

*L. Hays ... 2/24 Amended per 3357A  
Dr. Paces 3/26 (p. 910)*

**FILED FEB 12 1981**

SENATE FILE 237  
BY COMMITTEE ON WAYS AND  
MEANS  
*Approved 2/12 (p. 442)*

Passed Senate, Date 2-15-81 (p. 504) Passed House, Date 5-8-81 (p. 1241)  
Vote: Ayes 45 Nays 2 Vote: Ayes 97 Nays 0  
Approved June 13, 1981

*Repassed & Amended 5-15-81 (p. 1694)  
40-0*

### A BILL FOR

1 An Act providing for the allocation and apportionment of  
2 capital gains and losses for purposes of computing the  
3 state corporate income and franchise taxes and making  
4 the provisions retroactive.

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

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1 Section 1. Section 422.33, subsection 1, paragraph a,  
2 Code 1981, is amended by adding the following new sub-  
3 paragraph:

4 NEW SUBPARAGRAPH. Nonbusiness capital gains and losses  
5 from the sale or other disposition of assets shall be  
6 specifically allocated under rules adopted by the director.

7 Sec. 2. Section 422.33, subsection 1, paragraph b,  
8 unnumbered paragraphs 2 through 5, Code 1981, are amended  
9 to read as follows:

10 (1) Business interest, dividends, rents, and royalties  
11 shall be reasonably apportioned within and without the state  
12 under rules adopted by the director pursuant to chapter 17A.

13 (2) Capital gains and losses from the sale or other dis-  
14 position of assets shall be specifically allocated or equitably  
15 apportioned within and without the state under rules of the  
16 director.

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

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

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

31 Sec. 3. This Act is retroactive to January 1, 1980 for  
32 tax years beginning on or after January 1, 1980 and to this  
33 extent the provisions of this Act are retroactive.

34 EXPLANATION

35 Presently the law is silent as to the specific treatment

1 of capital gains and losses in the computation of net income  
2 for purposes of the state corporate income and franchise  
3 taxes. The bill provides that capital gains and losses are  
4 to be allocated or apportioned under rules of the director  
5 of revenue which is how such gains and losses are presently  
6 being allocated or apportioned. There should be no fiscal  
7 or administrative effect of this bill.

8 The bill is retroactive to January 1, 1980 for tax years  
9 beginning on or after that date.

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FISCAL NOTE  
Senate File 237  
Requested by Representative Conlon  
April 3, 1981

In compliance with a written request there is hereby submitted a  
Fiscal Note for Senate File 237 pursuant to Joint Rule 16.

S.F. 237, An Act providing for the allocation and apportionment of capital  
gains and losses for purposes of computing the state corporate income and  
franchise taxes and making the provisions retroactive.

This legislation adds language to the code authorizing the director of re-  
venue to promulgate rules for the allocation or apportionment of capital  
gains and losses under the state corporate income and franchise taxes.  
Currently there is no provision in the code for allocation or apportionment  
of this income by either law or rule. This bill legalizes the current rules  
in use by the department.

There is no fiscal impact anticipated  
FILED APRIL 7, 1981

BY GERRY D. RANKIN  
Legislative Fiscal Bureau

SENATE FILE 237

H-3357

1 Amend Senate File 237 as follows:

2 1. Page 1, by striking line 6 and inserting in  
3 lieu thereof the following: "allocated as follows:  
4 Gains and losses from the sale or other disposition  
5 of real property located in this state are allocable  
6 to this state.

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

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

18 2. Page 1, by striking lines 13 through 16 and  
19 inserting in lieu thereof the following:

20 "(2) Capital gains and losses from the sale or  
21 other disposition of assets shall be apportioned to  
22 the state based upon the business activity ratio  
23 applicable to the year the gain or loss is determined  
24 if the corporation determines Iowa taxable income  
25 by a sales, gross receipts or other business activity  
26 ratio. If the corporation has only allocable income,  
27 capital gains and losses from the sale or other  
28 disposition of assets shall be allocated in accordance  
29 with section 1 of this Act."

H-3357 FILED

MARCH 26, 1981

*Adopted 5/8/81 (p. 1740)*

BY COMMITTEE ON WAYS AND MEANS  
SCHNEKLOTH, Chair

SENATE FILE 237

H-3732

1 Amend Senate File 237, as passed by the Senate,  
2 as follows:

3 1. Page 1, by striking lines 31 through 33 and  
4 inserting in lieu thereof the following new section:

5 "Sec. \_\_\_\_ . This Act takes effect January 1  
6 following enactment for tax years beginning on or  
7 after that date."

8 2. Amend the title, lines 3 and 4, by striking  
9 the words "and making the provisions retroactive"  
10 and inserting in lieu thereof the words "with a January  
11 1 effective date".

12 3. Renumber sections and correct internal  
13 references as are necessary in accordance with this  
14 amendment.

H-3732 FILED APRIL 21, 1981

BY CARPENTER of Polk

SENATE FILE 237

H-3993

- 1 Amend Senate File 237, as passed by the Senate,
- 2 as follows:
- 3 1. Page 1, line 31, by striking the numeral
- 4 "1980", and by inserting in lieu thereof the numeral
- 5 "1981".
- 6 2. Page 1, line 32, by striking the numeral
- 7 "1980", and by inserting in lieu thereof the numeral
- 8 "1981".

H-3993 FILED

MAY 4, 1981

*Adopted 5/8/81 (p 1740)*

BY CARPENTER of Polk  
CONLON of Muscatine

SIXTY-NINTH GENERAL ASSEMBLY  
1981 REGULAR SESSION

DAILY  
SENATE CLIP SHEET

WEDNESDAY, MAY 13, 1981

HOUSE AMENDMENT TO SENATE FILE 237

S-3728

1 Amend Senate File 237, as passed by the Senate,  
2 as follows:

3 1. Page 1, by striking line 6 and inserting in  
4 lieu thereof the following: "allocated as follows:  
5 Gains and losses from the sale or other disposition  
6 of real property located in this state are allocable  
7 to this state.

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

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

19 2. Page 1, by striking lines 13 through 16 and  
20 inserting in lieu thereof the following:

21 "(2) Capital gains and losses from the sale or  
22 other disposition of assets shall be apportioned to  
23 the state based upon the business activity ratio  
24 applicable to the year the gain or loss is determined  
25 if the corporation determines Iowa taxable income  
26 by a sales, gross receipts or other business activity  
27 ratio. If the corporation has only allocable income,  
28 capital gains and losses from the sale or other  
29 disposition of assets shall be allocated in accordance  
30 with section 1 of this Act."

31 3. Page 1, line 31, by striking the numeral "1980",  
32 and by inserting in lieu thereof the numeral "1981".

33 4. Page 1, line 32, by striking the numeral "1980",  
34 and by inserting in lieu thereof the numeral "1981".

S-3728 FILED  
MAY 12, 1981

RECEIVED FROM THE HOUSE

*Senate concurred 5/15/81 (p. 1694)*

SENATE FILE 237

AN ACT

PROVIDING FOR THE ALLOCATION AND APPORTIONMENT OF CAPITAL GAINS AND LOSSES FOR PURPOSES OF COMPUTING THE STATE CORPORATE INCOME AND FRANCHISE TAXES AND MAKING THE PROVISIONS RETROACTIVE.

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

Section 1. Section 422.33, subsection 1, paragraph a, Code 1981, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. Nonbusiness capital gains and losses from the sale or other disposition of assets shall be allocated as follows:

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

Gains and losses from the sale or other disposition of tangible personal property are allocable to this state if the property had a situs in this state at the time of the

sale or disposition or if the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

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

Sec. 2. Section 422.33, subsection 1, paragraph b, unnumbered paragraphs 2 through 5, Code 1981, are amended to read as follows:

(1) Business interest, dividends, rents, and royalties shall be reasonably apportioned within and without the state under rules adopted by the director ~~pursuant to chapter 17A.~~

(2) Capital gains and losses from the sale or other disposition of assets shall be apportioned to the state based upon the business activity ratio applicable to the year the gain or loss is determined if the corporation determines Iowa taxable income by a sales, gross receipts or other business activity ratio. If the corporation has only allocable income, capital gains and losses from the sale or other disposition of assets shall be allocated in accordance with section 1 of this Act.

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

(4) Where income is derived from the manufacture or sale of tangible personal property, the part ~~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.

(5) 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.

Sec. 3. This Act is retroactive to January 1, 1981 for tax years beginning on or after January 1, 1981 and to this extent the provisions of this Act are retroactive.

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TERRY E. BRANSTAD  
President of the Senate

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DELWYN STROMER  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 237, Sixty-ninth General Assembly.

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LINDA HOWARTH MACKAY  
Secretary of the Senate

Approved \_\_\_\_\_, 1981

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ROBERT D. RAY  
Governor