

FEB 23 2000

WAYS AND MEANS

HOUSE FILE 2400
BY VAN ENGELENHOVEN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to sales and use taxes on construction materials
2 and supplies used in construction contracts for cities and
3 counties.

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

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HF 2400

1 Section 1. Section 422.42, subsection 15, Code Supplement
2 1999, is amended to read as follows:

3 15. Sales of building materials, supplies, and equipment
4 to owners, contractors, subcontractors or builders, for the
5 erection of buildings or the alteration, repair, or
6 improvement of real property, are retail sales in whatever
7 quantity sold. Where the contractor, subcontractor, or
8 builder has paid the tax on the purchase of building
9 materials, supplies, and equipment which are to be used in the
10 performance of a construction contract with a city or county,
11 the contractor, subcontractor, or builder shall grant the city
12 or county a credit, equal to the tax paid, to be applied
13 against the contractual payment obligation for the
14 construction project. The contractor, subcontractor, or
15 builder is entitled to a refund of the tax paid as provided in
16 section 422.47, subsection 2. Where the owner, contractor,
17 subcontractor, or builder is also a retailer holding a retail
18 sales tax permit and transacting retail sales of building
19 materials, supplies, and equipment, the person shall purchase
20 such items of tangible personal property without liability for
21 the tax if such property will be subject to the tax at the
22 time of resale or at the time it is withdrawn from inventory
23 for construction purposes. The sales tax shall be due in the
24 reporting period when the materials, supplies, and equipment
25 are withdrawn from inventory for construction purposes or when
26 sold at retail. The tax shall not be due when materials are
27 withdrawn from inventory for use in construction outside of
28 Iowa and the tax shall not apply to tangible personal property
29 purchased and consumed by the manufacturer as building
30 materials in the performance by the manufacturer or its
31 subcontractor of construction outside of Iowa. The tax shall
32 not be due when materials are withdrawn from inventory for use
33 in construction performed for a city or county in the state
34 and the tax shall not apply to tangible personal property
35 purchased and consumed by the manufacturer as building

1 materials in the performance by the manufacturer or its
2 subcontractor of construction performed for a city or county
3 in this state.

4 For the purposes of this subsection, the sale of carpeting
5 is not a sale of building materials. The sale of carpeting to
6 owners, contractors, subcontractors, or builders shall be
7 treated as the sale of ordinary tangible personal property and
8 subject to the tax imposed under section 422.43, subsection 1,
9 and the tax imposed under section 423.2. If the contractor,
10 subcontractor, or builder uses the carpeting in the
11 performance of a construction contract with a city or county,
12 the contractor, subcontractor, or builder shall grant the city
13 or county a credit, equal to the tax paid, to be applied
14 against the contractual payment obligation for the
15 construction project. The contractor, subcontractor, or
16 builder is entitled to a refund of the tax paid as provided in
17 section 422.47, subsection 2.

18 Sec. 2. Section 422.47, subsection 2, unnumbered paragraph
19 1, and paragraph a, Code supplement 1999, are amended to read
20 as follows:

21 Construction contractors may make application to the
22 department for a refund of the ~~additional-one-percent~~ tax paid
23 under this division or the ~~additional-one-percent~~ tax paid
24 under chapter 423 ~~by-reason-of-the-increase-in-the-tax-from~~
25 ~~four-to-five-percent-for-taxes-paid-on-goods, wares, or~~
26 ~~merchandise~~ on the sales or use of building materials,
27 supplies, and equipment, and carpeting under the following
28 conditions:

29 a. The ~~goods, wares, or merchandise~~ building materials,
30 supplies, and equipment, and carpeting are incorporated into
31 an improvement to real estate in fulfillment of a written
32 contract ~~fully-executed-prior-to-July-17-1992~~ with a city or
33 county and a credit has been granted the city or county by the
34 construction contractor as provided in section 422.42,
35 subsection 15. The-refund-shall-not-apply-to-equipment

1 transferred-in-fulfillment-of-a-mixed-construction-contract-

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EXPLANATION

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Under present law, cities and counties that hire construction contractors to erect buildings or make other improvements to real property pay the state sales and use taxes pursuant to the construction contract and then apply to the state for a refund of those taxes paid. This bill provides a procedure where cities and counties will not have to apply for the refund. The procedure is for construction contractors to grant a city or county a credit, equal to the amount of the tax paid, against the contractual payment obligation and the contractor would then recoup the credit by applying for a refund from the state. In the case where the construction contractor has not paid the tax, the contractor would not include the tax in the contractual payment obligation.

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