

Reprinted 5/87

APR 30 1987

WAYS & MEANS CALENDAR

HOUSE FILE 682

BY COMMITTEE ON WAYS AND MEANS

(Formerly House Study Bill 322)

Passed House, Date 5/7/87 (p. 2108)

Passed Senate, Date 5/9/87 (p. 1851)

Vote: Ayes 93 Nays 0

Vote: Ayes 45 Nays 0

Approved June 4, 1987

A BILL FOR

1 An Act relating to exemption certificates and processing  
2 activities under the state sales, services, and use tax and  
3 providing an effective date.

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

HOUSE FILE 682

H-4225

1 Amend House File 682 as follows:

2 1. By striking page 4, line 9 through page 5,  
3 line 32.

4 2. Title page, lines 1 and 2, by striking the  
5 words "and processing activities".

H-4225 FILED MAY 6, 1987

BY CHAPMAN of Linn

(Reprinted 5/7/87 (p. 2108))

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 Section 1. Section 422.47, subsection 3, paragraphs a and  
2 b, Code 1987, are amended to read as follows:

3 a. The department shall issue or the seller may separately  
4 provide exemption certificates in the form prescribed by the  
5 director to assist retailers in properly accounting for  
6 nontaxable sales of tangible personal property or services to  
7 purchasers for purposes of resale or for processing, except  
8 fuel consumed in processing.

9 b. The sales tax liability for all sales of tangible  
10 personal property and all sales of services is upon the seller  
11 and the purchaser unless the seller takes in good faith from  
12 the purchaser a valid exemption certificate stating under  
13 penalties for perjury that the purchase is for resale or for  
14 processing and is not a retail sale as defined in section  
15 422.42, subsection 3, or unless the seller takes a fuel  
16 exemption certificate pursuant to subsection 4. If the  
17 tangible personal property or services are purchased tax free  
18 pursuant to a valid exemption certificate which is taken in  
19 good faith by the seller, and the tangible personal property  
20 or services are used or disposed of by the purchaser in a  
21 nonexempt manner, the purchaser is solely liable for the taxes  
22 and shall remit the taxes directly to the department and  
23 sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,  
24 422.57, 422.58, and 422.59 shall apply to the purchaser.

25 Sec. 2. Section 422.47, Code 1987, is amended by adding  
26 the following new subsection:

27 NEW SUBSECTION. 4. a. The department shall issue or the  
28 seller may separately provide fuel exemption certificates in  
29 the form prescribed by the director.

30 b. The seller may accept a completed fuel exemption  
31 certificate, as prepared by the purchaser, for five years  
32 unless the purchaser files a new completed exemption  
33 certificate. If the fuel is purchased tax free pursuant to a  
34 fuel exemption certificate which is taken by the seller, and  
35 the fuel is used or disposed of by the purchaser in a

1 nonexempt manner, the purchaser is solely liable for the  
2 taxes, and shall remit the taxes directly to the department  
3 and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,  
4 422.57, 422.58, and 422.59 shall apply to the purchaser.

5 c. The purchaser may apply to the department for its  
6 review of the fuel exemption certificate. In this event, the  
7 department shall review the fuel exemption certificate within  
8 twelve months from the date of application and determine the  
9 correct amount of the exemption. If the amount determined by  
10 the department is different than the amount that the purchaser  
11 claims is exempt, the department shall promptly notify the  
12 purchaser of the determination. Failure of the department to  
13 make a determination within twelve months from the date of  
14 application shall constitute a determination that the fuel  
15 exemption certificate is correct as submitted. A  
16 determination of exemption by the department is final unless  
17 the purchaser appeals to the director for a revision of the  
18 determination within thirty days after the postmark date of  
19 the notice of determination. The director shall grant a  
20 hearing, and upon the hearing the director shall determine the  
21 correct exemption and notify the purchaser of the decision by  
22 mail. The decision of the director is final unless the  
23 purchaser seeks judicial review of the director's decision  
24 under section 422.55 within thirty days after the postmark  
25 date of the notice of the director's decision. Unless there  
26 is a substantial change, the department shall not impose  
27 penalties pursuant to section 422.58, both retroactively to  
28 purchases made after the date of application and prospectively  
29 until the department gives notice to the purchaser that a tax  
30 or additional tax is due, for failure to remit any tax due  
31 which is in excess of a determination made under this section.  
32 A determination made by the department pursuant to this  
33 subsection does not constitute an audit for purposes of  
34 section 422.54.

35 d. If the circumstances change and the fuel is used or

1 disposed of by the purchaser in a nonexempt manner, the  
2 purchaser is solely liable for the taxes and shall remit the  
3 taxes directly to the department in accordance with subsection  
4 3.

5 e. The purchaser shall attach documentation to the fuel  
6 exemption certificate which is reasonably necessary to support  
7 the exemption for fuel consumed in processing. If the  
8 purchaser files a new exemption certificate with the seller,  
9 documentation shall not be required if the purchaser  
10 previously furnished the seller with this documentation and  
11 substantial change has not occurred since that documentation  
12 was furnished or if fuel consumed in processing is separately  
13 metered and billed by the seller.

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

32 Sec. 3. Section 422.52, subsection 6, paragraph a, Code  
33 1987, is amended to read as follows:

34 a. If a purchaser fails to pay tax imposed by this  
35 division to the retailer required to collect the tax, then in

1 addition to all of the rights, obligations, and remedies  
2 provided, the tax is payable by the purchaser directly to the  
3 department, and sections 422.50, 422.51, 422.52, 422.54,  
4 422.55, 422.56, 422.57, 422.58 and 422.59 apply to the  
5 purchaser. For failure, the retailer and purchaser are  
6 liable, unless the circumstances described in section 422.47,  
7 subsection 3, paragraphs paragraph "b" and or "e" or  
8 subsection 4, paragraph "b" or "d" are applicable.

9 Sec. 4. Section 422.42, subsection 3, Code 1987, is  
10 amended to read as follows:

11 3. "Retail sale" or "sale at retail" means the sale to a  
12 consumer or to any person for any purpose, other than for  
13 processing, for resale of tangible personal property or  
14 taxable services, or for resale of tangible personal property  
15 in connection with taxable services, and includes the sale of  
16 gas, electricity, water, and communication service to retail  
17 consumers or users, but does not include agricultural breeding  
18 livestock and domesticated fowl, or commercial fertilizer,  
19 agricultural limestone, or herbicide, pesticide, insecticide,  
20 food and medication and agricultural drain tile and  
21 installation thereof which are to be used in disease control,  
22 weed control, insect control, or health promotion of plants or  
23 livestock produced as part of agricultural production for  
24 market, and does not include electricity, steam or any taxable  
25 service when purchased and used in the processing of tangible  
26 personal property intended to be sold ultimately at retail.  
27 When used by a manufacturer of food products, electricity,  
28 steam, and other taxable services are sold for processing when  
29 used to produce marketable food products for human  
30 consumption, including but not limited to, treatment of  
31 material to change its form, context or condition, in order to  
32 produce the food product, maintenance of quality or integrity  
33 of the food product, changing or maintenance of temperature  
34 levels necessary to avoid spoilage or to hold the food product  
35 in marketable condition, maintenance of environmental

1 conditions necessary for the safe or efficient use of  
2 machinery and material used to produce the food product,  
3 sanitation and quality control activities, formation of  
4 packaging, placement into shipping containers, and movement of  
5 the material or food product until shipment from the building  
6 of manufacture. Tangible personal property is sold for  
7 processing within the meaning of this subsection only when it  
8 is intended that the property will, by means of fabrication,  
9 compounding, manufacturing, or germination become an integral  
10 part of other tangible personal property intended to be sold  
11 ultimately at retail, or will be consumed as fuel in creating  
12 heat, power, or steam for processing including grain drying,  
13 for providing heat or cooling for livestock buildings or for  
14 generating electric current, or be consumed in self-propelled  
15 implements of husbandry engaged in agricultural production, or  
16 the property is a chemical, solvent, sorbent, or reagent,  
17 which is directly used and is consumed, dissipated, or  
18 depleted, in processing personal property which is intended to  
19 be sold ultimately at retail or consumed in the performance of  
20 an enumerated service, and which may not become a component or  
21 integral part of the finished product. The distribution to  
22 the public of free newspapers or shoppers guides is a retail  
23 sale for purposes of the processing exemption.

24 Sec. 5. Section 422.45, subsection 19, Code 1987, is  
25 amended to read as follows:

26 19. The gross receipts from the sale of property which is  
27 a container, label, carton, pallet, packing case, wrapping  
28 paper, twine, bag, bottle, shipping case or other similar  
29 article or receptacle sold to retailers or manufacturers for  
30 the purpose of packaging or facilitating the transportation of  
31 tangible personal property sold at retail or consumed in the  
32 performance of an enumerated service.

33 Sec. 6. This Act takes effect on January 1, 1988. Any  
34 valid exemption certificate, as defined in section 422.47,  
35 subsection 3, Code 1987, given for fuel consumed in processing

1 and accepted by a seller prior to the effective date of this  
2 Act shall be deemed a fuel exemption certificate, as defined  
3 in this Act, for five years from the date the seller accepts  
4 the valid exemption certificate, if that valid exemption  
5 certificate contains all information required by this Act to  
6 be in a fuel exemption certificate.

7 EXPLANATION

8 The bill provides for issuing and accepting fuel exemption  
9 certificates for the processing exemption of the sales and use  
10 tax, and further defines retail sale as it applies to  
11 processing activities associated with an enumerated service.  
12 The bill takes effect January 1, 1988.

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

*Amended House File 5/9/87 (p. 2272) + Do. Sen 4/4/87 (p. 1851)*

HOUSE FILE 682  
BY COMMITTEE ON WAYS AND MEANS

(As Amended and Passed by the House May 7, 1987)

Passed House, Date 5/9/87 (p. 2272) Passed Senate, Date 5/9/87 (p. 1851)  
Vote: Ayes 89 Nays 3 Vote: Ayes 45 Nays 0  
Approved June 4, 1987

A BILL FOR

1 An Act relating to exemption certificates under the state sales,  
2 services, and use tax and providing an effective date.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 682

S-4090

1 Amend House File 682 as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 1, by inserting before line 1 the  
4 following:  
5 "Sec. \_\_\_\_ . Section 422.13, Code 1987, is amended  
6 by adding the following new subsection:  
7 NEW SUBSECTION. 5. Notwithstanding subsections 1  
8 through 4 and sections 422.15 and 422.36, a  
9 partnership, trust, or corporation whose stockholders  
10 are taxed on the corporation's income under the  
11 provisions of the Internal Revenue Code is entitled to  
12 request permission from the director to file a  
13 composite return for the nonresident partners,  
14 beneficiaries, and shareholders. The director may  
15 grant permission to file or require that a composite  
16 return be filed under the conditions deemed  
17 appropriate by the director. A partnership, trust, or  
18 corporation filing a composite return is liable for  
19 tax required to be shown due on the return. All  
20 powers of the director and requirements of the  
21 director apply to returns filed under this subsection,  
22 including but not limited to, the provisions of this  
23 division and division VI of this chapter."  
24 2. Title page, line 1, by inserting after the  
25 word "to" the following: "certain state taxes by  
26 allowing composite returns to be filed for  
27 nonresidents for income tax purposes and providing for  
28 fuel".

S-4090  
Filed May 9, 1987  
ADOPTED (p. 1851)

BY COMMITTEE ON WAYS AND MEANS  
CHARLES BRUNER, Chairperson



1 Section 1. Section 422.47, subsection 3, paragraphs a and  
2 b, Code 1987, are amended to read as follows:

3 a. The department shall issue or the seller may separately  
4 provide exemption certificates in the form prescribed by the  
5 director to assist retailers in properly accounting for  
6 nontaxable sales of tangible personal property or services to  
7 purchasers for purposes of resale or for processing, except  
8 fuel consumed in processing.

9 b. The sales tax liability for all sales of tangible  
10 personal property and all sales of services is upon the seller  
11 and the purchaser unless the seller takes in good faith from  
12 the purchaser a valid exemption certificate stating under  
13 penalties for perjury that the purchase is for resale or for  
14 processing and is not a retail sale as defined in section  
15 422.42, subsection 3, or unless the seller takes a fuel  
16 exemption certificate pursuant to subsection 4. If the  
17 tangible personal property or services are purchased tax free  
18 pursuant to a valid exemption certificate which is taken in  
19 good faith by the seller, and the tangible personal property  
20 or services are used or disposed of by the purchaser in a  
21 nonexempt manner, the purchaser is solely liable for the taxes  
22 and shall remit the taxes directly to the department and  
23 sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,  
24 422.57, 422.58, and 422.59 shall apply to the purchaser.

25 Sec. 2. Section 422.47, Code 1987, is amended by adding  
26 the following new subsection:

27 NEW SUBSECTION. 4. a. The department shall issue or the  
28 seller may separately provide fuel exemption certificates in  
29 the form prescribed by the director.

30 b. The seller may accept a completed fuel exemption  
31 certificate, as prepared by the purchaser, for five years  
32 unless the purchaser files a new completed exemption  
33 certificate. If the fuel is purchased tax free pursuant to a  
34 fuel exemption certificate which is taken by the seller, and  
35 the fuel is used or disposed of by the purchaser in a

1 nonexempt manner, the purchaser is solely liable for the  
2 taxes, and shall remit the taxes directly to the department  
3 and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,  
4 422.57, 422.58, and 422.59 shall apply to the purchaser.

5 c. The purchaser may apply to the department for its  
6 review of the fuel exemption certificate. In this event, the  
7 department shall review the fuel exemption certificate within  
8 twelve months from the date of application and determine the  
9 correct amount of the exemption. If the amount determined by  
10 the department is different than the amount that the purchaser  
11 claims is exempt, the department shall promptly notify the  
12 purchaser of the determination. Failure of the department to  
13 make a determination within twelve months from the date of  
14 application shall constitute a determination that the fuel  
15 exemption certificate is correct as submitted. A  
16 determination of exemption by the department is final unless  
17 the purchaser appeals to the director for a revision of the  
18 determination within thirty days after the postmark date of  
19 the notice of determination. The director shall grant a  
20 hearing, and upon the hearing the director shall determine the  
21 correct exemption and notify the purchaser of the decision by  
22 mail. The decision of the director is final unless the  
23 purchaser seeks judicial review of the director's decision  
24 under section 422.55 within thirty days after the postmark  
25 date of the notice of the director's decision. Unless there  
26 is a substantial change, the department shall not impose  
27 penalties pursuant to section 422.58, both retroactively to  
28 purchases made after the date of application and prospectively  
29 until the department gives notice to the purchaser that a tax  
30 or additional tax is due, for failure to remit any tax due  
31 which is in excess of a determination made under this section.  
32 A determination made by the department pursuant to this  
33 subsection does not constitute an audit for purposes of  
34 section 422.54.

35 d. If the circumstances change and the fuel is used or

1 disposed of by the purchaser in a nonexempt manner, the  
2 purchaser is solely liable for the taxes and shall remit the  
3 taxes directly to the department in accordance with subsection  
4 3.

5 e. The purchaser shall attach documentation to the fuel  
6 exemption certificate which is reasonably necessary to support  
7 the exemption for fuel consumed in processing. If the  
8 purchaser files a new exemption certificate with the seller,  
9 documentation shall not be required if the purchaser  
10 previously furnished the seller with this documentation and  
11 substantial change has not occurred since that documentation  
12 was furnished or if fuel consumed in processing is separately  
13 metered and billed by the seller.

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

32 Sec. 3. Section 422.52, subsection 6, paragraph a, Code  
33 1987, is amended to read as follows:

34 a. If a purchaser fails to pay tax imposed by this  
35 division to the retailer required to collect the tax, then in

1 addition to all of the rights, obligations, and remedies  
2 provided, the tax is payable by the purchaser directly to the  
3 department, and sections 422.50, 422.51, 422.52, 422.54,  
4 422.55, 422.56, 422.57, 422.58 and 422.59 apply to the  
5 purchaser. For failure, the retailer and purchaser are  
6 liable, unless the circumstances described in section 422.47,  
7 subsection 3, paragraphs paragraph "b" and or "e" or  
8 subsection 4, paragraph "b" or "d" are applicable.

\* 9     Sec. 4. This Act takes effect on January 1, 1988. Any  
10 valid exemption certificate, as defined in section 422.47,  
11 subsection 3, Code 1987, given for fuel consumed in processing  
12 and accepted by a seller prior to the effective date of this  
13 Act shall be deemed a fuel exemption certificate, as defined  
14 in this Act, for five years from the date the seller accepts  
15 the valid exemption certificate, if that valid exemption  
16 certificate contains all information required by this Act to  
17 be in a fuel exemption certificate.

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

SENATE AMENDMENT TO HOUSE FILE 682

H-4364

1 Amend House File 682 as amended, passed, and  
2 reprinted by the House, as follows:

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

5 "Sec. \_\_\_\_ . Section 422.13, Code 1987, is amended  
6 by adding the following new subsection:

7 NEW SUBSECTION. 5. Notwithstanding subsections 1  
8 through 4 and sections 422.15 and 422.35, a  
9 partnership, trust, or corporation whose stockholders  
10 are taxed on the corporation's income under the  
11 provisions of the Internal Revenue Code is entitled to  
12 request permission from the director to file a  
13 composite return for the nonresident partners,  
14 beneficiaries, and shareholders. The director may  
15 grant permission to file or require that a composite  
16 return be filed under the conditions deemed  
17 appropriate by the director. A partnership, trust, or  
18 corporation filing a composite return is liable for  
19 tax required to be shown due on the return. All  
20 powers of the director and requirements of the  
21 director apply to returns filed under this subsection,  
22 including but not limited to, the provisions of this  
23 division and division VI of this chapter."

24 2. Title page, line 1, by inserting after the  
25 word "to" the following: "certain state taxes by  
26 allowing composite returns to be filed for  
27 nonresidents for income tax purposes and providing for  
28 fuel".

H-4364 FILED MAY 9, 1987  
CONCURRED (p. 2299)

RECEIVED FROM THE SENATE

NSB 322

WAYS AND MEANS

*now*  
*HF 682*

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to exemption certificates and processing  
2 activities under the state sales, services, and use tax and  
3 providing an effective date.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section 1. Section 422.47, subsection 3, paragraphs a and  
2 b, Code 1987, are amended to read as follows:

3 a. The department shall issue or the seller may separately  
4 provide exemption certificates in the form prescribed by the  
5 director to assist retailers in properly accounting for  
6 nontaxable sales of tangible personal property or services to  
7 purchasers for purposes of resale or for processing, except  
8 fuel consumed in processing.

9 b. The sales tax liability for all sales of tangible  
10 personal property and all sales of services is upon the seller  
11 and the purchaser unless the seller takes in good faith from  
12 the purchaser a valid exemption certificate stating under  
13 penalties for perjury that the purchase is for resale or for  
14 processing and is not a retail sale as defined in section  
15 422.42, subsection 3, or unless the seller takes a fuel  
16 exemption certificate pursuant to subsection 4. If the  
17 tangible personal property or services are purchased tax free  
18 pursuant to a valid exemption certificate which is taken in  
19 good faith by the seller, and the tangible personal property  
20 or services are used or disposed of by the purchaser in a  
21 nonexempt manner, the purchaser is solely liable for the taxes  
22 and shall remit the taxes directly to the department and  
23 sections 422.50, 422.51, 422.52, 422.54; 422.55, 422.56,  
24 422.57, 422.58, and 422.59 shall apply to the purchaser.

25 Sec. 2. Section 422.47, Code 1987, is amended by adding  
26 the following new subsection:

27 NEW SUBSECTION. 4. a. The department shall issue or the  
28 seller may separately provide fuel exemption certificates in  
29 the form prescribed by the director.

30 b. The seller may accept a completed fuel exemption  
31 certificate, as prepared by the purchaser, for five years  
32 unless the purchaser files a new completed exemption  
33 certificate. If the tangible personal property or services  
34 are purchased tax free pursuant to a fuel exemption  
35 certificate which is taken by the seller, and the tangible

1 personal property or services are used or disposed of by the  
2 purchaser in a nonexempt manner, the purchaser is solely  
3 liable for the taxes, and shall remit the taxes directly to  
4 the department and sections 422.50, 422.51, 422.52, 422.54,  
5 422.55, 422.56, 422.57, 422.58, and 422.59 shall apply to the  
6 purchaser.

7 c. The purchaser may apply to the department for its  
8 review of the fuel exemption certificate. In this event, the  
9 department shall review the fuel exemption certificate within  
10 twelve months from the date of application and determine the  
11 correct amount of the exemption. If the amount determined by  
12 the department is different than the amount that the purchaser  
13 claims is exempt, the department shall promptly notify the  
14 purchaser of the determination. Failure of the department to  
15 make a determination within twelve months from the date of  
16 application shall constitute a determination that the fuel  
17 exemption certificate is correct as submitted. A  
18 determination of exemption by the department is final unless  
19 the taxpayer appeals to the director for a revision of the  
20 determination within thirty days after the postmark date of  
21 the notice of determination. The director shall grant a  
22 hearing, and upon the hearing the director shall determine the  
23 correct exemption and notify the taxpayer of the decision by  
24 certified mail. The decision of the director is final unless  
25 the taxpayer seeks judicial review of the director's decision  
26 under section 422.55 within thirty days after the postmark  
27 date of the notice of the director's decision. Unless there  
28 is a substantial change, the department shall not impose  
29 penalties and interest pursuant to section 422.58, both  
30 retroactively to purchases made after the date of application  
31 and prospectively until the department gives notice to the  
32 taxpayer that a tax or additional tax is due, for failure to  
33 remit any tax due which is in excess of a determination made  
34 under this section. A determination made by the department  
35 pursuant to this subsection does not constitute an audit for



1 purposes of section 422.54.

2 d. If there is a substantial change and the tangible  
3 personal property or services are disposed of by the purchaser  
4 in a nonexempt manner, the purchaser is solely liable for the  
5 taxes and shall remit the taxes directly to the department in  
6 accordance with subsection 3.

7 e. The purchaser shall attach documentation to the fuel  
8 exemption certificate which is reasonably necessary to support  
9 the exemption for fuel consumed in processing. Documentation  
10 shall not be required if the purchaser previously furnished  
11 the seller with this documentation and substantial change has  
12 not occurred since that documentation was furnished or if fuel  
13 consumed in processing is separately metered and billed by the  
14 seller.

15 f. In this section, "fuel consumed in processing" means  
16 tangible personal property consumed as fuel in creating heat,  
17 power, or steam for processing including grain drying, for  
18 providing heat or cooling for livestock buildings or for  
19 generating electric current, or consumed in self-propelled  
20 implements of husbandry engaged in agricultural production.  
21 In this subsection, "fuel exemption certificate" means an  
22 exemption certificate given by the purchaser under penalty of  
23 perjury to assist retailers in properly accounting for  
24 nontaxable sales of fuel consumed in processing. In this  
25 subsection, "substantial change" means a change in the use or  
26 disposition of tangible personal property and services by the  
27 purchaser such that the purchaser pays less than ninety  
28 percent of the purchaser's actual sales tax liability. A  
29 change includes a misstatement of facts in an application made  
30 pursuant to paragraph "c" or in a fuel exemption certificate.

31 Sec. 3. Section 422.52, subsection 6, paragraph a, Code  
32 1987, is amended to read as follows:

33 a. If a purchaser fails to pay tax imposed by this  
34 division to the retailer required to collect the tax, then in  
35 addition to all of the rights, obligations, and remedies

1 provided, the tax is payable by the purchaser directly to the  
2 department, and sections 422.50, 422.51, 422.52, 422.54,  
3 422.55, 422.56, 422.57, 422.58 and 422.59 apply to the  
4 purchaser. For failure, the retailer and purchaser are  
5 liable, unless the circumstances described in section 422.47,  
6 subsection 3, paragraphs paragraph "b" and or "e" or  
7 subsection 4, paragraph "b" or "d" are applicable.

8 Sec. 4. Section 422.42, subsection 3, Code 1987, is  
9 amended to read as follows:

10 3. "Retail sale" or "sale at retail" means the sale to a  
11 consumer or to any person for any purpose, other than for  
12 processing, for resale of tangible personal property or  
13 taxable services, or for resale of tangible personal property  
14 in connection with taxable services, and includes the sale of  
15 gas, electricity, water, and communication service to retail  
16 consumers or users, but does not include agricultural breeding  
17 livestock and domesticated fowl, or commercial fertilizer,  
18 agricultural limestone, or herbicide, pesticide, insecticide,  
19 food and medication and agricultural drain tile and  
20 installation thereof which are to be used in disease control,  
21 weed control, insect control, or health promotion of plants or  
22 livestock produced as part of agricultural production for  
23 market, and does not include electricity, steam or any taxable  
24 service when purchased and used in the processing of tangible  
25 personal property intended to be sold ultimately at retail.  
26 When used by a manufacturer of food products, electricity,  
27 steam, and other taxable services are sold for processing when  
28 used to produce marketable food products for human  
29 consumption, including but not limited to, treatment of  
30 material to change its form, context or condition, in order to  
31 produce the food product, maintenance of quality or integrity  
32 of the food product, changing or maintenance of temperature  
33 levels necessary to avoid spoilage or to hold the food product  
34 in marketable condition, maintenance of environmental  
35 conditions necessary for the safe or efficient use of

1 machinery and material used to produce the food product,  
2 sanitation and quality control activities, formation of  
3 packaging, placement into shipping containers, and movement of  
4 the material or food product until shipment from the building  
5 of manufacture. Tangible personal property is sold for  
6 processing within the meaning of this subsection only when it  
7 is intended that the property will, by means of fabrication,  
8 compounding, manufacturing, or germination become an integral  
9 part of other tangible personal property intended to be sold  
10 ultimately at retail, or will be consumed as fuel in creating  
11 heat, power, or steam for processing including grain drying,  
12 for providing heat or cooling for livestock buildings or for  
13 generating electric current, or be consumed in self-propelled  
14 implements of husbandry engaged in agricultural production, or  
15 the property is a chemical, solvent, sorbent, or reagent,  
16 which is directly used and is consumed, dissipated, or  
17 depleted, in processing personal property which is intended to  
18 be sold ultimately at retail or associated with an enumerated  
19 service, and which may not become a component or integral part  
20 of the finished product. The distribution to the public of  
21 free newspapers or shoppers guides is a retail sale for  
22 purposes of the processing exemption.

23 Sec. 5. Section 422.45, subsection 19, Code 1987, is  
24 amended to read as follows:

25 19. The gross receipts from the sale of property which is  
26 a container, label, carton, pallet, packing case, wrapping  
27 paper, twine, bag, bottle, shipping case or other similar  
28 article or receptacle sold to retailers or manufacturers for  
29 the purpose of packaging or facilitating the transportation of  
30 tangible personal property sold at retail or associated with  
31 an enumerated service.

32 Sec. 6. This Act takes effect on January 1, 1988. Any  
33 valid exemption certificate, as defined in section 422.47,  
34 subsection 3, Code 1987, given for fuel consumed in processing  
35 and accepted by a seller prior to the effective date of this

1 Act shall be deemed a fuel exemption certificate, as defined  
2 in this Act, for five years from the date the seller accepts  
3 the valid exemption certificate, if that valid exemption  
4 certificate contains all information required by this Act to  
5 be in a fuel exemption certificate.

6 EXPLANATION

7 The bill provides for issuing and accepting fuel exemption  
8 certificates for the processing exemption of the sales and use  
9 tax, and further defines retail sale as it applies to  
10 processing activities associated with an enumerated service.  
11 The bill takes effect January 1, 1988.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

HOUSE FILE 682

AN ACT

RELATING TO CERTAIN STATE TAXES BY ALLOWING COMPOSITE RETURNS TO BE FILED FOR NONRESIDENTS FOR INCOME TAX PURPOSES AND PROVIDING FOR FUEL EXEMPTION CERTIFICATES UNDER THE STATE SALES, SERVICES, AND USE TAX AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 422.13, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding subsections 1 through 4 and sections 422.15 and 422.36, a partnership, trust, or corporation whose stockholders are taxed on the corporation's income under the provisions of the Internal Revenue Code is entitled to request permission from the director to file a composite return for the nonresident partners, beneficiaries, and shareholders. The director may grant permission to file or require that a composite return be filed under the conditions deemed appropriate by the director. A partnership, trust, or corporation filing a composite return is liable for tax required to be shown due on the return. All powers of the director and requirements of the director apply to returns filed under this subsection, including but not limited to, the provisions of this division and division VI of this chapter.

Sec. 2. Section 422.47, subsection 3, paragraphs a and b, Code 1987, are amended to read as follows:

a. The department shall issue or the seller may separately provide exemption certificates in the form prescribed by the director to assist retailers in properly accounting for nontaxable sales of tangible personal property or services to purchasers for purposes of resale or for processing, except fuel consumed in processing.

b. The sales tax liability for all sales of tangible personal property and all sales of services is upon the seller and the purchaser unless the seller takes in good faith from the purchaser a valid exemption certificate stating under penalties for perjury that the purchase is for resale or for processing and is not a retail sale as defined in section 422.42, subsection 3, or unless the seller takes a fuel exemption certificate pursuant to subsection 4. If the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property 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 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 shall apply to the purchaser.

Sec. 3. Section 422.47, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. The department shall issue or the seller may separately provide fuel exemption certificates in the form prescribed by the director.

b. The seller may accept a completed fuel exemption certificate, as prepared by the purchaser, for five 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 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58, and 422.59 shall apply to the purchaser.

c. The purchaser may apply to the department for its review of the fuel exemption certificate. In this event, the department shall review the fuel exemption certificate within twelve months from the date of application and determine the

correct amount of the exemption. If the amount determined by the department is different than the amount that the purchaser claims is exempt, the department shall promptly notify the purchaser of the determination. Failure of the department to make a determination within twelve months from the date of application shall constitute a determination that the fuel exemption certificate is correct as submitted. A determination of exemption by the department is final unless the purchaser appeals to the director for a revision of the determination within thirty days after the postmark date of the notice of determination. The director shall grant a hearing, and upon the hearing the director shall determine the correct exemption and notify the purchaser of the decision by mail. The decision of the director is final unless the purchaser seeks judicial review of the director's decision under section 422.55 within thirty days after the postmark date of the notice of the director's decision. Unless there is a substantial change, the department shall not impose penalties pursuant to section 422.58, both retroactively to purchases made after the date of application and prospectively until the department gives notice to the purchaser that a tax or additional tax is due, for failure to remit any tax due which is in excess of a determination made under this section. A determination made by the department pursuant to this subsection does not constitute an audit for purposes of section 422.54.

d. If the circumstances change 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 in accordance with subsection 3.

e. The purchaser shall attach documentation to the fuel exemption certificate which is reasonably necessary to support the exemption for fuel consumed in processing. If the purchaser files a new exemption certificate with the seller,

documentation shall not be required if the purchaser previously furnished the seller with this documentation and substantial change has not occurred since that documentation was furnished or if fuel consumed in processing is separately metered and billed by the seller.

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. 4. Section 422.52, subsection 6, paragraph a, Code 1987, is amended to read as follows:

a. If a purchaser fails to pay tax imposed by this division to the retailer required to collect the tax, then in addition to all of the rights, obligations, and remedies provided, the tax is payable by the purchaser directly to the department, and sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56, 422.57, 422.58 and 422.59 apply to the purchaser. For failure, the retailer and purchaser are liable, unless the circumstances described in section 422.47, subsection 3, paragraphs paragraph "b" and or "e" or subsection 4, paragraph "b" or "6" are applicable.

Sec. 5. This Act takes effect on January 1, 1988. Any valid exemption certificate, as defined in section 422.47, subsection 3, Code 1987, given for fuel consumed in processing and accepted by a seller prior to the effective date of this Act shall be deemed a fuel exemption certificate, as defined in this Act, for five years from the date the seller accepts the valid exemption certificate, if that valid exemption certificate contains all information required by this Act to be in a fuel exemption certificate.

---

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 682, Seventy-second General Assembly.

Approved , 1987

---

JOSEPH O'HERN  
Chief Clerk of the House

---

TERRY E. BRANSTAD  
Governor

**H. F. 682**