

17 1975

HOUSE FILE 748

WAYS & MEANS CALENDAR

Sen. " " 4/30, Page 5/5

By COMMITTEE ON WAYS AND MEANS

Passed House, Date 4-25-75 (p. 136) Passed Senate, Date 5-9-75 (132C)  
Vote: Ayes 88 Nays 0 Vote: Ayes 34 Nays 1  
Approved 6-3-75

## A BILL FOR

1 An Act relating to sales delivered within the state for  
2 corporation tax purposes.

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

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1 Section 1. Section four hundred twenty-two point thirty-  
2 three (422.33), subsection one (1), paragraph b, Code 1975,  
3 is amended to read as follows:

4 b. Net income of the above class having been separately  
5 allocated and deducted as above provided, the remainder of  
6 the net income of the taxpayer shall be allocated and  
7 apportioned as follows:

8 Where income is derived from business other than the  
9 manufacture or sale of tangible personal property, such income  
10 shall be specifically allocated or equitably apportioned  
11 within and without the state under rules of the director.

12 Where income is derived from the manufacture or sale of  
13 tangible personal property, the part thereof attributable  
14 to business within the state shall be in that proportion which  
15 the gross sales made within the state bear to the total gross  
16 sales.

17 The gross sales of the corporation within the state shall  
18 be taken to be the gross sales from goods delivered or shipped  
19 to a purchaser within the state regardless of the f.o.b. point  
20 or other conditions of the sale, excluding deliveries for  
21 transportation out of the state.

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

31 EXPLANATION

32 The proposed change will clarify, but is not intended to  
33 change the present meaning of "delivered" sales in the Code,  
34 which is equated with destination sales.

35 The present definition of "delivered" sales is currently

1 being challenged by several taxpayers. If the taxpayers  
2 prevail, the Iowa law could be circumvented merely by the  
3 buyer and seller agreeing that delivery of the goods will  
4 occur outside of Iowa. Such agreements could be easily made  
5 without any change in the rights and liabilities of parties  
6 to a sales contract.

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FISCAL NOTE  
HOUSE FILE 748

Date Prepared April 25, 1975

Requested by House Ways and Means Committee

Prepared in regard to H.F. 748, An Act relating to sales delivered within the state for corporation tax purposes. Following is the fiscal effect in dollars of the legislative proposal as required by Joint Rule 16:

No estimate available.

The Department of Revenue has in the past interpreted "delivered" to be synonymous with a destination sale. Several corporations are challenging this interpretation of the Code and want to be able to use the meaning of delivered as used in the uniform commercial code. Because the income taxes of non-Iowa corporations are calculated on the basis of their sales within the state, a ruling that would permit corporations to use the uniform commercial code definition of delivered, would allow out-of-state firms to avoid payment of Iowa Income taxes.

The fiscal impact of this could be a substantial drop in corporation income tax in the future.

Source: Department of Revenue

FILED  
MAY 2, 1975

GERRY D. RANKIN  
Legislative Fiscal Director

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LSB 623  
jb/rh/31

HOUSE FILE 748

AN ACT

RELATING TO SALES DELIVERED WITHIN THE STATE FOR CORPORATION TAX PURPOSES.

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

Section 1. Section four hundred twenty-two point thirty-three (422.33), subsection one (1), paragraph b, Code 1975, is amended to read as follows:

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

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

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

The gross sales of the corporation within the state shall be taken to be the gross sales from goods delivered or shipped to a purchaser within the state regardless of the f.o.b. point or other conditions of the sale, excluding deliveries for transportation out of the state.

For the purpose of this section, the word "sale" shall include exchange, and the word "manufacture" shall include the extraction and recovery of natural resources and all processes of fabricating and curing. The words "tangible personal property" shall be taken to mean corporeal personal property, such as machinery, tools, implements, goods, wares,

and merchandise, and shall not be taken to mean money deposits in banks, shares of stock, bonds, notes, credits, or evidence of an interest in property and evidences of debt.

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DALE M. COCHRAN  
Speaker of the House

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ARTHUR A. NEU  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 748, Sixty-sixth General Assembly.

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DAVID L. WRAY  
Chief Clerk of the House

Approved 6/3, 1975

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ROBERT D. RAY  
Governor