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WAYS & MEANS CALENDAR

HOUSE FILE 2563
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2095)

Passed House, Date (P. 1562) 4-17-00 Passed Senate, Date (P. 1296) 4/20/00
Vote: Ayes 99 Nays 1 Vote: Ayes 48 Nays 0
Approved 5/19/00

A BILL FOR

1 An Act exempting from the sales and use taxes the gross receipts
2 from all sales of goods and services used in fulfillment of a
3 construction contract for a nonprofit hospital, providing for
4 refunds, and including an effective and retroactive
5 applicability date provision.

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

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1 Section 1. Section 422.45, Code Supplement 1999, is
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 54B. The gross receipts from all sales of
4 goods, wares, or merchandise, or from services rendered,
5 furnished, or performed which are used in the fulfillment of a
6 written construction contract with a nonprofit hospital
7 licensed pursuant to chapter 135B if all of the following
8 apply:

9 a. The sales and delivery of the goods, wares, or
10 merchandise, or the services rendered, furnished, or performed
11 occurred between July 1, 1998, and December 31, 2001.

12 b. The written construction contract was entered into
13 prior to December 31, 1999, or bonds to fund the construction
14 were issued prior to December 31, 1999.

15 c. The sales or services were purchased by a contractor as
16 the agent for the hospital or were purchased directly by the
17 hospital.

18 Sec. 2. REFUNDS. Refunds of taxes, interest, or penalties
19 which arise from claims resulting from the enactment of
20 section 422.45, subsection 54B, in this Act, for sales or
21 services occurring between July 1, 1998, and December 31,
22 2001, shall be limited to twenty-five thousand dollars in the
23 aggregate and shall not be allowed unless refund claims are
24 filed prior to April 1, 2002, notwithstanding any other
25 provision of law. If the amount of claims totals more than
26 twenty-five thousand dollars in the aggregate, the department
27 of revenue and finance shall prorate the twenty-five thousand
28 dollars among all claimants in relation to the amounts of the
29 claimants' valid claims.

30 Sec. 3. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
31 PROVISION. This Act, being deemed of immediate importance,
32 takes effect upon enactment and applies retroactively to July
33 1, 1998.

34 EXPLANATION

35 This bill provides an exemption from the sales and use

1 taxes for construction materials and services used in
2 fulfillment of a written contract with a nonprofit hospital.

3 This exemption only applies if three conditions are met:

4 1. The sales and delivery of the materials or the services
5 occur between July 1, 1998, and December 31, 2001.

6 2. The written construction contract was entered into
7 prior to December 31, 1999, or bonds were issued to fund the
8 construction prior to December 31, 1999.

9 3. The materials were purchased by the contractor as the
10 agent for the hospital or directly by the hospital.

11 The bill takes effect upon enactment and applies
12 retroactively to July 1, 1998. Because of this retroactive
13 applicability, refunds are allowed. However, a limit of
14 \$25,000 in the aggregate is set on the amount of refunds.

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HOUSE FILE 2563

S-5532

1 Amend House File 2563 as passed by the House as
2 follows:

3 1. Page 1, by inserting before line 1 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."

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Page 2

- 1 2. Page 1, by inserting after line 17 the
2 following:
3 "Sec. _____. Section 422.52, subsection 6, paragraph
4 a, Code Supplement 1999, is amended to read as
5 follows:
6 a. If a purchaser fails to pay tax imposed by this
7 division to the retailer required to collect the tax,
8 then in addition to all of the rights, obligations,
9 and remedies provided, the tax is payable by the
10 purchaser directly to the department, and sections
11 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,
12 422.57, 422.58, and 422.59 apply to the purchaser.
13 For failure, the retailer and purchaser are liable,
14 unless the circumstances described in section 421.60,
15 subsection 2, paragraph "m", or section 422.47,
16 subsection 3, paragraph "b" or "e", or subsection 4,
17 paragraph "b" or "d", are applicable."
18 3. Page 1, line 32, by striking the words "and
19 applies" and inserting the following: ". Section 1
20 of this Act, amending section 422.45, applies".
21 4. Title page, line 1, by inserting after the
22 word "Act" the following: "relating to sales and use
23 tax abatements and".
24 5. By renumbering, redesignating, and correcting
25 internal references as necessary.

By MARK SHEARER
PATRICIA HARPER

S-5532 FILED APRIL 19, 2000

W/D
4/20/00
(P. 1296)

HOUSE FILE 2563

AN ACT

EXEMPTING FROM THE SALES AND USE TAXES THE GROSS RECEIPTS FROM ALL SALES OF GOODS AND SERVICES USED IN FULFILLMENT OF A CONSTRUCTION CONTRACT FOR A NONPROFIT HOSPITAL, PROVIDING FOR REFUNDS, AND INCLUDING AN EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISION.

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

Section 1. Section 422.45, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 54B. The gross receipts from all sales of goods, wares, or merchandise, or from services rendered, furnished, or performed which are used in the fulfillment of a written construction contract with a nonprofit hospital licensed pursuant to chapter 135B if all of the following apply:

a. The sales and delivery of the goods, wares, or merchandise, or the services rendered, furnished, or performed occurred between July 1, 1998, and December 31, 2001.

b. The written construction contract was entered into prior to December 31, 1999, or bonds to fund the construction were issued prior to December 31, 1999.

c. The sales or services were purchased by a contractor as the agent for the hospital or were purchased directly by the hospital.

Sec. 2. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 422.45, subsection 54B, in this Act, for sales or services occurring between July 1, 1998, and December 31, 2001, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to April 1, 2002, 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. 3. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1998.

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 2563, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 5/19, 2000

THOMAS J. VILSACK
Governor

HF2563