

Larson
Jager
Weigel

HSB 780

WAYS AND MEANS

...ceeded by

HOUSE FILE

SF 2562

BY (PROPOSED COMMITTEE ON WAYS
AND MEANS BILL BY CHAIR-
PERSON VAN FOSSEN)

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

A BILL FOR

1 An Act relating to the treatment for sales and use tax purposes
2 of sales where the substance of the transactions is delivered
3 by electromagnetic waves, digitally, or by way of cable or
4 fiber optics, the exemption from the sales and use taxes of
5 the furnishing, sale, or rental of information services,
6 providing of refunds, and including an effective and
7 retroactive applicability date provision.

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

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S.F. _____ H.F. _____

1 Section 1. Section 422.43, subsection 1, Code Supplement
2 1999, is amended by adding the following new unnumbered
3 paragraph:

4 NEW UNNUMBERED PARAGRAPH. For purposes of this division, a
5 sale of tangible personal property does not occur if the
6 substance of the transaction is delivered to the purchaser
7 digitally, electronically, or utilizing cable, or by radio
8 waves, microwaves, satellites, or fiber optics.

9 Sec. 2. Section 422.45, Code Supplement 1999, is amended
10 by adding the following new subsection:

11 NEW SUBSECTION. 57. The gross receipts from the
12 performing, rendering, furnishing, sale, or rental of
13 information services, including data processing services,
14 regardless of how the resultant information is stored or
15 transferred from seller to buyer if the resultant information
16 is accumulated, prepared, or organized for the buyer.
17 Information accumulated, prepared, or organized for a buyer is
18 an information service even though it may incorporate
19 preexisting components of data or other information.
20 Information services exempt under this subsection include, but
21 are not limited to, the accumulation, preparation, or
22 organization of database files, mailing lists, subscription
23 files, market research, credit reports, and surveys.

24 Sec. 3. Section 423.1, subsection 12, Code Supplement
25 1999, is amended by adding the following new unnumbered
26 paragraph:

27 NEW UNNUMBERED PARAGRAPH. "Tangible personal property"
28 does not include the substance of a transaction that is
29 delivered to the purchaser digitally, electronically, or
30 utilizing cable, or by radio waves, microwaves, satellites, or
31 fiber optics.

32 Sec. 4. REFUNDS. Refunds of taxes, interest, or penalties
33 which arise from claims resulting from the enactment of
34 section 422.45, subsection 57, in this Act, for sales,
35 rentals, or services occurring between March 15, 1995, and the

1 effective date of this Act, shall be limited to twenty-five
 2 thousand dollars in the aggregate and shall not be allowed
 3 unless refund claims are filed prior to October 1, 2000,
 4 notwithstanding any other provision of law. If the amount of
 5 claims totals more than twenty-five thousand dollars in the
 6 aggregate, the department of revenue and finance shall prorate
 7 the twenty-five thousand dollars among all claimants in
 8 relation to the amounts of the claimants' valid claims.

9 Sec. 5. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
 10 PROVISION. This Act, being deemed of immediate importance,
 11 takes effect upon enactment and applies retroactively to March
 12 15, 1995.

13 EXPLANATION

14 This bill provides that a sale of tangible personal
 15 property does not occur for purposes of the sales and use
 16 taxes if the substance of the transaction is delivered to the
 17 purchaser digitally, electronically, or utilizing cable, or by
 18 radio waves, microwaves, satellites, or fiber optics.

19 The bill also exempts from the sales and use taxes the
 20 furnishing, sale, or rental of information or data processing
 21 services regardless of how the resultant information is
 22 transferred. Information which is accumulated, prepared, or
 23 organized for a buyer is an information service. Information
 24 services include but are not limited to the accumulation,
 25 preparation, or organization of database files, mailing lists,
 26 subscription lists, market research, credit reports, and
 27 surveys.

28 The bill takes effect upon enactment and applies
 29 retroactively to March 15, 1995. As a result of the
 30 retroactivity of the exemption, refunds are provided for but
 31 are limited to \$25,000 in the aggregate.

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APR 6 2006

WAYS & MEANS CALENDAR

HOUSE FILE 2562

BY COMMITTEE ON WAYS and MEANS

(SUCCESSOR TO HSB 780)

(P. 1453) Passed House, Date 4/12/00 (P. 1310) Passed Senate, Date 4-24-00
 Vote: Ayes 58 Nays 38 Vote: Ayes 44 Nays 0
 Approved 5/16/00

(P. 1736) Re. Passed 4/24/00
 (P. 1856) Vote 56-42
 (P. 1856) Passed 4/26/00
 Vote 90-9

A BILL FOR

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 2 of sales where the substance of the transactions is delivered
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HF 2562

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34 section 422.45, subsection 57, in this Act, for sales,
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1 effective date of this Act, shall be limited to twenty-five
2 thousand dollars in the aggregate and shall not be allowed
3 unless refund claims are filed prior to October 1, 2000,
4 notwithstanding any other provision of law. If the amount of
5 claims totals more than twenty-five thousand dollars in the
6 aggregate, the department of revenue and finance shall prorate
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8 relation to the amounts of the claimants' valid claims.

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12 15, 1995.

13 EXPLANATION

14 This bill provides that a sale of tangible personal
15 property does not occur for purposes of the sales and use
16 taxes if the substance of the transaction is delivered to the
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22 transferred. Information which is accumulated, prepared, or
23 organized for a buyer is an information service. Information
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25 preparation, or organization of database files, mailing lists,
26 subscription lists, market research, credit reports, and
27 surveys.

28 The bill takes effect upon enactment and applies
29 retroactively to March 15, 1995. As a result of the
30 retroactivity of the exemption, refunds are provided for but
31 are limited to \$25,000 in the aggregate.

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HOUSE FILE 2562

H-8860

- 1 Amend House File 2562 as follows:
- 2 1. Page 1, by striking lines 1 through 8.
- 3 2. Page 1, line 16, by inserting after the word
- 4 "organized" the following: "and customized
- 5 specifically".
- 6 3. Page 1, line 18, by inserting after the word
- 7 "service" the following: "if the primary component of
- 8 the transaction is the purchase or rental of a
- 9 nontaxable service".
- 10 4. Page 1, by striking lines 24 through 31.
- 11 5. Title page, by striking lines 1 through 4 and
- 12 inserting the following: "An Act relating to the
- 13 exemption from the sales and use taxes of".

By WEIGEL of Chickasaw

H-8860 FILED APRIL 12, 2000

Last
4/12/00
(p. 1452)

HOUSE FILE 2562

H-8863

1 Amend House File 2562 as follows:
 2 1. By striking everything after the enacting
 3 clause and inserting the following:
 4 "Section 1. The legislative council is requested
 5 to establish a legislative interim study committee to
 6 study the issues involved in the sales and use taxes
 7 on the sales or furnishing of information services and
 8 the products of such services which are transmitted
 9 digitally, electronically, utilizing cable, or by
 10 radio waves, microwaves, satellites, or fiber optics.
 11 The study committee shall report its findings and
 12 recommendations to the general assembly and the
 13 department of revenue and finance by January 1, 2001."
 14 2. Title page, by striking lines 1 through 7 and
 15 inserting the following: "An Act requesting the
 16 establishment of a legislative interim study committee
 17 to study the issues involved in the sales and use
 18 taxes on information services and the products of such
 19 services which are transmitted by electromagnetic
 20 waves, digitally, or by cable or fiber optics."

By WEIGEL of Chickasaw

H-8863 FILED APRIL 12, 2000

W/D
4/12/00 (P. 1453)

HOUSE FILE 2562

H-8874

1 Amend House File 2562 as follows:
 2 1. Page 1, line 6, by inserting after the word
 3 "delivered" the following: "or is capable of being
 4 delivered".
 5 2. Page 1, line 29, by inserting after the word
 6 "delivered" the following: "or is capable of being
 7 delivered".

By FALLON of Polk

H-8874 FILED APRIL 12, 2000

dot
4/12/00 (P. 1453)

HOUSE FILE 2562

H-8875

1 Amend House File 2562 as follows:
 2 1. Page 1, line 8, by inserting after the word
 3 "optics." the following: "This paragraph is repealed
 4 June 30, 2002."
 5 2. Page 1, line 31, by inserting after the word
 6 "optics." the following: "This paragraph is repealed
 7 June 30, 2002."

By WEIGEL of Chickasaw

H-8875 FILED APRIL 12, 2000

W/D
4/12/00 (P. 1453)

HOUSE FILE 2562

S-5473

1 Amend House File 2562, as passed by the House, as
2 follows:

3 1. Page 1, by striking lines 1 through 31 and
4 inserting the following:

5 "Section 1. Section 421.17, Code Supplement 1999,
6 is amended by adding the following new subsection:

7 NEW SUBSECTION. 22B. Enter into agreements or
8 compacts with remote sellers, retailers, or third-
9 party providers for the voluntary collection of Iowa
10 sales or use taxes attributable to sales into Iowa and
11 to enter into multistate agreements or compacts that
12 provide for the voluntary collection of sales and use
13 taxes. The agreements or compacts shall generally
14 conform to the provisions of Iowa sales and use tax
15 statutes. All fees for services, reimbursements,
16 remuneration, incentives, and costs incurred by the
17 department associated with these agreements or
18 compacts may be paid or reimbursed from the additional
19 revenue generated. An amount is appropriated from
20 amounts generated to pay or reimburse all costs
21 associated with this subsection. Persons entering
22 into an agreement or compact with the department
23 pursuant to this subsection are subject to the
24 requirements and penalties of the confidentiality laws
25 of this state regarding tax information.

26 Notwithstanding any other provisions of law, the
27 contract, agreement, or compact shall provide for the
28 registration, collection, report, and verification of
29 amounts subject to this subsection.

30 Sec. 2. Section 422.43, Code Supplement 1999, is
31 amended by adding the following new subsection:

32 NEW SUBSECTION. 15. For purposes of this
33 division, a sale of tangible personal property does
34 not occur if the substance of the transaction is
35 delivered to the purchaser digitally, electronically,
36 or utilizing cable, or by radio waves, microwaves,
37 satellites, or fiber optics.

38 This subsection is repealed December 31, 2002.

39 Sec. 3. Section 422.45, Code Supplement 1999, is
40 amended by adding the following new subsection:

41 NEW SUBSECTION. 57. The gross receipts from the
42 services rendered, furnished, or performed of the sale
43 or rental of information services. "Information
44 services" means every business activity, process, or
45 function by which a seller or its agent accumulates,
46 prepares, organizes, or conveys data, facts,
47 knowledge, procedures, and like services to a buyer or
48 its agent of such information through any tangible or
49 intangible medium. Information accumulated, prepared,
50 or organized for a buyer or its agent is an

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1 information service even though it may incorporate
2 preexisting components of data or other information.
3 Information services include, but are not limited to,
4 database files, mailing lists, subscription files,
5 market research, credit reports, surveys, real estate
6 listings, bond rating reports, abstracts of title, bad
7 check lists, broadcasting rating services, wire
8 services, and scouting reports, or other similar
9 items.

10 Sec. 4. Section 423.1, Code Supplement 1999, is
11 amended by adding the following new subsection:

12 NEW SUBSECTION. 12A. "Tangible personal property"
13 does not include the substance of a transaction that
14 is delivered to the purchaser digitally,
15 electronically, or utilizing cable, or by radio waves,
16 microwaves, satellites, or fiber optics.

17 This subsection is repealed December 31, 2002.

18 Sec. 5.

19 1. The legislative council is requested to
20 establish an e-commerce task force to study the issues
21 e-commerce has generated under the state sales and use
22 taxes, including the status as tangible or intangible
23 property of the substance of transactions that are
24 delivered digitally, electromagnetically, or through
25 or by means of cable, satellites, or fiber optics, and
26 vendor discounts.

27 2. The members of the task force should be
28 selected by the legislative council from names
29 submitted to the legislative council by July 1, 2000.
30 The membership shall consist of at least the
31 following:

32 a. Two members from the department of revenue and
33 finance.

34 b. One member representing business taxpayers.

35 c. One member representing the retailer community
36 as a whole.

37 d. One member who is employed by a large state or
38 national retailer.

39 e. One member who is employed by a small main
40 street retailer.

41 f. One member familiar with the e-commerce
42 industry.

43 g. One member who is an economist familiar with e-
44 commerce issues.

45 h. One member who is a representative of local
46 governments.

47 i. One member representing the taxpayers as a
48 whole.

49 j. Four members who are members of the general
50 assembly, two who are senators and two who are

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Page 3

1 representatives appointed by the legislative council
2 with a senator and representative representing the
3 majority party and a senator and representative
4 representing the minority party.

5 Alternative members may be appointed for the
6 nonlegislative members.

7 3. The task force shall provide the general
8 assembly with a preliminary report by January 1, 2001.
9 The final report with the task force's findings and
10 recommendations is due by January 1, 2002."

11 2. Title page, line 6, by inserting after the
12 word "refunds," the following: "requesting a task
13 force be established,".

By JEFF LAMBERTI
JOANN JOHNSON

S-5473 FILED APRIL 18, 2000

Adapted
4/24/00
(P. 1310)

HOUSE FILE 2562

S-5543

1 Amend the amendment, S-5473, to House File 2562, as
2 passed by the House, as follows:

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

5 ""Section 1. Section 421.60, subsection 2, Code
6 1999, is amended by adding the following new
7 paragraph:

8 NEW PARAGRAPH. m. (1) The director may abate
9 unpaid state sales and use taxes and local sales and
10 services taxes owed by a retailer in the event that
11 the retailer failed to collect tax from the purchaser
12 as a result of erroneous written advice issued by the
13 department that was specially directed to the retailer
14 by the department and the retailer is unable to
15 collect the tax, interest, or penalties from the
16 purchaser. Before the tax, interest, and penalties
17 shall be abated on the basis of erroneous written
18 advice, the retailer must present a copy of the
19 retailer's request for written advice to the
20 department and a copy of the department's reply. The
21 department shall not maintain a position against the
22 retailer that is inconsistent with the erroneous
23 written advice, except on the basis of subsequent
24 written advice sent by the department to that
25 retailer, or a change in state or federal law, a
26 reported court case to the contrary, a contrary rule
27 adopted by the department, a change in material facts
28 or circumstances relating to the retailer, or the
29 retailer's misrepresentation or incomplete or
30 inadequate representation of material facts and
31 circumstances in requesting the written advice.

32 (2) The director shall abate the unpaid state
33 sales and use taxes and any local sales and services
34 taxes owed by a retailer where the retailer failed to
35 collect the tax from the purchaser on the charges paid
36 for access to on-line computer services as a result of
37 erroneous written advice issued by the department
38 regarding the taxability of charges paid for access to
39 on-line computer services. To qualify for the
40 abatement under this subparagraph, the erroneous
41 written advice shall have been issued by the
42 department prior to July 1, 1999, and shall have been
43 specially directed to the retailer by the department.

44 (3) The director shall prepare quarterly reports
45 summarizing each case in which abatement of tax,
46 interest, or penalties was made. However, the report
47 shall not disclose the identity of the taxpayer. An
48 abatement authorized by this paragraph to a retailer
49 shall not preclude the department from proceeding to
50 collect the liability from a purchaser."

S-5543

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Page 2

1 2. Page 1, line 5, by striking the word and
2 figure "'Section 1.'" and inserting the following:
3 "Sec. 1A."
4 3. Page 1, by inserting after line 38 the
5 following:
6 "Sec. _____. Section 422.45, subsection 56, Code
7 Supplement 1999, is amended to read as follows:
8 56. The gross receipts from charges paid to a
9 provider for access to on-line computer services. For
10 purposes of this subsection, "on-line computer
11 service" means a service that provides or enables
12 computer access by multiple users to the internet or
13 to other information made available through a computer
14 server."
15 4. Page 2, by inserting after line 9 the
16 following:
17 "Sec. _____. Section 422.52, subsection 6, paragraph
18 a, Code Supplement 1999, is amended to read as
19 follows:
20 a. If a purchaser fails to pay tax imposed by this
21 division to the retailer required to collect the tax,
22 then in addition to all of the rights, obligations,
23 and remedies provided, the tax is payable by the
24 purchaser directly to the department, and sections
25 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,
26 422.57, 422.58, and 422.59 apply to the purchaser.
27 For failure, the retailer and purchaser are liable,
28 unless the circumstances described in section 421.60,
29 subsection 2, paragraph "m", or section 422.47,
30 subsection 3, paragraph "b" or "e", or subsection 4,
31 paragraph "b" or "d", are applicable."
32 5. Page 3, by inserting after line 10 the
33 following:
34 "_____. Page 2, line 11, by striking the words "and
35 applies" and inserting the following: ". Sections
36 1A, 2, and 3 of this Act, amending sections 422.43,
37 422.45, by adding subsection 57, and 423.1, apply".
38 6. Page 3, line 13, by inserting after the word
39 "established," the following: "relating to the
40 exemption for on-line computer services, and providing
41 sales and use tax abatements,".

By JOANN JOHNSON

S-5543 FILED APRIL 19, 2000

W/A
4/24/00
(P. 1210)

SENATE AMENDMENT TO HOUSE FILE 2562

H-9048

1 Amend House File 2562, as passed by the House, as
2 follows:

3 1. Page 1, by striking lines 1 through 31 and
4 inserting the following:

5 "Section 1. Section 421.17, Code Supplement 1999,
6 is amended by adding the following new subsection:

7 NEW SUBSECTION. 22B. Enter into agreements or
8 compacts with remote sellers, retailers, or third-
9 party providers for the voluntary collection of Iowa
10 sales or use taxes attributable to sales into Iowa and
11 to enter into multistate agreements or compacts that
12 provide for the voluntary collection of sales and use
13 taxes. The agreements or compacts shall generally
14 conform to the provisions of Iowa sales and use tax
15 statutes. All fees for services, reimbursements,
16 remuneration, incentives, and costs incurred by the
17 department associated with these agreements or
18 compacts may be paid or reimbursed from the additional
19 revenue generated. An amount is appropriated from
20 amounts generated to pay or reimburse all costs
21 associated with this subsection. Persons entering
22 into an agreement or compact with the department
23 pursuant to this subsection are subject to the
24 requirements and penalties of the confidentiality laws
25 of this state regarding tax information.
26 Notwithstanding any other provisions of law, the
27 contract, agreement, or compact shall provide for the
28 registration, collection, report, and verification of
29 amounts subject to this subsection.

30 Sec. 2. Section 422.43, Code Supplement 1999, is
31 amended by adding the following new subsection:

32 NEW SUBSECTION. 15. For purposes of this
33 division, a sale of tangible personal property does
34 not occur if the substance of the transaction is
35 delivered to the purchaser digitally, electronically,
36 or utilizing cable, or by radio waves, microwaves,
37 satellites, or fiber optics.

38 This subsection is repealed December 31, 2002.

39 Sec. 3. Section 422.45, Code Supplement 1999, is
40 amended by adding the following new subsection:

41 NEW SUBSECTION. 57. The gross receipts from the
42 services rendered, furnished, or performed of the sale
43 or rental of information services. "Information
44 services" means every business activity, process, or
45 function by which a seller or its agent accumulates,
46 prepares, organizes, or conveys data, facts,
47 knowledge, procedures, and like services to a buyer or
48 its agent of such information through any tangible or
49 intangible medium. Information accumulated, prepared,
50 or organized for a buyer or its agent is an

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Page 2

1 information service even though it may incorporate
2 preexisting components of data or other information.
3 Information services include, but are not limited to,
4 database files, mailing lists, subscription files,
5 market research, credit reports, surveys, real estate
6 listings, bond rating reports, abstracts of title, bad
7 check lists, broadcasting rating services, wire
8 services, and scouting reports, or other similar
9 items.

10 Sec. 4. Section 423.1, Code Supplement 1999, is
11 amended by adding the following new subsection:

12 NEW SUBSECTION. 12A. "Tangible personal property"
13 does not include the substance of a transaction that
14 is delivered to the purchaser digitally,
15 electronically, or utilizing cable, or by radio waves,
16 microwaves, satellites, or fiber optics.

17 This subsection is repealed December 31, 2002.

18 Sec. 5.

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20 establish an e-commerce task force to study the issues
21 e-commerce has generated under the state sales and use
22 taxes, including the status as tangible or intangible
23 property of the substance of transactions that are
24 delivered digitally, electromagnetically, or through
25 or by means of cable, satellites, or fiber optics, and
26 vendor discounts.

27 2. The members of the task force should be
28 selected by the legislative council from names
29 submitted to the legislative council by July 1, 2000.
30 The membership shall consist of at least the
31 following:

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33 finance.

34 b. One member representing business taxpayers.

35 c. One member representing the retailer community
36 as a whole.

37 d. One member who is employed by a large state or
38 national retailer.

39 e. One member who is employed by a small main
40 street retailer.

41 f. One member familiar with the e-commerce
42 industry.

43 g. One member who is an economist familiar with e-
44 commerce issues.

45 h. One member who is a representative of local
46 governments.

47 i. One member representing the taxpayers as a
48 whole.

49 j. Four members who are members of the general
50 assembly, two who are senators and two who are

H-9048

-2-

H-9048

Page 3

1 representatives appointed by the legislative council
2 with a senator and representative representing the
3 majority party and a senator and representative
4 representing the minority party.

5 Alternative members may be appointed for the
6 nonlegislative members.

7 3. The task force shall provide the general
8 assembly with a preliminary report by January 1, 2001.
9 The final report with the task force's findings and
10 recommendations is due by January 1, 2002."

11 2. Title page, line 6, by inserting after the
12 word "refunds," the following: "requesting a task
13 force be established,".

RECEIVED FROM THE SENATE

H-9048 FILED APRIL 24, 2000

*House Concurred**4-24-00**(P 1735)*

HOUSE FILE 2562

H-9054

1 Amend the Senate amendment, H-9048, to House File
2 2562, as passed by the House, as follows:

3 1. Page 1, line 38, by striking the word and
4 figures "December 31, 2002" and inserting the
5 following: "July 1, 2005".

6 2. Page 2, line 17, by striking the word and
7 figures "December 31, 2002" and inserting the
8 following: "July 1, 2005".

By VAN FOSSEN of Scott

H-9054 FILED APRIL 24, 2000

*Adopted**4-24-00**(P 1735)*

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2562

S-5605

- 1 Amend the Senate amendment, H-9048, to House File
- 2 2562, as passed by the House, as follows:
- 3 1. Page 1, line 38, by striking the word and
- 4 figures "December 31, 2002" and inserting the
- 5 following: "July 1, 2005".
- 6 2. Page 2, line 17, by striking the word and
- 7 figures "December 31, 2002" and inserting the
- 8 following: "July 1, 2005".

RECEIVED FROM THE HOUSE

S-5605 FILED APRIL 25, 2000
REFUSED TO CONCUR

(p. 1352)

House Needed
4-26-00
(p. 1856)

**HOUSE FILE 2562
FISCAL NOTE**

A fiscal note for House File 2562 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2562 provides that a sale of tangible personal property does not occur for purposes of the State sales and use taxes if the substance of the transaction is delivered to the purchaser digitally, electronically, or utilizing cable, or by radio waves, microwaves, satellites, or fiber optics. Also, the Bill exempts from the sales and use taxes the furnishing, sale, or rental of information or data processing services regardless of how the resultant information is transferred. The Bill takes effect upon enactment and applies retroactively to March 15, 1995. However, any refunds resulting from the retroactivity of the exemption are limited to \$25,000 in aggregate.

BACKGROUND

As specified in Chapter 422, Section 43, Code of Iowa, a tax equal to 5.0% is imposed on the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except when explicitly exempted elsewhere in Chapter 422, Division IV, Code of Iowa, sold at retail in the State to consumers or users. Also, in the same section, the tax is explicitly imposed on the gross receipts from the sales of electricity, pay television services, and communication services whether provided by a private enterprise or a municipal corporation, and the proposed Legislation would not change the tax status of these items.

The proposed Legislation would exempt from sales and use taxes retail purchases when the product is delivered to the purchaser in digital or electronic form utilizing cable, radio waves, microwaves, satellites, or fiber optics as the medium of transmission. Examples of types of purchases that would be affected by the exemption include books, magazines, music, mass marketed computer software, and videos that are transmitted in digital form without any accompanying physical documentation or packaging sent to the purchaser as part of a single transaction.

According to the U.S. Bureau of the Census, the types of businesses that may be affected by the proposed Legislation and the associated 1997 Iowa sales receipts generated by each are listed below:

- Book stores (\$95.4 million)
- Prerecorded tapes and CDs (\$49.5 million)
- Music publishing (\$2.9 million)
- Database and directory publishing (\$149.7 million)
- Software publishing (\$171.2 million)

Comparable information for video tape and DVD rentals was not available separately for Iowa. In total, the gross receipts for these types of

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businesses equal approximately \$500.0 million for Iowa.

Information services regardless of the form of delivery would also be exempted from State sales and use taxes by the proposed Legislation. Specific types of purchases that would be covered by this exemption include database files, mailing lists, subscription lists, market research, credit reports, and surveys. Currently, there exists disagreement between the Department of Revenue and Finance and certain business taxpayers whether or not all or some of these items are subject to the State sales or use taxes.

ASSUMPTIONS

1. The Iowa sales and use tax rates equal 5.0% of the gross receipts from the retail sale of tangible personal property, unless specifically exempted by Legislative action, and enumerated services delivered in Iowa or brought into the State for use.
2. The amount of items qualifying as tangible personal property (i.e., books, music CDs, computer software, etc.) that would be subject to sale and transmission in digital form is a small share of the current \$500.0 million value of such goods sold in Iowa.
3. The amount of items described above as constituting information services that are transacted in Iowa each year generate approximately another \$500.0 million in sales. However, little tax is currently collected on these items.
4. The amount of goods susceptible to sale and delivery in digital form without accompanying physical documentation or transmission medium will remain less than 5.0% of the entire Iowa market for these items for at least the next five years.
5. The full \$25,000 allocated for refunds will be expended.

FISCAL IMPACT

House File 2562 will result in a minimal decrease, in excess of the \$25,000 refund amount, in State General Fund or local option sales and services tax revenues for at least the next few years. The potential impact on State and local tax revenues can be expected to increase as the technology for transmitting information-based products digitally via the Internet improves and consumers become more accustomed to the purchase of products in digital form. However, it is not possible at the present time to estimate the impact of this evolving sector of the economy on either the State General Fund or on local option sales and services tax receipts.

SOURCES

U.S. Bureau of the Census, 1997 Business Censuses
U.S. Bureau of the Census, Measuring Electronic Business

(LSB 7226hv, MAL)

HOUSE FILE 2562

AN ACT

RELATING TO THE TREATMENT FOR SALES AND USE TAX PURPOSES OF SALES WHERE THE SUBSTANCE OF THE TRANSACTIONS IS DELIVERED BY ELECTROMAGNETIC WAVES, DIGITALLY, OR BY WAY OF CABLE OR FIBER OPTICS, THE EXEMPTION FROM THE SALES AND USE TAXES OF THE FURNISHING, SALE, OR RENTAL OF INFORMATION SERVICES, PROVIDING OF REFUNDS, REQUESTING A TASK FORCE BE ESTABLISHED, AND INCLUDING AN EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISION.

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

Section 1. Section 421.17, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 22B. Enter into agreements or compacts with remote sellers, retailers, or third-party providers for the voluntary collection of Iowa sales or use taxes attributable to sales into Iowa and to enter into multistate agreements or compacts that provide for the voluntary collection of sales and use taxes. The agreements or compacts shall generally conform to the provisions of Iowa sales and use tax statutes. All fees for services, reimbursements, remuneration, incentives, and costs incurred by the department associated with these agreements or compacts may be paid or reimbursed from the additional revenue generated. An amount is appropriated from amounts generated to pay or reimburse all costs associated with this subsection. Persons entering into an agreement or compact with the department pursuant to this subsection are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information. Notwithstanding any other provisions of law, the contract, agreement, or compact shall provide for the registration, collection, report, and verification of amounts subject to this subsection.

Sec. 2. Section 422.43, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 15. For purposes of this division, a sale of tangible personal property does not occur if the substance of the transaction is delivered to the purchaser digitally, electronically, or utilizing cable, or by radio waves, microwaves, satellites, or fiber optics.

This subsection is repealed December 31, 2002.

Sec. 3. Section 422.45, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 57. The gross receipts from the services rendered, furnished, or performed of the sale or rental of information services. "Information services" means every business activity, process, or function by which a seller or its agent accumulates, prepares, organizes, or conveys data, facts, knowledge, procedures, and like services to a buyer or its agent of such information through any tangible or intangible medium. Information accumulated, prepared, or organized for a buyer or its agent is an information service even though it may incorporate preexisting components of data or other information. Information services include, but are not limited to, database files, mailing lists, subscription files, market research, credit reports, surveys, real estate listings, bond rating reports, abstracts of title, bad check lists, broadcasting rating services, wire services, and scouting reports, or other similar items.

Sec. 4. Section 423.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "Tangible personal property" does not include the substance of a transaction that is delivered to the purchaser digitally, electronically, or utilizing cable, or by radio waves, microwaves, satellites, or fiber optics.

This subsection is repealed December 31, 2002.

Sec. 5.

1. The legislative council is requested to establish an e-commerce task force to study the issues e-commerce has

generated under the state sales and use taxes, including the status as tangible or intangible property of the substance of transactions that are delivered digitally, electromagnetically, or through or by means of cable, satellites, or fiber optics, and vendor discounts.

2. The members of the task force should be selected by the legislative council from names submitted to the legislative council by July 1, 2000. The membership shall consist of at least the following:

- a. Two members from the department of revenue and finance.
- b. One member representing business taxpayers.
- c. One member representing the retailer community as a whole.
- d. One member who is employed by a large state or national retailer.
- e. One member who is employed by a small main street retailer.
- f. One member familiar with the e-commerce industry.
- g. One member who is an economist familiar with e-commerce issues.
- h. One member who is a representative of local governments.
- i. One member representing the taxpayers as a whole.
- j. Four members who are members of the general assembly, two who are senators and two who are representatives appointed by the legislative council with a senator and representative representing the majority party and a senator and representative representing the minority party.

Alternative members may be appointed for the nonlegislative members.

3. The task force shall provide the general assembly with a preliminary report by January 1, 2001. The final report with the task force's findings and recommendations is due by January 1, 2002.

Sec. 6. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 422.45, subsection 57, in this Act, for sales,

rentals, or services occurring between March 15, 1995, and the effective date of this Act, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 2000, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue and finance shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 7. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to March 15, 1995.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2562, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 5/16, 2000

THOMAS J. VILSACK
Governor