

House Study Bill 538

Conference Committee Text

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1 1 Section 1. NEW SECTION. 422.34A EXEMPT ACTIVITIES OF
1 2 FOREIGN CORPORATIONS.
1 3 A foreign corporation shall not be considered doing
1 4 business in this state or deriving income from sources within
1 5 this state for the purposes of this division by reason of
1 6 carrying on in this state one or more of the following
1 7 activities:
1 8 1. Holding meetings of the board of directors or
1 9 shareholders or carrying on other activities concerning
1 10 internal corporate affairs.
1 11 2. Maintaining bank accounts.
1 12 3. Borrowing money, with or without security.
1 13 4. Securing or collecting debts or enforcing any rights in
1 14 property securing the debts.
1 15 5. Maintaining, defending, or settling any proceeding.
1 16 6. Owning and controlling a subsidiary corporation
1 17 incorporated in or transacting business within this state.
1 18 7. Recruiting personnel where hiring occurs outside the
1 19 state.
1 20 8. Utilizing an independent contractor to perform work
1 21 under a warranty or similar arrangement.
1 22 9. Displaying for sale or selling tangible personal
1 23 property on an occasional basis at trade shows, fairs,
1 24 exhibitions, or similar temporary events in this state.
1 25 Sec. 2. This Act, being deemed of immediate importance,
1 26 take effect upon enactment and applies retroactively to
1 27 January 1, 1996, for tax years beginning on or after that
1 28 date.

1 29 EXPLANATION
1 30 Federal law restricts the state taxation of business income
1 31 derived within the state from interstate commerce if the only
1 32 business activity within the state is the solicitation of
1 33 sales or the activities are ancillary to the solicitation of
1 34 sales. In addition, if the business activities are not
1 35 related to the solicitation of sales but are very meager in
2 1 effect then state taxation is also restricted. This bill
2 2 lists certain business activities which a foreign corporation
2 3 may carry on without being considered as doing business in the
2 4 state or deriving income from sources within the state.
2 5 The bill takes effect upon enactment and applies
2 6 retroactively to January 1, 1996, for tax years beginning on
2 7 or after that date.
2 8 LSB 3616YC 76
2 9 mg/jj/8