax to determine frequency of filing under [section 423.31](#).

Sec. 30. Section 423C.4, Code 2022, is amended to read as follows:

423C.4 Administration and enforcement.

All powers and requirements of the director of revenue to administer the state sales tax law under [chapter 423](#) are applicable to the administration of the tax imposed under [section 423C.3](#), including but not limited to [section 422.25](#), subsection 4, [sections 422.30, 422.67, and 422.68](#), [section 422.69](#), subsection 1, [sections 422.70 through 422.75](#), [section 423.14](#), subsection 1, and [sections 423.15, 423.23, 423.24, 423.25, 423.31, 423.33, 423.35 and 423.37 through 423.42, 423.45, 423.46, and 423.47](#). However, as an exception to the powers specified in [section 423.31](#), the director shall only require the filing of ~~quarterly~~ monthly reports.

Sec. 31. Section 423D.4, subsection 3, Code 2022, is amended to read as follows:

3. [Section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection 1, and sections 423.23, 423.24, 423.25, 423.31 through 423.35, 423.37 through 423.42, and 423.47](#), consistent with the provisions of [this chapter](#), apply with respect to the tax authorized under [this chapter](#), in the same manner and with the same effect as if the excise taxes on equipment sales or use were retail sales taxes within the meaning of those statutes. Notwithstanding [this subsection](#), the director shall provide for ~~quarterly~~ monthly filing of returns and for other than ~~quarterly~~ monthly filing of returns both as prescribed in

section 423.31. All taxes collected under [this chapter](#) by a retailer or any user are deemed to be held in trust for the state of Iowa.

Sec. 32. Section 423G.5, subsection 3, Code 2022, is amended to read as follows:

3. [Section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection 1, and sections 423.23, 423.24, 423.25, 423.31 through 423.35, 423.37 through 423.42, and 423.47](#), consistent with the provisions of [this chapter](#), shall apply with respect to the tax authorized under [this chapter](#), in the same manner and with the same effect as if the excise taxes on the sale or furnishing of a water service were retail sales taxes within the meaning of those statutes. Notwithstanding [this subsection](#), the director shall provide for ~~quarterly~~ monthly filing of returns and for other than ~~quarterly~~ monthly filing of returns both as prescribed in [section 423.31](#). All taxes collected under this chapter by a retailer or any user are deemed to be held in trust for the state of Iowa.

Sec. 33. Section 728.1, subsection 6, Code 2022, is amended to read as follows:

6. "*Place of business*" means the premises of a business required to obtain a sales or use tax permit pursuant to chapter 423, the premises of a nonprofit or not-for-profit organization, and the premises of an establishment which is open to the public at large or where entrance is limited by a cover charge or membership requirement.

Sec. 34. Section 728.5, subsection 1, unnumbered paragraph 1, Code 2022, is amended to read as follows:

An owner, manager, or person who exercises direct control over a place of business required to obtain a sales or use tax permit shall be guilty of a serious misdemeanor under any of the following circumstances:

Sec. 35. REPEAL. Section 423.32, Code 2022, is repealed.

Sec. 36. TEMPORARY PENALTY AND INTEREST GRACE PERIOD. A taxpayer shall file a return and pay tax pursuant to section 423.31, subsection 1, as amended by this division of this Act. However, if a taxpayer is unable to file a return or pay tax in

accordance with the changes to section 423.31, subsection 1, as amended by this division of this Act, by July 1, 2022, the taxpayer shall file returns and pay tax for tax periods ending on or before September 30, 2022, according to the taxpayer's registration as of June 30, 2022, and such a taxpayer shall not incur a penalty for doing so. Interest on unpaid payments for such taxpayers unable to file a return or pay a tax in accordance with the changes to section 423.31, subsection 1, as amended by this division of this Act, shall be suspended until October 1, 2022.

Sec. 37. AUTHORITY TO MODIFY PERMITS. Notwithstanding any provision of law to the contrary, the department of revenue shall have authority to convert, renumber, or combine existing sales tax, retailer's use tax, and consumer's use tax permits for taxpayers holding multiple tax permits in accordance with section 423.31, subsection 1, as amended by this division of this Act.

Sec. 38. IMPLEMENTATION — EMERGENCY RULES. The department of revenue may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division of this Act and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 39. EFFECTIVE DATE. The following, being deemed of immediate importance, takes effect upon enactment:

The section of this division of this Act enacting emergency rules relating to the implementation of this division of this Act.

Sec. 40. EFFECTIVE DATE. The following takes effect January 1, 2023:

The section of this division of this Act amending section 423.3, subsection 104, paragraph "b", subparagraph (1).

DIVISION II

SALES AND USE TAX EXEMPTIONS

Sec. 41. Section 423.3, subsection 47, paragraph a, subparagraph (4), Code 2022, is amended by striking the subparagraph.

Sec. 42. Section 423.3, subsection 68, paragraph c, subparagraph (1), subparagraph division (a), Code 2022, is amended to read as follows:

(a) "*Clothing*" includes but is not limited to the following: aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; ~~diapers (children and adults, including disposable diapers)~~; earmuffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoelaces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel.

Sec. 43. Section 423.3, Code 2022, is amended by adding the following new subsections:

NEW SUBSECTION. 108. The sales price from the sale of feminine hygiene products. For purposes of this subsection, "*feminine hygiene products*" means tampons, panty liners, menstrual cups, sanitary napkins, and other similar tangible personal property designed for feminine hygiene in connection with the human menstrual cycle.

NEW SUBSECTION. 109. The sales price from the sale of a child or adult diaper, whether cloth or disposable.

Sec. 44. EFFECTIVE DATE. Except as otherwise provided, this division of this Act takes effect January 1, 2023.

Sec. 45. EFFECTIVE DATE. The following takes effect January 1, 2024:

The section of this division of this Act amending section 423.3, subsection 47, paragraph "a", subparagraph (4).

DIVISION III

DISTRIBUTIONS OF REVENUE TO LOCAL GOVERNMENTS AND SCHOOL DISTRICTS

Sec. 46. Section 423B.7, subsection 2, paragraph a, Code 2022, is amended to read as follows:

a. The director of revenue by ~~August 15 of each fiscal year~~ the last day of each month shall ~~send~~ transfer to each city or county where the local option tax is imposed, ~~an~~

~~estimate of the amount of tax moneys remitted to the department attributable to each city or county will receive for the year and for each month of the year from the preceding month. At the end of each month, the director may revise the estimates for the year and remaining months.~~

Sec. 47. Section 423B.7, subsection 2, paragraphs b and c, Code 2022, are amended by striking the paragraphs.

Sec. 48. Section 423F.2, subsection 4, paragraph a, Code 2022, is amended to read as follows:

a. The director of revenue by ~~August 15 of each fiscal year~~ the last day of each month shall ~~send~~ transfer to each school district ~~an estimate of the amount of tax moneys remitted to the department attributable to each school district will receive for the year and for each month of the year from the preceding month. At the end of each month, the director may revise the estimates for the year and remaining months.~~

Sec. 49. Section 423F.2, subsection 4, paragraph b, Code 2022, is amended by striking the paragraph and inserting in lieu thereof the following:

b. On or before August 15 of each fiscal year the director of revenue shall provide to each school district an estimate of the amount of tax moneys to be distributed to each school district for the current fiscal year.

Sec. 50. Section 423F.2, subsection 4, paragraph c, Code 2022, is amended by striking the paragraph.

Sec. 51. TRANSITION PROVISION FOR LOCAL OPTION SALES TAX AND SECURING AN ADVANCED VISION FOR EDUCATION — TRANSFER AMOUNTS. Notwithstanding any other provision of law to the contrary, the department of revenue shall estimate monthly local option sales tax and securing an advanced vision for education transfer amounts through the end of the 2022 calendar year. The department of revenue shall transfer estimated amounts to each local government or school district for the months of July, August, and September 2022. Beginning with the October 2022 transfer, the department shall not use estimated amounts and shall transfer the amount of tax attributable to each local government or school district for the tax remitted in September 2022. Any adjustment amount that is necessary to the July, August, or September 2022 estimated transfer amount

to reflect the accurate attributable amount shall be made by the department of revenue or the local government or school district by the close of business on December 30, 2022.

DIVISION IV

LIABILITY OF SELLERS USING CERTIFIED SERVICE PROVIDER

Sec. 52. Section 423.48, subsection 3, paragraph a, Code 2022, is amended to read as follows:

a. A model 1 seller's obligation to calculate, collect, and remit sales and use taxes shall be performed by its certified service provider, except for the seller's obligation to remit tax on its own purchases. As the seller's agent, the certified service provider is liable for its model 1 seller's sales and use tax due Iowa on all sales transactions it processes for the seller except as set out in [this section](#). A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller ~~misrepresents the types of items or services it sells or commits fraud~~ certified service provider establishes that the certified service provider is not liable in accordance with the agreement. In the absence of ~~probable cause to believe that the seller has committed fraud or made a material misrepresentation~~ liability relief established by the certified service provider, the seller is not subject to audit on the transactions processed by the certified service provider. A model 1 seller is subject to audit for transactions not processed by the certified service provider. The director is authorized to perform a system check of the model 1 seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

DIVISION V

AUTHORITY TO CANCEL VARIOUS PERMITS ISSUED BY THE DEPARTMENT

Sec. 53. Section 421.17, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 37. Notwithstanding any other provision of law to the contrary, to cancel the following permits upon verification by the department of revenue the permits are no

longer in use: income tax withholding, sales or use tax, or motor fuel tax.

DIVISION VI
ECONOMIC DEVELOPMENT AUTHORITY SALES AND USE TAX REFUND
INCENTIVES

Sec. 54. Section 15.331A, subsection 2, Code 2022, is amended to read as follows:

2. To receive the refund, a claim shall be filed by the eligible business with the department of revenue as follows:

a. The contractor or subcontractor shall state under oath, on forms provided by the department of revenue, the amount of the sales of tangible personal property or services rendered, furnished, or performed including water, sewer, gas, and electric utility services upon which sales or use tax has been paid prior to the ~~project~~ contract completion, and shall file the forms with the eligible business before final settlement is made.

b. The eligible business shall, ~~not more than one year after project~~ contract completion, make application to the department of revenue for any refund of the amount of the sales and use taxes paid pursuant to [chapter 423](#) upon any tangible personal property, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department of revenue, and the department of revenue shall audit the claim and, if approved, issue a warrant to the eligible business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. The application must be made within one year after the project completion date. A claim filed by the eligible business in accordance with [this section](#) shall not be denied by reason of a limitation provision set forth in [chapter 421](#) or [423](#).

c. The eligible business shall inform the department of revenue in writing after ~~project~~ contract completion. ~~For purposes of this section, "project completion" means the first date upon which the average annualized production of finished product for the preceding ninety-day period at the manufacturing facility operated by the eligible business is at least fifty percent of the initial design capacity of the~~

facility.

Sec. 55. Section 15.331A, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 4. For purposes of this section, "*contract completion*" means the date of completion of a written contract relating to the construction or equipping of the facility that is part of the project of the eligible business.

Sec. 56. Section 15.331C, subsections 1 and 2, Code 2022, are amended to read as follows:

1. ~~An~~ In lieu of the sales and use tax refund provided in section 15.331A, an eligible business may claim a tax credit in an amount equal to the sales and use taxes paid by a third-party developer under chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the eligible business. Taxes attributable to intangible property and furniture and furnishings shall not be included, but taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall be included. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An eligible business may elect to receive a refund of all or a portion of an unused tax credit.

2. A third-party developer shall state under oath, on forms provided by the department of revenue, the amount of taxes paid as described in subsection 1 and shall submit such forms to the department of revenue. The taxes paid shall be itemized to allow identification of the taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. The eligible business shall make application to the department of revenue in the manner and form prescribed by the department of revenue, and within the time for applying for a sales and use tax refund under section 15.331A. After timely receiving the form from the third-party developer and application from the eligible business, the department of revenue shall audit the claim

and, if approved, shall issue a tax credit certificate to the eligible business equal to the sales and use taxes paid by a third-party developer under [chapter 423](#) for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility. The department of revenue shall also issue a tax credit certificate to the eligible business equal to the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. The aggregate combined total amount of tax refunds under section 15.331A for taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center and of tax credit certificates issued by the department of revenue under this section for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall not exceed five hundred thousand dollars in a fiscal year. If an applicant for a tax credit certificate does not receive a refund or certificate for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center, the application shall be considered in succeeding fiscal years. The eligible business shall not claim a tax credit under [this section](#) unless a tax credit certificate issued by the department of revenue is included with the taxpayer's tax return for the tax year for which the tax credit is claimed. A tax credit certificate shall contain the eligible business's name, address, tax identification number, the amount of the tax credit, and other information deemed necessary by the department of revenue.

Sec. 57. Section 15.355, subsection 2, Code 2022, is amended by striking the subsection and inserting in lieu thereof the following:

2. *a.* A housing business may claim a refund of the sales and use taxes paid under chapter 423 prior to the completion of the housing project that are directly related to a housing project and specified in the agreement.

b. To receive a refund, a claim shall be filed by the

housing business with the department of revenue as follows:

(1) The contractor or subcontractor shall state under oath, on forms provided by the department of revenue, the amount of sales and use taxes paid under chapter 423 prior to the completion of the housing project that are directly related to a housing project and specified in the agreement.

(2) The contractor or subcontractor shall file the forms with the housing business before final settlement is made.

(3) (a) The housing business shall, after the agreement completion date, make application to the department of revenue for any refund of the amount of sales and use taxes paid under chapter 423 prior to the completion of the housing project that were directly related to a housing project and specified in the agreement. The application shall be made in the manner and upon forms to be provided by the department of revenue. The department of revenue shall audit the claim and, if approved, issue a warrant to the housing business. The application must be made within one year after the agreement completion date. A claim filed by the housing business in accordance with this subsection shall not be denied by reason of a limitation provision set forth in chapter 421 or 423.

(b) For purposes of this subparagraph, "*agreement completion date*" means the date on which the authority notifies the department of revenue that all applicable requirements of the agreement entered into pursuant to section 15.354, subsection 3, paragraph "a", and all applicable requirements of this part, including the rules the authority and the department of revenue adopt pursuant to section 15.356, are satisfied.

c. A contractor or subcontractor who willfully makes a false claim under oath in violation of the provisions of this subsection shall be guilty of a simple misdemeanor and in addition to any other penalty, the contractor or subcontractor shall be liable for the payment of the tax and any applicable penalty and interest.

Sec. 58. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 59. APPLICABILITY. This division of this Act applies to claims for refunds filed on or after the effective date of this division of this Act.

DIVISION VII
FRANCHISE TAX

Sec. 60. Section 422.63, Code 2022, is amended to read as follows:

422.63 Amount of tax.

1. The franchise tax is imposed annually in an amount equal to five the percent specified in subsection 2 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.

2. a. For tax years beginning prior to January 1, 2023, five percent.

b. For tax years beginning on or after January 1, 2023, but before January 1, 2024, four and seven-tenths percent.

c. For tax years beginning on or after January 1, 2024, but before January 1, 2025, four and four-tenths percent.

d. For tax years beginning on or after January 1, 2025, but before January 1, 2026, four and one-tenth percent.

e. For tax years beginning on or after January 1, 2026, but before January 1, 2027, three and eight-tenths percent.

f. For tax years beginning on or after January 1, 2027, three and one-half percent.

DIVISION VIII
MANUFACTURED FOOD — SALES TAX EXEMPTION

Sec. 61. Section 423.3, subsection 49, Code 2022, is amended to read as follows:

49. a. The sales price from the sale of carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and other taxable services and the lease or rental of tangible personal property when used by a manufacturer ~~of food products~~ to primarily produce marketable food products for human consumption food or food ingredients, including but not limited to treatment of material to change its form, context, or condition, in order to produce the food ~~product~~ or food

ingredients, maintenance of quality or integrity of the food ~~product~~ or food ingredients, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food ~~product~~ or food ingredients in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food ~~product~~ or food ingredients, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food ~~product~~ or food ingredients until shipment from the building of manufacture.

b. For purposes of this subsection, "food or food ingredients" means the same as "food and food ingredients" as defined in subsection 57, paragraph "d", and includes tangible personal property that could be sold for ingestion or chewing by humans but is sold for another use.

Sec. 62. REFUNDS. Refunds of taxes, interest, or penalties which arise from the enactment of this division of this Act, for sales or services occurring between January 1, 2019, and the effective date of this division of this Act, shall be limited to one hundred thousand dollars in the aggregate for any calendar year in which claims are eligible for a refund and shall not be allowed unless refund claims are filed by October 1, 2022, notwithstanding any other law to the contrary. If the amount of claims totals more than one hundred thousand dollars in the aggregate for any calendar year in which claims are eligible for a refund, the department of revenue shall prorate the one hundred thousand dollars in the aggregate among all the claimants for that particular calendar year in relation to the amounts of the claimants' valid claims.

Sec. 63. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 64. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 2019.

DIVISION IX

MOTOR FUEL REPORTING REQUIREMENT — PENALTY

Sec. 65. Section 452A.33, subsection 1, paragraph c, Code 2022, is amended to read as follows:

c. (1) The retail dealer shall prepare and ~~submit~~ file

the report with the department in a manner and according to procedures required by the department in compliance with section 452A.61. However, the department may require that the retail dealer file the report with the department by electronic transmission. The department may require that retail dealers report to the department on an annual, quarterly, or monthly basis. The department, upon application by a retail dealer, may grant a reasonable extension of time to file the report.

(2) If a retail dealer fails to file the report as required by this section or fails to maintain records required to file the report the department may impose a civil penalty of not more than one hundred dollars per occurrence in addition to any other penalty provided by law. The penalty amount shall be deposited into the general fund of the state.

DIVISION X

SOLAR ENERGY SYSTEM TAX CREDIT

Sec. 66. Section 422.11L, subsection 4, paragraph a, Code 2022, is amended to read as follows:

a. ~~The~~ Except as provided in subsection 7, the cumulative value of tax credits claimed annually by applicants pursuant to this section shall not exceed five million dollars. Of this amount, at least one million dollars shall be reserved for claims associated with or resulting from residential solar energy system installations. In the event that the total amount of claims submitted for residential solar energy system installations in a tax year is an amount less than one million dollars, the remaining unclaimed reserved amount shall be made available for claims associated with or resulting from nonresidential solar energy system installations received for the tax year.

Sec. 67. Section 422.11L, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 7. a. Notwithstanding any other law to the contrary, the department may review or reconsider the following as if the credit did not expire:

(1) Applications for installations that were completed prior to the 2022 calendar year that were denied solely due to the expiration of the credit provided in subsection 1, paragraph "a", regardless of whether the applicant appealed the

denial.

(2) Pending applications and new applications for the credit provided in subsection 1, paragraph "a", for installations that were completed during the 2021 calendar year as long as the application is received by June 30, 2022.

(3) The department shall use the original submission date of applications described in this paragraph to determine the order for reviewing such applications.

b. The cumulative value of tax credits in subsection 3, paragraph "d", subparagraph (2), shall not limit the amount of annual tax credits that may be awarded for valid applications that qualify pursuant to this subsection.

c. A tax credit awarded pursuant to this subsection may be first claimed for the tax year beginning during the 2022 calendar year.

Sec. 68. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 69. RETROACTIVE APPLICABILITY. A tax credit award issued pursuant to this division of this Act applies retroactively to tax years beginning on or after January 1, 2022.

DIVISION XI

INDIVIDUAL INCOME TAX EXCLUSION — CERTAIN PREMIUM PAY AND BONUSES

Sec. 70. Section 422.7, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 63. a. (1) Subtract to the extent included the amount, not to exceed one thousand dollars, of premium pay, as defined in 42 U.S.C. §802(g)(3), received by a certified peace officer who was designated by the governor as an eligible worker under 42 U.S.C. §802(g)(2).

(2) Subtract, to the extent included, the amount, not to exceed one thousand dollars, of premium pay, as defined in 42 U.S.C. §802(g)(3), received by a correctional officer or medical staff member at a correctional facility who was designated by the governor as an eligible worker under 42 U.S.C. §802(g)(2).

(3) Subtract to the extent included the amount, not to exceed one thousand dollars, of premium pay, as defined in

42 U.S.C. §802(g)(3), received by a teacher employed by an independently accredited school or a teacher employed by the state who was designated by the governor as an eligible worker under 42 U.S.C. §802(g)(2).

(4) Subtract to the extent included the amount of a teacher retention payment, not to exceed one thousand dollars, received by a teacher that was funded from moneys received by the state from the elementary and secondary school emergency relief funds pursuant to the federal Coronavirus Response and Relief Supplemental Appropriations Act, 2021, Pub. L. No. 116-260, or the federal American Rescue Plan Act of 2021, Pub. L. No. 117-2.

(5) Subtract to the extent included the amount of a teacher retention payment, not to exceed one thousand dollars, received by a teacher employed by a private school or specially accredited school, that was funded from the private sector worker premium pay program administered by the department of education that was funded from state moneys.

(6) Subtract to the extent included the amount of a recruitment and retention bonus, not to exceed one thousand dollars, received by a child care worker through the recruitment and retention bonus program administered by the department of human services.

b. An employer or any payor of an amount to an individual under paragraph "a" pursuant to a program described in paragraph "a" shall report the amount paid to each individual to the department of revenue in the manner and form required by the department.

c. Notwithstanding any provision of law to the contrary, public records related to the distribution of funds under this subsection shall be kept confidential to the extent that the release of such information would reveal the personal identifying information of a peace officer defined in section 801.4, subsection 11.

d. The department may adopt rules pursuant to chapter 17A to administer this subsection.

e. This subsection is repealed January 1, 2026.

Sec. 71. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 72. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 2022, for tax years beginning on or after January 1, 2022, but before January 1, 2023, for payments received in the 2022 calendar year.

JAKE CHAPMAN
President of the Senate

PAT GRASSLEY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2367, Eighty-ninth General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2022

KIM REYNOLDS
Governor