

Sen. Ways & Means Amend per 61154 to Pass 4/17 (p. 1758)

APR 14 1988

WAYS & MEANS CALENDAR

HOUSE FILE 2477

BY COMMITTEE ON WAYS AND MEANS

(Formerly House File 2131)

Passed House, Date 4/16/88 (p. 2195)

Passed Senate, Date 4/17/88 (p. 1761)

Vote: Ayes 85 Nays 2

Vote: Ayes 37 Nays 6

Approved May 13 1988

motion to reconsider and Rescind 4/16 (p. 2195)
Repassed House 4/16/88 (p. 2197)

84-3

A BILL FOR

Repassed House 4/17/88 (p. 223)
85-4

654 1 An Act relating to the exemption from or the refund of state
2 sales, services, and use taxes on the gross receipts from
3 sales or rentals of replacement parts for farm machinery,
4 equipment, and implements and to the issuance of fuel
5 exemption certificates for state sales, services and use tax
6 purposes for the purchase of fuel used in farm implements, and
7 providing a retroactive applicability date.

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

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HF 2477

6546 >

1 Section 1. Section 422.45, subsection 26, unnumbered
2 paragraph 1, Code Supplement 1987, is amended to read as
3 follows:

4 The gross receipts from the sale or rental, ~~on or after~~
5 ~~July 17, 1987~~, of farm machinery and equipment, including
6 replacement parts ~~which are depreciable for state and federal~~
7 ~~income tax purposes~~, if the following conditions are met:

8 Sec. 2. Section 422.45, subsection 26, Code Supplement
9 1987, is amended by adding the following new lettered
10 paragraph:

11 NEW LETTERED PARAGRAPH. c. The replacement part is
12 essential to any repair or reconstruction necessary to the
13 farm machinery's or equipment's exempt use in the production
14 of agricultural products.

15 Sec. 3. Section 422.45, Code Supplement 1987, is amended
16 by adding the following new subsection:

17 NEW SUBSECTION. 36. The gross receipts from the sale or
18 rental of farm machinery and equipment, including replacement
19 parts, if all of the following conditions are met:

20 a. The implement, machinery, or equipment is directly and
21 primarily used in livestock or dairy production.

22 b. The implement is not a self-propelled implement or
23 implement customarily drawn or attached to self-propelled
24 implements.

25 c. The replacement part is essential to any repair or
26 reconstruction necessary to the farm machinery's or
27 equipment's exempt use in livestock or dairy production.

28 Sec. 4. Section 422.47, subsection 4, paragraph f, Code
29 Supplement 1987, is amended to read as follows:

30 f. In this section, "fuel" includes gas, electricity,
31 water, heat, steam, and any other tangible personal property
32 consumed in creating heat, power, or steam. In this section,
33 "fuel consumed in processing" means fuel used or disposed of
34 for processing including grain drying, for providing heat or
35 cooling for livestock buildings or for generating electric

1 current, or consumed in self-propelled implements of husbandry
2 engaged in agricultural production. In this subsection, "fuel
3 exemption certificate" means an exemption certificate given by
4 the purchaser under penalty of perjury to assist retailers in
5 properly accounting for nontaxable sales of fuel consumed in
6 processing. In this subsection, "substantial change" means a
7 change in the use or disposition of tangible personal property
8 and services by the purchaser such that the purchaser pays
9 less than ninety percent of the purchaser's actual sales tax
10 liability. A change includes a misstatement of facts in an
11 application made pursuant to paragraph "c" or in a fuel
12 exemption certificate.

13 Sec. 5. Section 422.47C, subsection 1, Code Supplement
14 1987, is amended to read as follows:

15 1. Sales, services, and use taxes paid on repairs to
16 implements or on the purchase or rental of farm machinery or
17 equipment, including replacement parts ~~which are depreciable~~
18 ~~for state and federal income tax purposes~~, shall be refunded
19 to the owner, purchaser, or renter provided all of the
20 following conditions are met:

21 a. The repairs, purchase, or rental was made ~~on or after~~
22 between July 1, 1987, and June 30, 1988.

23 b. The tax was paid to the retailer or timely paid to the
24 department by the user if section 423.14 is applicable.

25 c. The claim is filed on forms provided by the department
26 and is filed between July 1, 1988, and September 1 ~~for the~~
27 previous calendar year, 1988.

28 d. The implements, machinery or equipment is directly and
29 primarily used in livestock or dairy production.

30 e. The implement is not a self-propelled implement or an
31 implement customarily drawn or attached to a self-propelled
32 implement, and the machinery or equipment is not a grain
33 dryer, subject to an exemption under section 422.45.

34 f. The replacement part is essential to any repair or
35 reconstruction necessary to the farm machinery's, equipment's,

1 or implement's exempt use in livestock or dairy production.

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2 Sec. 6. Section 4 of this Act applies retroactively to

3 January 1, 1988.

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EXPLANATION

5 Under current law, farm machinery and equipment

6 "replacement parts" are exempt from sales or use tax only if

7 the replacement parts are "depreciable for state and federal

8 income tax purposes." For this standard, the bill substitutes

9 one by which the replacement parts are exempt if a part is

10 essential to the exempt use of the machinery or equipment in

11 agricultural production. Also, under current law, tax paid on

12 certain farm machinery and equipment used in livestock or

13 dairy production is refundable to the purchaser. The bill, as

14 of July 1, 1988, exempts the sale or rental of this machinery

15 and equipment from tax. The bill makes a coordinating

16 amendment to section 422.47, subsection 4, paragraph "f"

17 enacted in the 1987 Session which relates to fuel exemption

18 certificates. This amendment applies retroactively to January

19 1, 1988.

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SIMILAR TO HF 2131 (LSB 7222H)

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HOUSE FILE 2477
FISCAL NOTE

In compliance with a written request received April 16, 1988, a fiscal note for HOUSE FILE 2477 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2477 provides for sales tax exemptions, refunds and definitions relating to certain farm machinery and equipment.

Sections 1 and 2 strike the depreciable parts standard for the qualification of a sales tax exemption for replacement parts for self-propelled or drawn farm machinery and equipment (422.45(26) Iowa Code). The standard is replaced by one requiring the replacement part to be essential to the farm machinery and equipment's exempt use in agricultural production.

Section 3 exempts the sales and use tax paid for the sale or rental of and essential replacement parts for farm machinery and equipment used directly in livestock or dairy production and not already exempt as per 422.45(26) Iowa Code.

Section 4 extends, for purposes of a sales and use tax exemption certificate, the definition of "fuel consumed in processing" to include nonself-propelled implements of husbandry as provided for in HF 626 passed during the 1987 session.

Section 5 relates to the livestock dairy implement refund.

Section 5--Current Law: Sales, services and use tax paid on repairs to implements or purchase or rental of farm machinery or equipment, including certain replacement parts, is refundable if (a) the tax was incurred on or after July 1, 1987, (b) the tax was paid to the retailer or timely paid in the case of use tax, (c) the claim is filed between July 1, 1988 and September 1, 1988, (d) the implements, etc., are used primarily in livestock, or dairy production, (e) the implement is not already exempt as per 422.45 Iowa Code.

Section 5--Proposed: The refund provision is expanded to include reconstruction services. The "depreciable parts" standard in effect for the refund is replaced with the "essential use" standard. The refund provision ends June 30, 1988, leaving these items exempt from tax as per section 3 of this bill, with the exception of repairs, for which a refund or exemption will not be provided.

FISCAL EFFECTSections 1, 2, 3 and 5

The effect of replacing the "depreciable parts" standard with language stating the part(s) must be essential to any repair or reconstruction is expected to have only a minor effect on the current farm machinery exemption and the proposed livestock/dairy exemption.

Broadening the current livestock dairy refund to include reconstruction services is expected to allow for additional services to qualify for the refund, the exact impact cannot be determined. However, the refund continues

Page Two, Fiscal Note, House File 2477

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to be subject to a \$3.8 million limit on a calendar year basis.

Converting the refund program to an exemption July 1, 1988 will reduce the amount of refunds payable in FY90. Conversely, purchases made in July, 1988 to June, 1989 will be exempt, thereby reducing the amount of FY89 revenues by the amount of tax which would have been subject to refund in FY90 and FY91. Repairs will be taxed and no longer eligible for a refund after July 1, 1988; this will offset losses in revenues due to the sales tax exemptions by an unknown amount.

Section 4 makes the sales and use tax code consistent with the intent of HF 626 and has no fiscal impact.

Source: Department of Revenue and Finance

(LSB 72221..1, PDD)

FILED APRIL 16, 1988

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2477

H-6546

1 Amend House File 2477 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Sec. ____ . Section 99D.8, Code 1987, is amended by
5 striking the section and inserting in lieu thereof the
6 following:

7 99D.8 HORSE OR DOG RACING LICENSES --
8 APPLICATIONS.

9 A qualifying organization, as defined in section
10 513(d)(2)(C) of the Internal Revenue Code, as defined
11 in section 422.3, exempt from federal income taxation
12 under sections 501(c)(3), 501(c)(4), or 501(c)(5) of
13 the Internal Revenue Code, which is organized to
14 promote those purposes enumerated in section 99B.7,
15 subsection 3, paragraph "b", and which regularly
16 conducts, as one of its substantial exempt purposes,
17 an agricultural and educational fair or exposition for
18 the promotion of the horse, dog, or other livestock
19 breeding industries of the state, or an agency,
20 instrumentality, or political subdivision of the
21 state, may apply to the commission for a license to
22 conduct horse or dog racing. The application shall be
23 filed with the administrator of the commission at
24 least sixty days before the first day of the horse
25 race or dog race meeting which the organization
26 proposes to conduct, shall specify the day or days
27 when and the exact location where it proposes to
28 conduct racing, and shall be in a form and contain
29 information as the commission prescribes.

30 If any part of the net income of a licensee is
31 determined to be unrelated business taxable income as
32 defined in section 511 through 514 of the Internal
33 Revenue Code, the qualifying organization shall be
34 required to distribute the amount of net unrelated
35 business taxable income to political subdivisions in
36 the state and organizations described in section
37 501(c)(3) of the Internal Revenue Code in the county
38 in which it operates. Distributions to these
39 organizations made during the year in which the
40 unrelated business income was earned shall be treated
41 as included in the required distributions for this
42 purpose.

43 An organization which meets the requirements of
44 this section, as amended, on or before July 1, 1988,
45 shall be considered to have met the requirements of
46 this section on the date that its initial application
47 was originally filed.

48 Section 100. Section 422.25, subsection 1,
49 unnumbered paragraph 1, Code 1987, is amended to read
50 as follows:

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1 Within three years after the return is filed or
2 within three years after the return became due,
3 including any extensions of time for filing, whichever
4 time is the later, the department shall examine it and
5 determine the correct amount of tax, and the amount
6 determined by the department is the tax. However, if
7 the taxpayer omits from income an amount which will,
8 under the Internal Revenue Code of 1954, extend the
9 statute of limitations for assessment of federal tax
10 to six years under the federal law, the period for
11 examination and determination is six years. In
12 addition to the applicable period of limitation for
13 examination and determination, the department may make
14 an examination and determination at any time within
15 six months from the date of receipt by the department
16 of written notice from the taxpayer of the final
17 disposition of any matter between the taxpayer and the
18 internal revenue service with respect to the
19 particular tax year. For corporate income tax
20 purposes, the examination and determination during the
21 six-month period is not limited to the federal
22 adjustments but may include a complete review of the
23 taxpayer's Iowa taxable income with respect to the
24 particular tax year. In order to begin the running of
25 the six-months¹ six-month period, the notice shall be
26 in writing in any form sufficient to inform the
27 department of the final disposition with respect to
28 that year, and a copy of the federal document showing
29 the final disposition or final federal adjustments
30 shall be attached to the notice.

31 Sec. ____ . Section 422.43, subsection 11, Code
32 Supplement 1987, is amended by adding the following
33 new unnumbered paragraph:

34 NEW UNNUMBERED PARAGRAPH. For purposes of this
35 subsection, "investment counseling" means the giving
36 of specific investment advise for a fee or commission
37 and which is not in conjunction with the providing of
38 other services."

39 2. Page 3, by inserting after line 1 the
40 following:

41 "Sec. ____ . Section 422.70, subsection 1, Code
42 1987, is amended to read as follows:

43 1. The director, for the purpose of ascertaining
44 the correctness of any a return or for the purpose of
45 making an estimate of the taxable income or receipts
46 of any a taxpayer, shall~~have~~ has power: To examine
47 or cause to be examined by any an agent or
48 representative designated by the director, books,
49 papers, records, or memoranda; ~~such an examination not~~
50 ~~to include any transaction completed five years or~~

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Page 3

1 ~~more prior to such an examination, provided, however,~~
2 ~~that the director may, by rules, provide for a~~
3 ~~limitation of time of any number of years less than~~
4 ~~five; to require by subpoena the attendance and~~
5 ~~testimony of witnesses; to issue and sign subpoenas;~~
6 ~~to administer oaths, to examine witnesses and receive~~
7 ~~evidence; to compel witnesses to produce for~~
8 ~~examination books, papers, records, and documents~~
9 ~~relating to any matter which the director shall have~~
10 ~~has the authority to investigate or determine.~~
11 Sec. 120. Section 422.73, subsection 2, Code
12 Supplement 1987, is amended to read as follows:
13 2. If it appears that an amount of tax, penalty,
14 or interest has been paid which was not due under
15 division II, III or V of this chapter, then that
16 amount shall be credited against any tax due on the
17 books of the department by the person who made the
18 excessive payment, or that amount shall be refunded to
19 the person or with the person's approval, credited to
20 tax to become due. A claim for refund or credit that
21 has not been filed with the department within three
22 years after the return upon which a refund or credit
23 claimed became due, or within one year after the
24 payment of the tax upon which a refund or credit is
25 claimed was made, whichever time is the later, shall
26 not be allowed by the director. If, as a result of a
27 carryback of a net operating loss or a net capital
28 loss, the amount of tax in a prior period is reduced
29 and an overpayment results, the claim for refund or
30 credit of the overpayment shall be filed with the
31 department within the three years after the return for
32 the taxable year of the net operating loss or net
33 capital loss became due. Notwithstanding the period
34 of limitation specified, the taxpayer shall have has
35 six months from the day of final disposition of any
36 income tax matter between the taxpayer and the
37 internal revenue service with respect to the
38 particular tax year to claim an income tax refund or
39 credit, provided the taxpayer has notified the
40 department in writing no later than six months after
41 the expiration of the three-year limitations period of
42 the existence of this income tax matter within this
43 six-month period notifies the department in writing in
44 a form sufficient to inform the department of the
45 final disposition with respect to that tax year, and
46 with a copy of the federal document showing the final
47 disposition or final federal adjustments attached to
48 the notice. The claim for refund or credit is not
49 limited to the federal adjustments but may include a
50 complete review of the taxpayer's Iowa taxable income

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1 with respect to the particular tax year.

2 Sec. ____ . Section 427.3, Code 1987, is amended by
3 adding the following new subsection:

4 NEW SUBSECTION. 6. For the purpose of determining
5 a military tax exemption under this section, property
6 includes a mobile home as defined in section 135D.1."

7 3. Page 3, by inserting after line 3 the
8 following:

9 "Sec. ____ . The department of revenue and finance,
10 in conjunction with the legislative fiscal bureau and
11 the department of economic development, shall prepare
12 a report for the general assembly and governor on the
13 net impact of the current state sales, services, and
14 use tax policy on the gross receipts from repairs and
15 replacement parts for vehicles, defined in section
16 321.1, subsections 4, 6, 8, 9, and 10, which are used
17 substantially in interstate commerce and from repairs
18 and replacement parts for farm machinery, equipment,
19 and implements. The reports shall include, but not be
20 limited to, the following:

21 1. Review of other states' policies and actions.

22 2. Impact on businesses located in Iowa and of
23 attracting interstate businesses to Iowa.

24 3. Impact on businesses doing business outside of
25 Iowa.

26 4. Fairness of taxing businesses that get repairs
27 and replacement parts from a retailer in relation to
28 the businesses that provide the repairs and parts
29 within their company structure and including a review
30 of the current practice of major firms.

31 The report shall be completed and provided to the
32 general assembly and governor by January 15, 1989."

33 4. Page 3, by inserting after line 3 the
34 following:

35 "Sec. ____ . Section 100 of this Act is retroactive
36 to October 21, 1987, for all tax years for which a
37 final disposition of a taxpayer's federal income tax
38 liability has not been resolved by that date.

39 However, if as of October 31, 1987, the applicable
40 period of limitation under section 422.25 in effect on
41 October 31, 1987, has expired for purposes of making a
42 complete review of the taxpayer's Iowa taxable income
43 with respect to a particular tax year, section 100 of
44 this Act does not apply to that particular tax year of
45 that taxpayer.

46 Sec. ____ . Section 120 of this Act is retroactive
47 to October 21, 1987, for all tax years for which a
48 final disposition of a taxpayer's federal income tax
49 liability has not been resolved by that date.

50 However, if as of October 31, 1987, the applicable

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1 period of limitation under section 422.73, subsection
2 2, in effect on October 31, 1987, has expired for
3 purposes of making a complete review of the taxpayer's
4 Iowa taxable income with respect to a particular tax
5 year, section 120 of this Act does not apply to that
6 particular tax year of that taxpayer.

7 Sec. _____. All sections of this Act, except for
8 sections 100, 120, and other sections for which a
9 different effective date is specified, are effective
10 July 1, 1988.

11 Sec. _____. This Act, being deemed of immediate
12 importance, is effective upon enactment."

13 5. Title page, line 1, by inserting after the
14 word "relating" the following: "to certain state
15 taxes by providing for the statute of limitations for
16 state individual and corporate tax purposes, the
17 definition of investment counseling for state sales,
18 services, and use tax purposes, the allowance of the
19 military service tax credit for mobile homes, for".

20 6. Title page, line 7, by striking the word
21 "date" and inserting the following: "and effective
22 dates".

BY TABOR of Jackson

H-6546 FILED APRIL 16, 1988

FINAL ACTION - DIVISION A - ADOPTED, DIVISION B - WITHDRAWN (p. 197)

6 copies attached

SENATE AMENDMENT TO HOUSE FILE 2477

H-6552

1 Amend House File 2477 as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking page 2, line 4 through page 3,
4 line 3.

5 2. Page 3, by inserting after line 3 the
6 following:

7 "Sec. ____ . Section 422.45, subsection 22, Code
8 Supplement 1987, is amended by adding the following
9 new paragraph:

10 NEW PARAGRAPH. e. Community health centers as
11 defined in 42 U.S.C.A. } 254c and migrant health
12 centers as defined in 42 U.S.C.A. } 254b."

13 3. Page 3, by inserting after line 30 the
14 following:

15 "Sec. ____ . Section 422.45, Code Supplement 1987,
16 is amended by adding the following new subsections:

17 NEW SUBSECTION. 36. Gross receipts from the sale
18 of tangible personal property to a nonprofit
19 organization which was organized for the purpose of
20 lending the tangible personal property to the general
21 public for use by them for nonprofit purposes.

22 NEW SUBSECTION. 37. The gross receipts from the
23 sale or rental of tangible personal property or from
24 services performed, rendered, or furnished to
25 nonprofit legal aid organizations."

26 4. By striking page 5, line 21 through page 6,
27 line 23.

28 5. By striking page 6, line 31 through page 7,
29 line 19.

30 6. By renumbering, relettering, or redesignating
31 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-6552 FILED APRIL 16, 1988

CONCURRED (p. 230)

HOUSE FILE 2477

S-6116

- 1 Amend House File 2477 as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. By striking page 2, line 4 through page 3,
- 4 line 3.
- 5 2. By striking page 5, line 23 through page 6,
- 6 line 23.
- 7 3. By striking page 6, line 31 through page 7,
- 8 line 19.
- 9 4. By renumbering and correcting internal
- 10 references as required.

S-6116

Filed April 17, 1988

ADOPTED

BY WILLIAM PALMER

(p. 1761)

HOUSE FILE 2477

S-6117

- 1 Amend House File 2477 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 6, by inserting after line 28 the
- 4 following:
- 5 "Sec. 200. 1988 Iowa Acts, House File 2463,
- 6 section 1, is repealed.
- 7 Sec. 300. Notwithstanding section 98.6, subsection
- 8 5, local sales and services taxes collected on the
- 9 gross receipts from the sale of cigarettes prior to
- 10 the effective date of this section shall be considered
- 11 legally assessed and collected and be distributed as
- 12 provided in chapter 422B for other local sales and
- 13 services tax receipts."
- 14 5. Page 7, by inserting after line 14 the
- 15 following:
- 16 "Sec. _____. Sections 200 and 300 of this Act, being
- 17 deemed of immediate importance, are effective upon
- 18 enactment."
- 19 7. Title page, line 11, by inserting after the
- 20 word "implements," the following: "local option sales
- 21 and service tax,".

S-6117

Filed April 17, 1988

OUT OF ORDER

BY JOE WELSH

(p. 1761)

HOUSE FILE 2477

S-6112

1 Amend House File 2477 as amended, passed, and
2 reprinted by the Senate as follows:
3 1. By striking page 2, line 4 through page 3,
4 line 3.
5 2. By striking page 5, line 23 through page 6,
6 line 23.
7 3. By striking page 6, line 31 through page 7,
8 line 19.
9 4. By renumbering and correcting internal
10 references as required.

S-6112

Filed April 17, 1988 WITHDRAWN BY WILLIAM D. PALMER
(p. 1764)

HOUSE FILE 2477

S-6114

1 Amend House File 2473, as amended, passed, and re-
2 printed by the House, as follows:
3 1. Page 3, by inserting after line 3 the
4 following:
5 "Sec. ____ Section 422.45, subsection 22, Code
6 Supplement 1987, is amended by adding the following
7 new paragraph:
8 NEW PARAGRAPH. e. Community health centers as
9 defined in 42 U.S.C.A. § 254c and migrant health
10 centers as defined in 42 U.S.C.A. § 254b."
11 2. Page 3, by inserting after line 30 the
12 following:
13 "Sec. ____ Section 422.45, Code Supplement 1987,
14 is amended by adding the following new subsections:
15 NEW SUBSECTION. 37. Gross receipts from the sale
16 of tangible personal property to a nonprofit
17 organization which was organized for the purpose of
18 lending the tangible personal property to the general
19 public for use by them for nonprofit purposes.
20 NEW SUBSECTION. 38. The gross receipts from the
21 sale or rental of tangible personal property or from
22 services performed, rendered, or furnished to
23 nonprofit legal aid organizations."

S-6114

Filed April 17, 1988 ADOPTED BY JIM LIND
(p. 1761)

HOUSE FILE 2477

S-6115

1 Amend House File 2477 as amended, passed, and
2 reprinted the House, as follows:
3 1. Page 3, by striking line 2 and inserting the
4 following: "investment advice for a fee and which is
5 not in".

S-6115

Filed April 17, 1988 OUT OF ORDER BY COMMITTEE ON WAYS AND MEANS
(p. 1761) CHARLES BRUNER, Chairperson

HOUSE FILE 2477

AN ACT

RELATING TO CERTAIN STATE TAXES BY PROVIDING FOR THE STATUTE OF LIMITATIONS FOR STATE INDIVIDUAL AND CORPORATE TAX PURPOSES, THE DEFINITION OF INVESTMENT COUNSELING FOR STATE SALES, SERVICES, AND USE TAX PURPOSES, THE ALLOWANCE OF THE MILITARY SERVICE TAX CREDIT FOR MOBILE HOMES, FOR THE EXEMPTION FROM OR THE REFUND OF STATE SALES, SERVICES, AND USE TAXES ON THE GROSS RECEIPTS FROM SALES OR RENTALS OF REPLACEMENT PARTS FOR FARM MACHINERY, EQUIPMENT, AND IMPLEMENTS AND TO THE ISSUANCE OF FUEL EXEMPTION CERTIFICATES FOR STATE SALES, SERVICES AND USE TAX PURPOSES FOR THE PURCHASE OF FUEL USED IN FARM IMPLEMENTS, AND PROVIDING A RETROACTIVE APPLICABILITY AND EFFECTIVE DATES.

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

Section 1. Section 99D.8, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

99D.8 HORSE OR DOG RACING LICENSES -- APPLICATIONS.

A qualifying organization, as defined in section 513(d)(2)(C) of the Internal Revenue Code, as defined in section 422.3, exempt from federal income taxation under sections 501(c)(3), 501(c)(4), or 501(c)(5) of the Internal

Revenue Code, which is organized to promote those purposes enumerated in section 99B.7, subsection 3, paragraph "b", and which regularly conducts, as one of its substantial exempt purposes, an agricultural and educational fair or exposition for the promotion of the horse, dog, or other livestock breeding industries of the state, or an agency, instrumentality, or political subdivision of the state, may apply to the commission for a license to conduct horse or dog racing. The application shall be filed with the administrator of the commission at least sixty days before the first day of the horse race or dog race meeting which the organization proposes to conduct, shall specify the day or days when and the exact location where it proposes to conduct racing, and shall be in a form and contain information as the commission prescribes.

If any part of the net income of a licensee is determined to be unrelated business taxable income as defined in sections 511 through 514 of the Internal Revenue Code, the qualifying organization shall be required to distribute the amount of net unrelated business taxable income to political subdivisions in the state and organizations described in section 501(c)(3) of the Internal Revenue Code in the county in which it operates. Distributions to these organizations made during the year in which the unrelated business income was earned shall be treated as included in the required distributions for this purpose.

An organization which meets the requirements of this section, as amended, on or before July 1, 1988, shall be considered to have met the requirements of this section on the date that its initial application was originally filed.

Sec. 2. Section 422.45, subsection 22, Code Supplement 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Community health centers as defined in 42 U.S.C.A. § 254c and migrant health centers as defined in 42 U.S.C.A. § 254b.

Sec. 3. Section 422.45, subsection 26, unnumbered paragraph 1, Code Supplement 1987, is amended to read as follows:

The gross receipts from the sale or rental ~~on or after July 1, 1987~~ of farm machinery and equipment, including replacement parts ~~which are depreciable for state and federal income tax purposes~~, if the following conditions are met:

Sec. 4. Section 422.45, subsection 26, Code Supplement 1987, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. c. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in the production of agricultural products.

Sec. 5. Section 422.45, Code Supplement 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 36. The gross receipts from the sale or rental of farm machinery and equipment, including replacement parts, if all of the following conditions are met:

a. The implement, machinery, or equipment is directly and primarily used in livestock or dairy production.

b. The implement is not a self-propelled implement or implement customarily drawn or attached to self-propelled implements.

c. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in livestock or dairy production.

Sec. 6. Section 422.45, Code Supplement 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 36. Gross receipts from the sale of tangible personal property to a nonprofit organization which was organized for the purpose of lending the tangible personal property to the general public for use by them for nonprofit purposes.

NEW SUBSECTION. 37. The gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to nonprofit legal aid organizations.

Sec. 7. Section 422.47, subsection 4, paragraph f, Code Supplement 1987, is amended to read as follows:

f. In this section, "fuel" includes gas, electricity, water, heat, steam, and any other tangible personal property consumed in creating heat, power, or steam. In this section, "fuel consumed in processing" means fuel used or disposed of for processing including grain drying, for providing heat or cooling for livestock buildings or for generating electric current, or consumed in self-propelled implements of husbandry engaged in agricultural production. In this subsection, "fuel exemption certificate" means an exemption certificate given by the purchaser under penalty of perjury to assist retailers in properly accounting for nontaxable sales of fuel consumed in processing. In this subsection, "substantial change" means a change in the use or disposition of tangible personal property and services by the purchaser such that the purchaser pays less than ninety percent of the purchaser's actual sales tax liability. A change includes a misstatement of facts in an application made pursuant to paragraph "c" or in a fuel exemption certificate.

Sec. 8. Section 422.47C, subsection 1, Code Supplement 1987, is amended to read as follows:

1. Sales, services, and use taxes paid on repairs to implements or on the purchase or rental of farm machinery or equipment, including replacement parts ~~which are depreciable for state and federal income tax purposes~~, shall be refunded to the owner, purchaser, or renter provided all of the following conditions are met:

a. The repairs, purchase, or rental was made on or after between July 1, 1987, and June 30, 1988.

b. The tax was paid to the retailer or timely paid to the department by the user if section 423.14 is applicable.

c. The claim is filed on forms provided by the department and is filed between July 1, 1988, and September 1 for the previous calendar year, 1988.

d. The implements, machinery or equipment is directly and primarily used in livestock or dairy production.

e. The implement is not a self-propelled implement or an implement customarily drawn or attached to a self-propelled implement, and the machinery or equipment is not a grain dryer, subject to an exemption under section 422.45.

f. The replacement part is essential to any repair or reconstruction necessary to the farm machinery's, equipment's, or implement's exempt use in livestock or dairy production.

Sec. 9. Section 422.70, subsection 1, Code 1987, is amended to read as follows:

1. The director, for the purpose of ascertaining the correctness of any a return or for the purpose of making an estimate of the taxable income or receipts of any a taxpayer, shall have has power: To examine or cause to be examined by any an agent or representative designated by the director, books, papers, records, or memoranda; such an examination not to include any transaction completed five years or more prior to such an examination; provided, however, that the director may, by rules, provide for a limitation of time of any number of years less than five; to require by subpoena the attendance and testimony of witnesses; to issue and sign subpoenas; to administer oaths, to examine witnesses and receive evidence; to compel witnesses to produce for examination books, papers, records, and documents relating to any matter which the director shall have has the authority to investigate or determine.

Sec. 10. Section 427.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. For the purpose of determining a military tax exemption under this section, property includes a mobile home as defined in section 135D.1.

Sec. 11. Section 7 of this Act applies retroactively to January 1, 1988.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2477, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved _____, 1988

TERRY E. BRANSTAD
Governor

HF 2477