

HSB 110

WAYS AND MEANS

SF/HF 30

SENATE/HOUSE FILE
BY (PROPOSED DEPARTMENT OF
REVENUE AND FINANCE BILL)

Holmes, ch
Jager
Freyvert

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

A BILL FOR

1 An Act relating to the administration of the tax and related laws
2 by the department of revenue and finance, including
3 administration of state individual income, corporate income,
4 franchise, sales and use, motor fuel, cigarette and tobacco,
5 local option, inheritance and estate, and property taxes, and
6 the livestock production credit; providing penalties; and
7 including effective and retroactive applicability date
8 provisions.

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

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SC001

1 Section 1, Section 421.1, unnumbered paragraph 8, Code
2 1999, is amended to read as follows:

3 The state board shall ~~hold-at-least-six-regular-meetings~~
4 ~~each-year, the first of which shall be on the second secular~~
5 ~~day of July~~ meet as deemed necessary by the chairperson.

6 Special meetings of the state board may be called by the
7 chairperson on five days' notice given to each member. All
8 meetings shall be held at the office of the tax department
9 unless a different place within the state is designated by the
10 state board or in the notice of the meeting.

11 Sec. 2. Section 421.16, Code 1999, is amended to read as
12 follows:

13 421.16 EXPENSES.

14 The director, ~~deputy-directors,~~ and department employees
15 are entitled to receive from the state their actual necessary
16 expenses while traveling on the business of the department.
17 The expenditures shall be sworn to by the party who incurred
18 the expense, and approved and allowed by the director.
19 However, such expenses shall not be allowed residents of Polk
20 county while in the city of Des Moines or traveling between
21 their homes and the city of Des Moines.

22 Sec. 3. Section 421.18, Code 1999, is amended to read as
23 follows:

24 421.18 DUTIES OF PUBLIC OFFICERS AND EMPLOYEES.

25 It shall be the duty of all public officers and employees
26 of the state and ~~of all municipalities~~ local governments to
27 give to the director of revenue and finance information in
28 their possession relating to taxation when required by the
29 director, and to co-operate with and aid the director's
30 efforts to secure a fair, equitable, and just enforcement of
31 the taxation and revenue laws.

32 Sec. 4. Section 422.5, subsections 3 and 11, Code 1999,
33 are amended by striking the subsections.

34 Sec. 5. Section 422.13, subsection 5, Code 1999, is
35 amended to read as follows:

1 5. Notwithstanding subsections 1 through 4 and sections
2 422.15 and 422.36, a partnership, a limited liability company
3 whose members are taxed on the company's income under
4 provisions of the Internal Revenue Code, trust, or corporation
5 whose stockholders are taxed on the corporation's income under
6 the provisions of the Internal Revenue Code ~~is entitled to~~
7 ~~request permission from the director~~ may, not later than the
8 due date for filing its return for the taxable year, including
9 any extension thereof, elect to file a composite return for
10 the nonresident partners, members, beneficiaries, or
11 shareholders. The director may ~~grant permission to file or~~
12 require that a composite return be filed under the conditions
13 deemed appropriate by the director. A partnership, limited
14 liability company, trust, or corporation filing a composite
15 return is liable for tax required to be shown due on the
16 return. All powers of the director and requirements of the
17 director apply to returns filed under this subsection
18 including, but not limited to, the provisions of this division
19 and division VI of this chapter.

20 Sec. 6. Section 422.16, subsection 2, unnumbered paragraph
21 2, Code 1999, is amended to read as follows:

22 Every withholding agent on or before the end of the second
23 month following the close of the calendar year in which the
24 withholding occurs shall make an annual reporting of taxes
25 withheld and other information prescribed by the director and
26 send to the department copies of wage and tax statements with
27 the return. At the discretion of the director, the
28 withholding agent shall not be required to send wage
29 statements and tax statements with the annual reporting return
30 form if the information is available from the Internal Revenue
31 Service or other state or federal agencies.

32 Sec. 7. Section 422.23, unnumbered paragraph 2, Code 1999,
33 is amended by striking the unnumbered paragraph.

34 Sec. 8. Section 422.25, subsection 1, paragraph b, Code
35 1999, is amended to read as follows:

1 b. The period for examination and determination of the
2 correct amount of tax is unlimited in the case of a false or
3 fraudulent return made with the intent to evade tax or in the
4 case of a failure to file a return. In lieu of the period of
5 limitation for any prior year for which an overpayment of tax
6 or an elimination or reduction of an underpayment of tax due
7 for that prior year results from the carryback to that prior
8 year of a net operating loss or net capital loss, the period
9 is the period of limitation for the taxable year of the net
10 operating loss or net capital loss which results in the
11 carryback. If the tax found due is greater than the amount
12 paid, the department shall compute the amount due, together
13 with interest and penalties as provided in subsection 2, and
14 shall mail a notice of assessment to the taxpayer and, if
15 applicable, to the taxpayer's authorized representative of the
16 total, which shall be computed as a sum certain if paid on or
17 before the last day of the month in which the notice is
18 postmarked dated, or on or before the last day of the
19 following month if the notice is postmarked dated after the
20 twentieth day of any month. The notice shall also inform the
21 taxpayer of the additional interest and penalty which will be
22 added to the total due if not paid on or before the last day
23 of the applicable month.

24 Sec. 9. Section 422.25, subsection 3, Code 1999, is
25 amended to read as follows:

26 3. If the amount of the tax as determined by the
27 department is less than the amount paid, the excess shall be
28 refunded with interest, the interest to begin to accrue on the
29 first day of the second calendar month following the date of
30 payment or the date the return was due to be filed, or the
31 extended due date by which the return was due to be filed if
32 ninety percent of the tax was paid by the original due date,
33 or was filed, whichever is the latest, at the rate in effect
34 under section 421.7 counting each fraction of a month as an
35 entire month under the rules prescribed by the director. If

1 an overpayment of tax results from a net operating loss or net
 2 capital loss which is carried back to a prior year, the
 3 overpayment, for purposes of computing interest on refunds,
 4 shall be considered as having been made on the date a claim
 5 for refund or amended return carrying back the net operating
 6 loss or net capital loss is filed with the department or on
 7 the first day of the second calendar month following the date
 8 of the actual payment of the tax, whichever is later.

9 However, when the net operating loss or net capital loss
 10 carryback to a prior year eliminates or reduces an
 11 underpayment of tax due for an earlier year, the full amount
 12 of the underpayment of tax shall bear interest at the rate in
 13 effect under section 421.7 for each month counting each
 14 fraction of a month as an entire month from the due date of
 15 the tax for the earlier year to the last day of the taxable
 16 year in which the net operating loss or net capital loss
 17 occurred.

18 Sec. 10. Section 422.33, subsection 1, unnumbered
 19 paragraph 1, Code 1999, is amended to read as follows:

20 A tax is imposed annually upon each corporation organized
 21 ~~under the laws of this state, and upon each foreign~~
 22 corporation doing business in this state, or deriving income
 23 from sources within this state, in an amount computed by
 24 applying the following rates of taxation to the net income
 25 received by the corporation during the income year:

26 Sec. 11. Section 422.33, subsection 2, unnumbered
 27 paragraph 1, Code 1999, is amended to read as follows:

28 If the trade or business of the corporation is carried on
 29 entirely within the state, the tax shall be imposed on the
 30 entire net income, but if the trade or business is carried on
 31 partly within and partly without the state or if income is
 32 derived from sources partly within and partly without the
 33 state, or if income is derived from trade or business and
 34 sources, all of which are not entirely in the state, the tax
 35 shall be imposed only on the portion of the net income

1 reasonably attributable to the trade or business or sources
2 within the state, with the net income attributable to the
3 state to be determined as follows:

4 Sec. 12. Section 422.42, subsection 6, Code 1999, is
5 amended to read as follows:

6 6. "Gross taxable services" means the total amount
7 received in money, credits, property, or other consideration,
8 valued in money, from services rendered, furnished, or
9 performed in this state except where such service ~~is performed~~
10 ~~on-tangible-personal-property-delivered-into-interstate~~
11 ~~commerce-or~~ is used in processing of tangible personal
12 property for use in taxable retail sales or services and
13 embraced within the provisions of this division. However, the
14 taxpayer may take credit in the taxpayer's report of gross
15 taxable services for an amount equal to the value of services
16 rendered, furnished, or performed when the full value of ~~such~~
17 ~~the services thereof~~ is refunded either in cash or by credit.
18 Taxes paid on gross taxable services represented by accounts
19 found to be worthless and actually charged off for income tax
20 purposes may be credited upon a subsequent payment of the tax
21 due hereunder, but if any such accounts are thereafter
22 collected by the taxpayer, a tax shall be paid upon the
23 amounts so collected.

24 Sec. 13. Section 422.42, subsection 18, unnumbered
25 paragraph 1, Code 1999, is amended to read as follows:

26 "Services" means all acts or services rendered, furnished,
27 or performed, other than services ~~performed-on-tangible~~
28 ~~personal-property-delivered-into-interstate-commerce,-or~~
29 ~~services~~ used in processing of tangible personal property for
30 use in taxable retail sales or services, for an "employer" as
31 defined in section 422.4, subsection 3, for a valuable
32 consideration by any person engaged in any business or
33 occupation specifically enumerated in this division. The tax
34 shall be due and collectible when the service is rendered,
35 furnished, or performed for the ultimate user thereof of the

1 service.

2 Sec. 14. Section 422.44, unnumbered paragraph 2, Code
3 1999, is amended by striking the unnumbered paragraph.

4 Sec. 15. Section 422.45, subsection 7, paragraph b,
5 unnumbered paragraph 1, Code 1999, is amended to read as
6 follows:

7 Such governmental unit, educational institution, or
8 nonprofit private museum shall, not more than ~~six-months~~ one
9 year after the final settlement has been made, make
10 application to the department for any refund of the amount of
11 ~~such~~ the sales or use tax which shall have been paid upon any
12 goods, wares or merchandise, or services rendered, furnished,
13 or performed, ~~such~~ the application to be made in the manner
14 and upon forms to be provided by the department, and the
15 department shall forthwith audit ~~such~~ the claim and, if
16 approved, issue a warrant to ~~such~~ the governmental unit,
17 educational institution, or nonprofit private museum in the
18 amount of ~~such~~ the sales or use tax which has been paid to the
19 state of Iowa under ~~such~~ the contract.

20 Sec. 16. Section 422.45, subsection 46, Code 1999, is
21 amended to read as follows:

22 46. The gross receipts from the sale of property or of
23 services performed on property which the ~~seller~~ retailer
24 transfers to a carrier for shipment to a point outside of
25 Iowa, places in the United States mail or parcel post directed
26 to a point outside of Iowa, or transports to a point outside
27 of Iowa by means of the ~~seller's~~ retailer's own vehicles, and
28 which is not thereafter returned to a point within Iowa,
29 except solely in the course of interstate commerce or
30 transportation. This exemption shall not apply if the
31 purchaser, consumer, or their agent, other than a carrier,
32 takes physical possession of the property in Iowa.

33 Sec. 17. Section 422.47, subsection 3, paragraphs a and b,
34 Code 1999, are amended to read as follows:

35 a. The department shall issue or the seller may separately

1 provide exemption certificates in the form prescribed by the
2 director to assist retailers in properly accounting for
3 nontaxable sales of tangible personal property or services to
4 purchasers for ~~purposes-of-resale-or-for-processing~~, except
5 ~~fuel-consumed-in-processing~~ a nontaxable purpose. The
6 department shall also allow the use of exemption certificates
7 for those circumstances in which a sale is taxable but the
8 seller is not obligated to collect tax from the buyer.

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~~ a nontaxable purpose and is not a retail sale as
15 defined in section 422.42, subsection 14, or the seller is not
16 obligated to collect tax due, or unless the seller takes a
17 fuel exemption certificate pursuant to subsection 4. If the
18 tangible personal property or services are purchased tax free
19 pursuant to a valid exemption certificate which is taken in
20 good faith by the seller, and the tangible personal property
21 or services are used or disposed of by the purchaser in a
22 nonexempt manner, the purchaser is solely liable for the taxes
23 and shall remit the taxes directly to the department and
24 sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,
25 422.57, 422.58, and 422.59 shall apply to the purchaser.

26 Sec. 18. Section 422.47, subsection 3, paragraph e, Code
27 1999, is amended to read as follows:

28 e. If the circumstances change and as a result the
29 tangible personal property or services are used or disposed of
30 by the purchaser in a nonexempt manner or the purchaser
31 becomes obligated to pay the tax, the purchaser is liable
32 solely for the taxes and shall remit the taxes directly to the
33 department in accordance with this subsection.

34 Sec. 19. Section 422.47, subsection 4, paragraph c, Code
35 1999, is amended to read as follows:

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

31 Sec. 20. Section 422.50, Code 1999, is amended to read as
32 follows:

33 422.50 RECORDS REQUIRED.

34 It shall be the duty of every retailer required to make a
35 report return and pay any tax under this division, to preserve

1 those records of the gross ~~proceeds-of~~ receipts from sales or
2 services as the director may require and it shall be the duty
3 of every retailer to preserve for a period of five years all
4 invoices and other records of goods, wares, merchandise, or
5 ~~services purchased-for-resale~~; and all these books, invoices,
6 and other records shall be open to examination at any time by
7 the department, and shall be made available within this state
8 for examination upon reasonable notice when the director
9 orders.

10 Sec. 21. Section 422.52, subsection 3, unnumbered
11 paragraph 2, Code 1999, is amended by striking the unnumbered
12 paragraph.

13 Sec. 22. Section 422.68, subsection 4, Code 1999, is
14 amended to read as follows:

15 4. The department may make photostat, microfilm, or other
16 photographic copies of records, reports, and other papers
17 either filed by the taxpayer or prepared by the department.
18 In addition, the department may create and use any system of
19 recordkeeping reasonably calculated to preserve its records
20 for any time period required by law. When such photostat, or
21 microfilm, or other copies have been made, the department may
22 destroy such the original records which are the basis for the
23 copies in such any manner as prescribed by the director. Such
24 photostat-or Photostat, microfilm, or other types of copies,
25 when no longer of use, may be destroyed as provided in
26 subsection 3. ~~Such-photostat~~ Photostat, microfilm, or other
27 photographic records shall be admissible in evidence when duly
28 certified and authenticated by the officer having custody and
29 control thereof of them.

30 Sec. 23. Section 422.72, subsection 1, unnumbered
31 paragraph 1, Code 1999, is amended to read as follows:

32 It is unlawful for the director, or any person having an
33 administrative duty under this chapter, or any present or
34 former officer or other employee of the state authorized by
35 the director to examine returns, to divulge in any manner

1 whatever, the business affairs, operations, or information
 2 obtained by an investigation under this chapter of records and
 3 equipment of any person visited or examined in the discharge
 4 of official duty, or the amount or source of income, profits,
 5 losses, expenditures or any particular thereof, set forth or
 6 disclosed in any return, or to permit any return or copy of a
 7 return or any book containing any abstract or particulars
 8 thereof to be seen or examined by any person except as
 9 provided by law. It is unlawful for any person to willfully
 10 inspect, except as authorized by the director, any return or
 11 return information. However, the director may authorize
 12 examination of such state returns and other state information
 13 which is confidential under this section, if a reciprocal
 14 arrangement exists, by tax officers of another state or the
 15 federal government. The director may, by rules adopted
 16 pursuant to chapter 17A, authorize examination of state
 17 information and returns by other officers or employees of this
 18 state to the extent required by their official duties and
 19 responsibilities. Disclosure of state information to tax
 20 officers of another state is limited to disclosures which have
 21 a tax administrative purpose and only to officers of those
 22 states which by agreement with this state limit the disclosure
 23 of the information as strictly as the laws of this state
 24 protecting the confidentiality of returns and information.
 25 The director shall place upon the state tax form a notice to
 26 the taxpayer that state tax information may be disclosed to
 27 tax officials of another state or of the United States for tax
 28 administrative purposes.

29 Sec. 24. Section 422.110, Code 1999, is amended to read as
 30 follows:

31 422.110 INCOME TAX CREDIT IN LIEU OF REFUND.
 32 In lieu of the fuel tax refund provided in sections section
 33 452A.17 to 452A.19, a person or corporation subject to
 34 taxation under divisions II or III of this chapter, ~~except~~
 35 ~~persons or corporations licensed under section 452A.47~~ may

1 elect to receive an income tax credit for tax years beginning
2 on or after January 1, 1975. The person or corporation which
3 elects to receive an income tax credit shall cancel its refund
4 permit obtained under section 452A.18 within thirty days after
5 the first day of its tax year or the permit becomes invalid at
6 that time. For the purposes of this section, "person"
7 includes a person claiming a tax credit based upon the
8 person's pro rata share of the earnings from a partnership,
9 limited liability company, or corporation which is not subject
10 to a tax under division II or III of this chapter as a
11 partnership, limited liability company, or corporation. If
12 the election to receive an income tax credit has been made, it
13 remains effective for at least one tax year, and for
14 subsequent tax years unless a change is requested and a new
15 refund permit applied for within thirty days after the first
16 day of the person's or corporation's tax year. The income tax
17 credit shall be the amount of the Iowa fuel tax paid on fuel
18 purchased by the person or corporation and ~~used as follows:~~ is
19 subject to the conditions provided in section 452A.17 with the
20 exception that the income tax credit is not available for
21 refunds relating to casualty losses, transport diversions,
22 pumping credits, blending errors, idle time, power takeoffs,
23 reefer units, and exports by eligible purchasers.

24 ~~1.--Motor fuel as defined in section 452A.27 subsection 17~~
25 ~~used for the purpose of operating or propelling farm tractors,~~
26 ~~corn shellers, roller mills, truck-mounted feed grinders,~~
27 ~~stationary engines, for producing denatured alcohol within the~~
28 ~~state, for cleaning or dyeing, or for any purpose other than~~
29 ~~in watercraft or aircraft or in motor vehicles operated or~~
30 ~~intended to be operated upon the public highways.~~

31 ~~2.--Special fuel, as defined in section 452A.27, used for~~
32 ~~the purpose of operation of corn shellers, roller mills, and~~
33 ~~feed grinders mounted on trucks.~~

34 ~~3.--Motor fuel placed in motor vehicles and used, other~~
35 ~~than on public highways, in the extraction and processing of~~

1 natural-deposits-

2 4--Motor-fuel-or-special-fuel-used-by-a-bona-fide
3 commercial-fisher7-licensed-and-operating-under-an-owner's
4 certificate-for-commercial-fishing-gear-issued-pursuant-to
5 section-482-4-

6 However7-no-credit-shall-be-given-with-respect-to-motor
7 fuel-taken-out-of-the-state-in-fuel-supply-tanks-of-motor
8 vehicles7-motor-fuel-used-in-aircraft-or-watercraft7-or-motor
9 fuel-used-in-the-performance-of-a-contract-which-is-paid-out
10 of-state-funds-unless-the-contract-for-the-work-contains-a
11 certificate-made-under-penalty-for-false-certificate-that-the
12 estimate7-bid-or-price-to-be-paid-for-the-work-includes-no
13 amount-representing-motor-fuel-tax-subject-to-a-credit. The
14 right to a credit under this section is not assignable and the
15 credit may be claimed only by the person or corporation that
16 purchased the fuel.

17 Sec. 25. Section 422.111, unnumbered paragraph 1, Code
18 1999, is amended to read as follows:

19 The fuel tax credit may be applied against the income tax
20 liability of the person or corporation as determined on the
21 tax return filed for the year in which the fuel tax was paid.
22 The department shall provide forms for claiming the fuel tax
23 credit. If the fuel tax credit would result in an overpayment
24 of income tax, the person or corporation may apply for a
25 refund of the amount of overpayment or may have the
26 overpayment credited to income tax due in subsequent years.
27 Each person or corporation that claims a fuel tax credit shall
28 maintain the original invoices showing the purchase of the
29 fuel on which a credit is claimed. No An invoice is not
30 acceptable in support of a claim for credit unless it the
31 invoice is a separate serially numbered invoice covering no
32 more than one purchase of motor fuel or undyed special fuel,
33 prepared by the seller on a form approved by the department,
34 nor-unless-it or unless the invoice is legibly written with no
35 corrections or erasures and shows the date of sale, the name

1 and address of the seller and of the purchaser, the kind of
2 fuel, the gallonage in figures, the per gallon price of the
3 fuel, the total purchase price including the Iowa fuel tax,
4 and that the total purchase price has been paid. However, as
5 to refund invoices made on a billing machine the department
6 may waive these requirements. If an original invoice is lost
7 or destroyed, the department may approve a credit supported by
8 a copy identified and certified by the seller as being a true
9 copy of the original. Each person or corporation that claims
10 a fuel tax credit shall maintain complete records of purchases
11 of motor fuel or undyed special fuel on which Iowa fuel tax
12 was paid, and for which a fuel tax credit is claimed.

13 Sec. 26. Section 422.111, unnumbered paragraph 3, Code
14 1999, is amended by striking the unnumbered paragraph.

15 Sec. 27. Section 422.121, Code 1999, is amended to read as
16 follows:

17 422.121 APPROPRIATION -- LIMITATION.

18 Beginning with the fiscal year beginning July 1, 1997,
19 there is appropriated annually from the general fund of the
20 state two million dollars to refund the credits allowed under
21 this division. Notwithstanding section 422.120, for tax years
22 beginning on or after January 1, 1997, the livestock
23 production tax credit shall only be allowed for cow-calf
24 operations. In calculating the tax credit for cow-calf
25 operations for tax years beginning in the 1997 calendar year,
26 mature beef cows bred or for breeding, bred yearling heifers,
27 and breeding bulls in the operations' inventory on December 31
28 of the tax year which were also in the operations on July 1 of
29 the tax year and stockers and feeders sold during the tax year
30 may be counted. In calculating the tax credit for cow-calf
31 operations for tax years beginning on or after January 1,
32 1998, only those bred cows, bred heifers, and breeding bulls
33 in the operations' inventory on December 31 of the tax year
34 which were also in the operations on July 1 of the tax year
35 may be counted.

1 Sec. 28. Section 422B.10, subsection 2, paragraph c, Code
2 1999, is amended to read as follows:

3 c. The director of revenue and finance shall remit a final
4 payment of the remainder of tax moneys due the city or county
5 for the fiscal year before November 10 of the next fiscal
6 year. If an overpayment has resulted during the previous
7 fiscal year, the first November payment ~~of-the-new-fiscal-year~~
8 shall be adjusted to reflect any overpayment.

9 Sec. 29. Section 422D.3, unnumbered paragraph 4, Code
10 1999, is amended to read as follows:

11 The director, in consultation with local officials, shall
12 collect and account for a local income surtax and any interest
13 and penalties. The director shall credit local income surtax
14 receipts and any interest and penalties collected from returns
15 filed on or before November 1 of the calendar year following
16 the tax year for which the local income surtax is imposed to a
17 "local income surtax fund" established in the ~~office-of-the~~
18 treasurer-of-state department of revenue and finance. All
19 local income surtax receipts and any interest and penalties
20 received or refunded from returns filed after November 1 of
21 the calendar year following the tax year for which the local
22 income surtax is imposed shall be deposited in or withdrawn
23 from the state general fund and shall be considered part of
24 the cost of administering the local income surtax.

25 Sec. 30. Section 424.10, subsections 2 and 3, Code 1999,
26 are amended to read as follows:

27 2. If a return required by this chapter is not filed, or
28 if a return when filed is incorrect or insufficient and the
29 maker fails to file a corrected or sufficient return within
30 twenty days after the return is required by notice from the
31 department, the department shall determine the amount of
32 charge due from information as the department may be able to
33 obtain and, if necessary, may estimate the charge on the basis
34 of external indices or factors. The department shall give
35 notice of the determination to the person liable for the

1 charge. The determination shall fix the charge unless the
2 person against whom it is assessed shall, within sixty days
3 after the giving-of date of the notice of the determination,
4 apply to the director for a hearing or unless the taxpayer
5 contests the determination by paying the tax, interest, and
6 penalty and timely filing a claim for refund. At the hearing
7 evidence may be offered to support the determination or to
8 prove that it is incorrect. After the hearing the director
9 shall give notice of the decision to the person liable for the
10 charge.

11 If a depositor's, receiver's, or other person's challenge
12 relates to the diminution rate, the burden of proof upon the
13 challenger shall only be satisfied by clear and convincing
14 evidence.

15 3. If the amount paid is greater than the correct charge,
16 penalty, and interest due, the department shall refund the
17 excess, with interest after sixty days from the date of
18 payment at the rate in effect under section 421.7, pursuant to
19 rules prescribed by the director. However, the director shall
20 not allow a claim for refund that has not been filed with the
21 department within five years after the charge payment upon
22 which a refund is claimed became due, or one year after the
23 charge payment was made, whichever time is later. A
24 determination by the department of the amount of charge,
25 penalty, and interest due, or the amount of refund for any
26 excess amount paid, is final unless the person aggrieved by
27 the determination appeals to the director for a revision of
28 the determination within thirty sixty days from the postmark
29 date of the notice of determination of charge, penalty, and
30 interest due or refund owing. The director shall grant a
31 hearing, and upon hearing the director shall determine the
32 correct charge, penalty, and interest due or refund owing, and
33 notify the appellant of the decision by mail. The decision of
34 the director is final unless the appellant seeks judicial
35 review of the director's decision under section 424.13.

1 Sec. 31. Section 427.1, subsection 14, unnumbered
2 paragraph 1, Code 1999, is amended to read as follows:

3 A society or organization claiming an exemption under
4 subsection 5 or subsection 8 ~~of this section~~ shall file with
5 the assessor not later than ~~July 1~~ April 15 a statement upon
6 forms to be prescribed by the director of revenue and finance,
7 describing the nature of the property upon which the exemption
8 is claimed and setting out in detail any uses and income from
9 the property derived from the rentals, leases, or other uses
10 of the property not solely for the appropriate objects of the
11 society or organization. Upon the filing and allowance of the
12 claim, the claim shall be allowed on the property for
13 successive years without further filing as long as the
14 property is used for the purposes specified in the original
15 claim for exemption. When the property is sold or
16 transferred, the county recorder shall provide notice of the
17 transfer to the assessor. The notice shall describe the
18 property transferred and the name of the person to whom title
19 to the property is transferred.

20 Sec. 32. Section 427.1, subsection 24, Code 1999, is
21 amended to read as follows:

22 24. LAND CERTIFIED AS A WILDLIFE HABITAT. The owner of
23 agricultural land may designate not more than two acres of the
24 land for use as a wildlife habitat. After inspection, if the
25 land meets the standards established by the natural resource
26 commission for a wildlife habitat under section 483A.3, the
27 department of natural resources shall certify the designated
28 land as a wildlife habitat and shall send a copy of the
29 certification to the appropriate assessor not later than
30 February 1 of the assessment year for which the exemption is
31 requested. The department of natural resources may
32 subsequently withdraw certification of the designated land if
33 it fails to meet the established standards for a wildlife
34 habitat and the assessor shall be given written notice of the
35 decertification.

1 Sec. 33. Section 428.1, unnumbered paragraph 1, Code 1999,
2 is amended to read as follows:

3 Every person shall list for the assessor all property
4 subject to taxation in the state, of which the person is the
5 owner, or has the control or management, ~~in-the-following~~
6 manner including but not limited to the following:

7 Sec. 34. Section 429.2, subsection 1, Code 1999, is
8 amended to read as follows:

9 1. Notwithstanding the provisions of chapter 17A, the
10 taxpayer shall have thirty days from the date of-postmark of
11 the notice of assessment to appeal the assessment to the state
12 board of tax review. Thereafter, the proceedings before the
13 state board of tax review shall conform to the provisions of
14 subsection 2, section 421.1, subsection 4, and chapter 17A.

15 Sec. 35. Section 450.22, Code 1999, is amended to read as
16 follows:

17 450.22 ADMINISTRATION AVOIDED -- INHERITANCE TAX DUTIES
18 REQUIRED.

19 When the heirs or persons entitled to inherit the property
20 of an estate subject to tax under this chapter desire to avoid
21 the appointment of a personal representative as provided in
22 section 450.21, and in all instances where real estate is
23 involved and there are no regular probate proceedings, they or
24 one of them shall file under oath the inventories required by
25 section 633.361 and the required reports, perform all the
26 duties required by this chapter of the personal
27 representative, and file the inheritance tax return. However,
28 this section does not apply and a return is not required even
29 though real estate is part of the assets subject to tax under
30 this chapter, if all of the assets are held in joint tenancy
31 with right of survivorship between husband and wife alone, or
32 if the estate exclusively consists of property held in joint
33 tenancy with the right of survivorship solely by the decedent
34 and any individuals listed in section 450.9 as individuals
35 that are entirely exempt from Iowa inheritance tax and the

1 estate does not have a federal estate tax obligation. When
2 this section applies, proceedings for the collection of the
3 tax when a personal representative is not appointed, shall
4 conform as nearly as possible to proceedings under this
5 chapter in other cases.

6 Sec. 36. Section 450.37, Code 1999, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 3. In addition to the applicable period
9 of limitation for examination and determination, the
10 department shall make an examination to adjust the value of
11 real property for Iowa inheritance tax purposes to the value
12 accepted by the internal revenue service for federal estate
13 tax purposes. The department shall make an examination and
14 adjustment for the value of the real property at any time
15 within six months from the date of receipt by the department
16 of written notice from the personal representative for the
17 estate that all federal estate tax matters between the estate
18 and the internal revenue service have been concluded. To
19 begin the running of the six-month period, the notice shall be
20 in writing in a form sufficient to inform the department of
21 the final disposition of the federal estate tax obligation
22 with the internal revenue service and a copy of the federal
23 document showing the final disposition and final federal
24 adjustments of all real property values must be attached. The
25 department shall make an adjustment to the value of real
26 property for inheritance tax purposes to the value accepted
27 for federal estate tax purposes regardless of whether an
28 inheritance clearance has been issued, an appraisal has been
29 obtained on the real property indicating a contrary value,
30 whether there has been an acceptance of another value for real
31 property by the department, or whether an agreement has been
32 entered into by the department and the personal representative
33 for the estate and persons having an interest in the real
34 property regarding the value of the real property.
35 Notwithstanding the period of limitation specified in section

1 450.94, subsection 3, the personal representative for the
2 estate shall have six months from the day of final disposition
3 of any real property valuation matter between the personal
4 representative for the estate and the internal revenue service
5 to claim a refund of an overpayment of tax due to the change
6 in the valuation of real property by the internal revenue
7 service.

8 Sec. 37. Section 450.94, subsections 2 and 3, Code 1999,
9 are amended to read as follows:

10 2. The taxpayer shall file an inheritance tax return on
11 forms to be prescribed by the director of revenue and finance
12 on or before the last day of the ninth month after the death
13 of the decedent. When an inheritance tax return is filed, the
14 department shall examine it and determine the correct amount
15 of tax. If the amount paid is less than the correct amount
16 due, the department shall notify the taxpayer of the total
17 amount due together with any penalty and interest which shall
18 be a sum certain if paid on or before the last day of the
19 month in which the notice is postmarked dated, or on or before
20 the last day of the following month if the notice is
21 postmarked dated after the twentieth day of a month and before
22 the first day of the following month.

23 3. If the amount paid is greater than the correct tax,
24 penalty, and interest due, the department shall refund the
25 excess with interest. Interest shall be computed at the rate
26 in effect under section 421.7, under the rules prescribed by
27 the director counting each fraction of a month as an entire
28 month and the interest shall begin to accrue on the first day
29 of the second calendar month following the date of payment or
30 on the date the return was due to be filed or was filed,
31 whichever is the latest. However, the director shall not
32 allow a claim for refund or credit that has not been filed
33 with the department within three years after the tax payment
34 upon which a refund or credit is claimed became due, or one
35 year after the tax payment was made, whichever time is later.

1 A determination by the department of the amount of tax,
 2 penalty, and interest due, or the amount of refund for excess
 3 tax paid, is final unless the person aggrieved by the
 4 determination appeals to the director for a revision of the
 5 determination within sixty days from the postmark date of the
 6 notice of determination of tax, penalty, and interest due or
 7 refund owing or unless the taxpayer contests the determination
 8 by paying the tax, interest, and penalty and timely filing a
 9 claim for refund. The director shall grant a hearing, and
 10 upon the hearing the director shall determine the correct tax,
 11 penalty, and interest or refund due, and notify the appellant
 12 of the decision by mail. The decision of the director is
 13 final unless the appellant seeks judicial review of the
 14 director's decision under section 450.59 within sixty days
 15 after the postmark date of the notice of the director's
 16 decision.

17 Sec. 38. Section 451.12, Code 1999, is amended to read as
 18 follows:

19 451.12 APPLICABLE STATUTES -- PENALTIES.

20 All the provisions of chapter 450 with respect to the lien
 21 provisions of section 450.7, and the determination,
 22 imposition, payment, and collection of the tax imposed under
 23 that chapter, including penalty and interest upon delinquent
 24 taxes and the confidentiality of the tax return, are
 25 applicable to this chapter, except as they are in conflict
 26 with this chapter. The exceptions to the lien provisions
 27 found in section 450.7 do not apply to this chapter. The
 28 penalty provisions set out in section 450.53 shall apply to a
 29 person in possession of assets to be reported for purposes of
 30 taxation who willfully makes a false or fraudulent return or
 31 willfully fails to pay the tax, supply the information, make,
 32 sign, or file the required return within the time required by
 33 law or a person who willfully attempts in any manner to evade
 34 taxes imposed by this chapter or avoid payment of the tax.
 35 The director of revenue and finance shall adopt rules

1 necessary for the enforcement of this chapter.

2 Sec. 39. Section 452A.2, subsection 11, Code 1999, is
3 amended to read as follows:

4 11. "Exporter" means a person or other entity who acquires
5 fuel in this state ~~exclusively~~ for export to another state.

6 Sec. 40. Section 452A.2, subsection 17, paragraph a, Code
7 1999, is amended to read as follows:

8 a. All products commonly or commercially known or sold as
9 gasoline, ~~(including casinghead and absorption or natural~~
10 ~~gasoline)~~, regardless of their classifications or uses, and
11 including transmix which serves as a buffer between fuel
12 products in the pipeline distribution process.

13 Sec. 41. Section 452A.3, subsection 5, paragraph b, Code
14 1999, is amended to read as follows:

15 b. The person who owns ~~or-causes~~ the fuel to-be at the
16 time it is brought into the state by a restrictive supplier or
17 importer, upon the invoiced gross gallonage of motor fuel or
18 undyed special fuel imported.

19 Sec. 42. Section 452A.8, subsection 1, unnumbered
20 paragraph 1, Code 1999, is amended to read as follows:

21 For the purpose of determining the amount of the
22 supplier's, restrictive supplier's, or importer's tax
23 liability, a supplier or restrictive supplier shall file a
24 return, not later than the last day of the month following the
25 month in which this division becomes effective and not later
26 than the last day of each calendar month thereafter, and an
27 importer shall file a report return semi-monthly with the
28 department, signed under penalty for false certification. For
29 an importer for the reporting period from the first day of the
30 month through the fifteenth of the month, the report return is
31 due on the last day of the month. For an importer for the
32 reporting period from the sixteenth of the month through the
33 last day of the month, the report return is due on the
34 fifteenth day of the following month. The reports returns
35 shall include the following:

1 Sec. 43. Section 452A.8, subsection 2, unnumbered
2 paragraph 1, Code 1999, is amended to read as follows:

3 At the time of filing a report return, a supplier or
4 restrictive supplier shall pay to the department the full
5 amount of the fuel tax due for the preceding calendar month.
6 An importer shall pay to the department the full amount of
7 fuel tax due for the preceding semimonthly period. The tax
8 shall be computed as follows:

9 Sec. 44. Section 452A.8, subsection 2, paragraph d, Code
10 1999, is amended to read as follows:

11 d. The director may require by rule that reports and
12 returns be filed by electronic transmission.

13 Sec. 45. Section 452A.8, subsection 3, Code 1999, is
14 amended to read as follows:

15 3. For the purpose of determining the amount of the tax
16 liability on alcohol blended to produce ethanol blended
17 gasoline, each licensed blender shall, not later than the last
18 day of each month following the month in which the blending is
19 done, file with the department a monthly report return, signed
20 under penalty for false certificate, containing information
21 required by rules adopted by the director.

22 Sec. 46. Section 452A.9, Code 1999, is amended to read as
23 follows:

24 452A.9 REPORT RETURNS FROM PERSONS NOT LICENSED AS
25 SUPPLIERS, RESTRICTIVE SUPPLIERS, OR IMPORTERS.

26 Every person other than a licensed supplier, restrictive
27 supplier, or importer, who purchases, brings into this state,
28 or otherwise acquires within this state motor fuel or undyed
29 special fuel, not otherwise exempted, which the person has
30 knowingly not paid or incurred liability to pay either to a
31 licensee or to a dealer the motor fuel or special fuel tax,
32 shall be subject to the provisions of this division that apply
33 to suppliers, restrictive suppliers, and importers of motor
34 fuel or undyed special fuel and shall make file the same
35 reports returns and make the same tax payments and be subject

1 to the same penalties for delinquent reporting-or-nonreporting
2 filing or nonfiling or delinquent payment or nonpayment as
3 apply to suppliers, restrictive suppliers, and importers.

4 Sec. 47. Section 452A.15, subsection 3, Code 1999, is
5 amended to read as follows:

6 3. The reports required in this section shall be for
7 information purposes only and the department may in its
8 discretion waive the filing of any of these reports not
9 necessary for proper administration of this division. The
10 reports required in this section shall be certified under
11 penalty for false certificate and filed with the department
12 within the time allowed for filing of suppliers' and
13 restrictive suppliers' reports returns of motor fuel or
14 special fuel withdrawn from a terminal within this state or
15 imported into this state.

16 Sec. 48. Section 452A.17, subsection 1, paragraph a,
17 subparagraphs (4) and (6), Code 1999, are amended to read as
18 follows:

19 (4) Fuel used in unlicensed vehicles, stationary engines,
20 and implements used in agricultural production, and machinery
21 and equipment used for nonhighway purposes.

22 (6) Fuel used for idle time, power takeoffs, reefer units,
23 pumping credits, and transport diversions, fuel lost through
24 casualty, exports by ~~eligible-purchasers~~ distributors, and
25 blending errors for special fuel. The department shall adopt
26 rules setting forth specific requirements relating to refunds
27 for idle time, power takeoffs, reefer units, pumping credits,
28 and transport diversions, fuel lost through casualty, and
29 blending errors for special fuel.

30 Sec. 49. Section 452A.17, subsection 1, paragraph b,
31 subparagraphs (4) and (5), Code 1999, are amended to read as
32 follows:

33 (4) The claim shall state the gallonage of motor fuel or
34 ~~undyed-special-fuel~~ that was used or will be used by the
35 claimant other than in aircraft, watercraft, or to propel

1 motor vehicles and the gallonage of undyed special fuel that
2 was or will be used by the claimant other than in aircraft or
3 to propel motor vehicles, the manner in which the motor fuel
4 or undyed special fuel was used or will be used, and the
5 equipment in which it was used or will be used.

6 (5) The claim shall state whether the claimant used fuel
7 for aircraft, watercraft, or to propel motor vehicles from the
8 same tanks or receptacles in which the claimant kept the motor
9 fuel ~~or undyed special fuel~~ on which the refund is claimed or
10 whether the claimant used fuel for aircraft or to propel motor
11 vehicles from the same tanks or receptacles in which the
12 claimant kept the undyed special fuel on which the refund is
13 claimed.

14 Sec. 50. Section 452A.17, subsection 2, Code 1999, is
15 amended to read as follows:

16 2. In lieu of the refund provided in this section, a
17 person may receive an income tax credit as provided in chapter
18 422, division IX, but only as to motor fuel ~~or undyed special~~
19 ~~fuel~~ not used in motor vehicles, aircraft, or watercraft or as
20 to undyed special fuel not used in motor vehicles or aircraft.

21 Sec. 51. Section 452A.17, subsection 3, paragraph b, Code
22 1999, is amended to read as follows:

23 b. A refund shall not be paid with respect to any motor
24 fuel ~~or undyed special fuel~~ taken out of this state in supply
25 tanks of watercraft, aircraft, or motor vehicles or with
26 respect to any undyed special fuel taken out of this state in
27 supply tanks of aircraft or motor vehicles.

28 Sec. 52. Section 452A.17, subsection 3, paragraph c, Code
29 1999, is amended by striking the paragraph.

30 Sec. 53. Section 452A.21, unnumbered paragraph 1, Code
31 1999, is amended to read as follows:

32 Persons not licensed under this division who blend motor
33 fuel and alcohol to produce ethanol blended gasoline may file
34 for a refund for the difference between taxes paid on the
35 motor fuel purchased to produce ethanol blended gasoline and

1 the tax due on the ethanol blended gasoline blended. If,
2 during any month, a person licensed under this division uses
3 tax paid motor fuel to blend ethanol blended gasoline and the
4 refund otherwise due under this section is greater than the
5 licensee's total tax liability for that month, the licensee is
6 entitled to a credit. The claim for credit shall be filed as
7 part of the report return required by section 452A.8.

8 Sec. 54. Section 452A.21, unnumbered paragraph 3, Code
9 1999, is amended to read as follows:

10 A refund shall not be issued unless the claim is filed
11 within ~~ninety-days~~ one year following the end of the month
12 during which the ethanol blended gasoline was actually
13 blended. An income tax credit is not allowed under this
14 section.

15 Sec. 55. NEW SECTION. 452A.22 TAX COLLECTED ON EXEMPT
16 FUEL.

17 If an amount of tax represented by a licensee to a
18 purchaser as constituting tax due is computed upon gallonage
19 that is not taxable or the amount represented is in excess of
20 the actual amount of tax due and the amount represented is
21 actually paid by the purchaser to the licensee, the excess
22 amount of tax paid shall be returned to the purchaser by the
23 licensee. If the licensee fails to return the excess tax paid
24 to the purchaser, the amount which the purchaser has paid to
25 the licensee shall be remitted by the licensee to the
26 department.

27 Sec. 56. Section 452A.60, unnumbered paragraph 1, Code
28 1999, is amended to read as follows:

29 The department of revenue and finance or the state
30 department of transportation shall prescribe and furnish all
31 forms, as applicable, upon which reports, returns, and
32 applications shall be made and claims for refund presented
33 under this chapter and may prescribe forms of record to be
34 kept by suppliers, restrictive suppliers, importers,
35 exporters, blenders, common carriers, contract carriers,

1 licensed compressed natural gas and liquefied petroleum gas
2 dealers and users, terminal operators, and interstate
3 commercial motor vehicle operators.

4 Sec. 57. Section 452A.61, Code 1999, is amended to read as
5 follows:

6 452A.61 TIMELY FILING OF REPORTS AND RETURNS -- EXTENSION.

7 The reports, returns, and remittances required under this
8 chapter shall be deemed filed within the required time if
9 postpaid, properly addressed and postmarked on or before
10 midnight of the day on which due and payable. If the final
11 filing date falls on a Saturday, Sunday or legal holiday the
12 next secular or business day shall be the final filing date.

13 The department of revenue and finance or the state
14 department of transportation upon application may grant a
15 reasonable extension of time for the filing of any required
16 report, return, or tax payment, ~~or both~~.

17 Sec. 58. Section 452A.63, Code 1999, is amended to read as
18 follows:

19 452A.63 INFORMATION CONFIDENTIAL.

20 All information obtained by the department of revenue and
21 finance or the state department of transportation from the
22 examining of reports, returns, or records required to be filed
23 or kept under this chapter shall be treated as confidential
24 and shall not be divulged except to other state officers, a
25 member or members of the general assembly, or any duly
26 appointed committee of either or both houses of the general
27 assembly, or to a representative of the state having some
28 responsibility in connection with the collection of the taxes
29 imposed or in proceedings brought under ~~the provisions of~~ this
30 chapter. The appropriate state agency may make available to
31 the public on or before forty-five days following the last day
32 of the month in which the tax is required to be paid, the
33 names of suppliers, restrictive suppliers, and importers and
34 as to each of them the total gallons of motor fuel, undyed
35 special fuel, and ethanol-blended gasoline withdrawn from

1 terminals or imported into the state during that month. The
2 department of revenue and finance or the state department of
3 transportation, upon request of officials entrusted with
4 enforcement of the motor vehicle fuel tax laws of the federal
5 government or any other state, may forward to ~~such~~ these
6 officials any pertinent information which the appropriate
7 state agency may have relative to motor fuel and special fuel
8 provided the officials of the other state furnish like
9 information.

10 Any person violating ~~the provisions of~~ this section, and
11 disclosing the contents of any records, returns, or reports
12 required to be kept or made under ~~the provisions of~~ this
13 chapter, except as otherwise provided, shall be guilty of a
14 simple misdemeanor.

15 Sec. 59. Section 452A.67, Code 1999, is amended to read as
16 follows:

17 452A.67 LIMITATION ON COLLECTION PROCEEDINGS.

18 The department shall examine the return and enforce
19 collection of any amount of tax, penalty, fine, or interest
20 over and above the amount shown to be due by reports the
21 return filed by a licensee as soon as practicable but no later
22 than three years after the return is filed. An assessment
23 shall not be made covering a period beyond three years after
24 the return is filed except that the period for the examination
25 and determination of the correct amount of tax is unlimited in
26 the case of a false or fraudulent return made with the intent
27 to evade tax or in the case of a failure to file a return.

28 The three-year period of limitation may be extended by a
29 taxpayer by signing a waiver agreement form to be provided by
30 the department. The agreement must stipulate the period of
31 extension and the tax period to which the extension applies.
32 The agreement must also provide that a claim for refund may be
33 filed by the taxpayer at any time during the period of
34 extension.

35 Sec. 60. Section 452A.68, unnumbered paragraph 1, Code

1 1999, is amended to read as follows:

2 If a licensee files a false report return of the data or
3 information required by this chapter, or fails, refuses, or
4 neglects to file a report return required by this chapter, or
5 to pay the full amount of fuel tax as required by this
6 chapter, or is substantially delinquent in paying a tax due,
7 owing, and administered by the department of revenue and
8 finance, and interest and penalty if appropriate, or if the
9 person is a corporation and if any officer having a
10 substantial legal or equitable interest in the ownership of
11 the corporation owes any delinquent tax of the licensee
12 corporation, or interest or penalty on the tax, administered
13 by the department, then after ten days' written notice by mail
14 directed to the last known address of the licensee setting a
15 time and place at which the licensee may appear and show cause
16 why the license should not be canceled, and if the licensee
17 fails to appear or if upon the hearing it is shown that the
18 licensee failed to correctly report or pay the tax, the
19 appropriate state agency may cancel the license and shall
20 notify the licensee of the cancellation by mail to the
21 licensee's last known address.

22 Sec. 61. Section 452A.74A, subsection 7, Code 1999, is
23 amended to read as follows:

24 7. FALSE OR FRAUDULENT REPORT OR RETURN. Any person,
25 including an officer of a corporation or a manager of a
26 limited liability company, who is required to make, render,
27 sign, or verify any report or return required by this chapter
28 and who makes a false or fraudulent report or return, or who
29 fails to file a report or return with the intent to evade the
30 tax, shall be guilty of a fraudulent practice. Any person who
31 aids, abets, or assists another person in making any false or
32 fraudulent report or return or false statement in any report
33 or return with the intent to evade payment of tax shall be
34 guilty of a fraudulent practice.

35 Sec. 62. Section 452A.86, Code 1999, is amended to read as

1 follows:

2 452A.86 METHOD OF DETERMINING GALLONAGE.

3 The exclusive method of determining gallonage of any
4 purchases or sales of motor fuel, undyed special fuel,
5 compressed natural gas, or liquefied petroleum gas as defined
6 in this chapter and distillate fuels shall be on a gross
7 volume basis. A temperature-adjusted or other method shall
8 not be used, except as it applies to liquefied petroleum gas
9 and the sale or exchange of petroleum products between
10 petroleum refiners. All invoices, bills of lading, or other
11 records of sale or purchase and all reports returns or records
12 required to be made, kept, and maintained by a supplier,
13 restrictive supplier, importer, exporter, blender, or
14 compressed natural gas or liquefied petroleum gas dealer or
15 user shall be made, kept, and maintained on the gross volume
16 basis. For purposes of this section, "distillate fuels" means
17 any fuel oil, gas oil, topped crude oil, or other petroleum
18 oils derived by refining or processing crude oil or unfinished
19 oils which have a boiling range at atmospheric pressure which
20 falls completely or in part between five hundred fifty and
21 twelve hundred degrees Fahrenheit.

22 Sec. 63. Section 453A.6, subsection 3, Code 1999, is
23 amended to read as follows:

24 3. Payment of such the tax shall be evidenced by stamps
25 purchased from the department by a distributor or manufacturer
26 and securely affixed to each individual package of cigarettes
27 in amounts equal to the tax ~~thereon~~ as imposed by this
28 chapter, or by the impressing of an indicium upon individual
29 packages of cigarettes, under regulations prescribed by the
30 director.

31 Sec. 64. Section 453A.6, Code 1999, is amended by adding
32 the following new subsections:

33 NEW SUBSECTION. 4. Any other person who purchases or is
34 in possession of unstamped cigarettes shall pay the tax
35 directly to the department.

1 NEW SUBSECTION. 5. The per cigarette amount of the tax
2 shall be added to the selling price of every package of
3 cigarettes sold in this state and shall be collected from the
4 purchaser so that the ultimate consumer bears the burden of
5 the tax.

6 Sec. 65. Section 453A.8, subsection 1, Code 1999, is
7 amended to read as follows:

8 1. Stamps shall be sold by and purchased from the
9 department. The department shall sell stamps to the holder of
10 a state distributor's or manufacturer's permit which has not
11 been revoked and to no other person. Stamps shall be sold to
12 the permit holders at a discount of two percent of the face
13 value. Stamps shall be sold in ~~unbroken-books-of-one-thousand~~
14 ~~stamps~~, unbroken rolls of thirty thousand stamps, or unbroken
15 lots of any other form authorized by the director.

16 Sec. 66. Section 453A.15, subsections 1, 3, 4, and 6, Code
17 1999, are amended to read as follows:

18 1. The director may prescribe the forms necessary for the
19 efficient administration of this division and may require
20 uniform books and records to be used and kept by each permit
21 holder or other person as deemed necessary. The director may
22 also require each permit holder or other person to keep and
23 retain in the director's possession evidence on prescribed
24 forms of all transactions involving the purchase and sale of
25 cigarettes or the purchase and use of stamps. The evidence
26 shall be kept for a period of two years from the date of each
27 transaction, for the inspection at all times by the
28 department.

29 3. The director may by regulation require every holder of
30 a manufacturer's or state permit or other person to make and
31 deliver to the department on or before the tenth day of each
32 month a report or reports for the preceding calendar month,
33 upon a form or forms prescribed by the director, and may
34 require that ~~such~~ the reports shall be properly sworn to and
35 executed by the permit holder or the holder's duly authorized

1 representative or other person.

2 4. Every permit holder or other person shall, when
3 requested by the department, make such additional reports as
4 the department deems necessary and proper and shall at the
5 request of the department furnish full and complete
6 information pertaining to any transaction of the permit holder
7 or other person involving the purchase or sale or use of
8 cigarettes or purchase of cigarette stamps.

9 6. If any distributor, manufacturer, or other person fails
10 or refuses to pay any tax, penalties, or cost of audit
11 hereinafter provided, and it becomes necessary to bring suit
12 or to intervene in any manner for the establishment or
13 collection of said claims, in any judicial proceedings, any
14 report filed in the office of the director by such the
15 distributor, manufacturer, or other person, or the
16 distributor's, manufacturer's, or other person's
17 representative, or a copy thereof, certified to by the
18 director, showing the number of cigarettes sold by such the
19 distributor, or the distributor's representative, the
20 manufacturer, or the other person, upon which such a tax,
21 penalty, or cost of audit has not been paid, or any audit made
22 by the department from the books or records of said the
23 distributor, manufacturer, or other person when signed and
24 sworn to by the agent of the department making the audit as
25 being made from the records of said the distributor,
26 manufacturer, or other person from or to whom such the
27 distributor, manufacturer, or other person has bought,
28 received, or delivered cigarettes, whether from a
29 transportation company or otherwise, such report or audit
30 shall be admissible in evidence in such proceedings and shall
31 be prima facie evidence of the contents thereof, ~~provided,~~
32 ~~however, that.~~ However, the incorrectness of said the report
33 or audit may be shown.

34 Sec. 67. Section 453A.16, Code 1999, is amended to read as
35 follows:

1 453A.16 MANUFACTURER'S PERMIT.

2 The department may, upon application of any manufacturer,
3 issue without charge to ~~such~~ the manufacturer a manufacturer's
4 permit. ~~Such~~ The application shall contain ~~such~~ information
5 as the director shall prescribe. The holder of ~~such~~ a
6 manufacturer's permit ~~shall-be~~ is authorized to purchase
7 stamps from the department, and to must affix such stamps to
8 individual packages of cigarettes outside of this state, prior
9 to their shipment into the state unless the cigarettes are
10 shipped to an Iowa permitted distributor or an Iowa permitted
11 distributor's agent.

12 Sec. 68. Section 453A.28, Code 1999, is amended to read as
13 follows:

14 453A.28 ASSESSMENT OF TAX BY DEPARTMENT -- INTEREST --
15 PENALTY.

16 If after any audit, examination of records, or other
17 investigation the department finds that any person has sold
18 cigarettes without stamps affixed thereto or that any person
19 responsible for paying the tax has not done so as required by
20 this division, the department shall fix and determine the
21 amount of tax due, and shall assess the tax against the
22 person, together with a penalty as provided in section 421.27.
23 The taxpayer shall pay interest on the tax or additional tax
24 at the rate determined under section 421.7 counting each
25 fraction of a month as an entire month, computed from the date
26 the tax was due. If any person fails to furnish evidence
27 satisfactory to the director showing purchases of sufficient
28 stamps to stamp unstamped cigarettes purchased by the person,
29 the presumption shall be that the cigarettes were sold without
30 the proper stamps affixed thereto. Within two years after the
31 return report is filed or within two years after the return
32 report became due, whichever is later, the department shall
33 examine the return report and determine the correct amount of
34 tax. The period for examination and determination of the
35 correct amount of tax is unlimited in the case of a false or

1 fraudulent report made with the intent to evade tax, or in the
2 case of a failure to file a report, or if a person purchases
3 or is in possession of unstamped cigarettes.

4 The two-year period of limitation may be extended by a
5 taxpayer by signing a waiver agreement form to be provided by
6 the department. The agreement must stipulate the period of
7 extension and the tax period to which the extension applies.
8 The agreement must also provide that a claim for refund may be
9 filed by the taxpayer at any time during the period of
10 extension.

11 Sec. 69. Section 453A.29, Code 1999, is amended to read as
12 follows:

13 453A.29 NOTICE AND APPEAL.

14 The department shall notify any person assessed pursuant to
15 section 453A.28 by sending a written notice of the
16 determination by mail to the principal place of business of
17 the person as shown on the person's application for permit,
18 and if an application was not filed by the person, to the
19 person's last known address. A determination by the
20 department of the amount of tax, penalty, and interest due, or
21 the amount of refund for excess tax paid, is final, unless the
22 person aggrieved by the determination appeals to the director
23 for a revision of the determination within sixty days from the
24 postmark date of the notice of determination of tax, penalty,
25 and interest or refund owing or unless the taxpayer contests
26 the determination by paying the tax, interest, and penalty and
27 timely filing a claim for refund. The director shall grant a
28 hearing and upon the hearing, the director shall determine the
29 correct tax, penalty, and interest or refund due and notify
30 the appellant of the decision by mail. Judicial review of
31 action of the director may be sought in accordance with the
32 Iowa administrative procedure Act and section 422.29.

33 Sec. 70. Section 453A.31, Code 1999, is amended by
34 striking the section and inserting in lieu thereof the
35 following:

1 453A.31 CIVIL PENALTY FOR CERTAIN VIOLATIONS.

2 If a permit holder fails to keep any of the records
 3 required to be kept by the provisions of this division, or
 4 sells cigarettes upon which a tax is required to be paid by
 5 this division without at the time having a valid permit, or if
 6 a distributor, wholesaler, manufacturer, or distributing agent
 7 fails to make reports to the department as required, or makes
 8 a false or incomplete report to the department, or if a
 9 distributing agent stores unstamped cigarettes in the state or
 10 distributes or delivers unstamped cigarettes within this state
 11 without at the time of storage or delivery having a valid
 12 permit, or if a person purchases or is in possession of
 13 unstamped cigarettes, or if a person affected by this division
 14 fails or refuses to abide by any of its provisions or the
 15 rules adopted under this division, the person is civilly
 16 liable to the state for a penalty as follows:

- 17 1. For possession of unstamped cigarettes:
 - 18 a. A two hundred dollar penalty for the first violation if
 - 19 a person is in possession of more than forty but not more than
 - 20 four hundred unstamped cigarettes.
 - 21 b. A five hundred dollar penalty for the first violation
 - 22 if a person is in possession of more than four hundred but not
 - 23 more than two thousand unstamped cigarettes.
 - 24 c. A one thousand dollar penalty for the first violation
 - 25 if a person is in possession of more than two thousand
 - 26 unstamped cigarettes.
 - 27 d. For a second violation within two years of the first
 - 28 violation, the penalty is four hundred dollars if a person is
 - 29 in possession of more than forty but not more than four
 - 30 hundred unstamped cigarettes; one thousand dollars if a person
 - 31 is in possession of more than four hundred but not more than
 - 32 two thousand unstamped cigarettes; and two thousand dollars if
 - 33 a person is in possession of more than two thousand unstamped
 - 34 cigarettes.
 - 35 e. For a third or subsequent violation within two years of

1 the first violation, the penalty is six hundred dollars if a
2 person is in possession of more than forty but not more than
3 four hundred unstamped cigarettes; one thousand five hundred
4 dollars if a person is in possession of more than four hundred
5 but not more than two thousand unstamped cigarettes; and three
6 thousand dollars if a person is in possession of more than two
7 thousand unstamped cigarettes.

8 2. For all other violations of this section:

9 a. A two hundred dollar penalty for the first violation.

10 b. A five hundred dollar penalty for a second violation
11 within two years of the first violation.

12 c. A thousand dollar penalty for a third or subsequent
13 violation within two years of the first violation.

14 The penalty imposed under this section shall be assessed
15 and collected pursuant to section 453A.28 and is in addition
16 to the tax, penalty, and interest imposed in that section.

17 Sec. 71. Section 453A.45, subsections 2, 3, and 4, Code
18 1999, are amended to read as follows:

19 2. Every person who sells tobacco products to persons
20 other than the ultimate consumer shall render with each sale
21 itemized invoices showing the seller's name and address, the
22 purchaser's name and address, the date of sale, and all prices
23 and discounts. The person shall preserve legible copies of
24 all such invoices for ~~one-year~~ two years from the date of
25 sale.

26 3. Every retailer and subjobber shall procure itemized
27 invoices of all tobacco products purchased. The invoices
28 shall show the name and address of the seller and the date of
29 purchase. The retailer and subjobber shall preserve a legible
30 copy of each such invoice for ~~one-year~~ two years from the date
31 of purchase. Invoices shall be available for inspection by
32 the director or the director's authorized agents or employees
33 at the retailer's or subjobber's place of business.

34 4. Records of all deliveries or shipments of tobacco
35 products from any public warehouse of first destination in

1 this state which is subject to the provisions of and licensed
2 under chapter 554 shall be kept by the warehouse and be
3 available to the director for inspection. They shall show the
4 name and address of the consignee, the date, the quantity of
5 tobacco products delivered, and such other information as the
6 commissioner may require. These records shall be preserved
7 for one-year two years from the date of delivery of the
8 tobacco products.

9 Sec. 72. Section 453A.46, subsections 1, 4, and 6, Code
10 1999, are amended to read as follows:

11 1. On or before the twentieth day of each calendar month
12 every distributor with a place of business in this state shall
13 file a return with the director showing the quantity and
14 wholesale sales price of each tobacco product brought, or
15 caused to be brought, into this state for sale; and made,
16 manufactured or fabricated in this state for sale in this
17 state, during the preceding calendar month. Every licensed
18 distributor outside this state shall in like manner file a
19 return showing the quantity and wholesale sales price of each
20 tobacco product shipped or transported to retailers in this
21 state to be sold by those retailers, during the preceding
22 calendar month. Returns shall be made upon forms furnished
23 and prescribed by the director and shall contain other
24 information as the director may require. Each return shall be
25 accompanied by a remittance for the full tax liability shown
26 on the return, less a discount as fixed by the director not to
27 exceed five percent of the tax. Within two years after the
28 return is filed or within two years after the return became
29 due, whichever is later, the department shall examine it,
30 determine the correct amount of tax, and assess the tax
31 against the taxpayer for any deficiency. The period for
32 examination and determination of the correct amount of tax is
33 unlimited in the case of a false or fraudulent return made
34 with the intent to evade tax, or in the case of a failure to
35 file a return.

1 The two-year period of limitation may be extended by a
2 taxpayer by signing a waiver agreement form to be provided by
3 the department. The agreement must stipulate the period of
4 extension and the tax period to which the extension applies.
5 The agreement must also provide that a claim for refund may be
6 filed by the taxpayer at any time during the period of
7 extension.

8 4. The department shall notify any person assessed
9 pursuant to this section by sending a written notice of the
10 determination by mail to the principal place of business of
11 the person as shown on the person's application for permit,
12 and if an application was not filed by the person, to the
13 person's last known address. A determination by the
14 department of the amount of tax, penalty, and interest due, or
15 the amount of refund for excess tax paid, is final, unless the
16 person aggrieved by the determination appeals to the director
17 for a revision of the determination within sixty days from the
18 postmark date of the notice of determination of tax, penalty,
19 and interest or refund owing or unless the taxpayer contests
20 the determination by paying the tax, interest, and penalty and
21 timely filing a claim for refund. The director shall grant a
22 hearing and upon the hearing, the director shall determine the
23 correct tax, penalty, and interest or refund due and notify
24 the appellant of the decision by mail. Judicial review of
25 action of the director may be sought in accordance with
26 chapter 17A and section 422.29.

27 6. On or before the twentieth day of each calendar month,
28 every consumer who, during the preceding calendar month, has
29 acquired title to or possession of tobacco products for use or
30 storage in this state, upon which tobacco products the tax
31 imposed by section 453A.43 has not been paid, shall file a
32 return with the director showing the quantity of tobacco
33 products so acquired. The return shall be made upon a form
34 furnished and prescribed by the director, and shall contain
35 such other information as the director may require. The

1 return shall be accompanied by a remittance for the full
2 unpaid tax liability shown by it. Within two years after the
3 return is filed or within two years after the return became
4 due, whichever is later, the department shall examine it,
5 determine the correct amount of tax, and assess the tax
6 against the taxpayer for any deficiency. The period for
7 examination and determination of the correct amount of tax is
8 unlimited in the case of a false or fraudulent return made
9 with the intent to evade tax, or in the case of a failure to
10 file a return.

11 Sec. 73. Section 602.8102, subsection 59, Code 1999, is
12 amended by striking the subsection.

13 Sec. 74. Section 633.272, Code 1999, is amended to read as
14 follows:

15 633.272 PARTIAL INTESTACY.

16 If part but not all of the estate of a decedent is validly
17 disposed of by will, the part not disposed of by will shall be
18 distributed as provided herein for intestate estates. If the
19 testator left a surviving spouse, and the spouse does not
20 elect to take against the will, the spouse shall receive, in
21 addition to the property given to the spouse by the will, ~~all~~
22 ~~of-the-intestate-property-which-shall-be-subject-to-the~~
23 ~~payment-of-its-proportionate-share-of-debts-and-charges~~
24 ~~against-the-estate~~ the amount of intestate property set forth
25 in section 633.211 or 633.212.

26 Sec. 75. Section 422.90, Code 1999, is repealed.

27 Sec. 76. Section 450.92, Code 1999, is repealed.

28 Sec. 77. DIRECTIONS TO CODE EDITOR. The Iowa Code editor
29 shall transfer sections 427.3 through 427.7 to chapter 426A
30 and change internal references as necessary.

31 Sec. 78. EFFECTIVE AND APPLICABILITY DATES.

32 1. Section 5 of this Act, amending section 422.13,
33 subsection 5, applies retroactively to January 1, 1999, for
34 tax years beginning on or after that date.

35 2. Section 7 of this Act, amending section 422.23,

1 unnumbered paragraph 2, applies retroactively to January 1,
2 1999, for tax years beginning on or after that date.

3 3. Section 9 of this Act, amending section 422.25,
4 subsection 3, applies retroactively to January 1, 1999, for
5 tax years beginning on or after that date.

6 4. Section 11 of this Act, amending section 422.33,
7 subsection 2, applies retroactively to January 1, 1999, for
8 tax years beginning on or after that date.

9 5. Section 27 of this Act, amending section 422.121,
10 applies retroactively to January 1, 1997, for tax years
11 beginning on or after that date.

12 6. Sections 35 through 38 and section 76 of this Act,
13 amending chapters 450 and 451, take effect July 1, 1999, for
14 estates of decedents dying on or after that date.

15 7. Except as otherwise provided in this section, this Act,
16 being deemed of immediate importance, takes effect upon
17 enactment.

18 **EXPLANATION**

19 The bill amends various provisions of state tax law. The
20 amendments that are not just eliminating obsolete provisions
21 are as follows:

22 Code section 421.1 is amended to delete the requirement
23 that the state board of tax review meet six times a year and
24 now provides that the state board meet as necessary.

25 Code section 421.18 is amended to provide that not only
26 public officers need to give the director information to
27 assist in tax administration but employees and local
28 governments need to also provide the information.

29 Code section 422.13 is amended to remove the requirement
30 that taxpayers need to get permission to file a composite
31 return and provides that limited liability companies may join
32 the filing of a composite return.

33 Code section 422.16 is amended to provide that, at the
34 discretion of the director, withholding agents need not send
35 wage and tax statements with the annual report if the

1 information is available from other sources such as the
2 internal revenue service or other state or federal agencies.

3 Code sections 422.23 and 602.8102(59) are amended to strike
4 the requirement that provides that personal representatives of
5 an estate can apply to the district court to determine
6 initially whether the estate is subject to Iowa income tax.

7 Code sections 422.25, 422.47(4), 424.10, 429.2(1),
8 450.94(2), 450.94(3), 453A.29, and 453A.46(4) are amended to
9 provide that the 30-or 60-day appeal period, as applicable,
10 commences on the date of the notice. Presently, the appeal
11 period commences on the postmark date of the notice.

12 Code section 422.25(3) is amended to provide that when a
13 taxpayer has paid 90 percent of the final tax liability by the
14 original due date and files the return sometime in the six-
15 month extended period after the original due date, interest on
16 an overpayment of tax on the return starts to accrue two
17 months after the end of the six-month extended period.

18 Code section 422.33(1) is amended to remove the provision
19 that imposes the Iowa corporate income tax upon a corporation
20 whose legal domicile (place where the corporation was created)
21 is in Iowa and instead provides it on all corporations doing
22 business in Iowa.

23 Code sections 422.33(2) is amended to provide that an Iowa-
24 based corporation whose only activity outside Iowa is the
25 ownership of intangible assets that have acquired a business
26 situs outside Iowa may apportion its income to determine the
27 portion of its income which is subject to Iowa income tax.

28 Code sections 422.42(6), 422.42(18), and 422.45(46) are
29 amended to make the exemption from Iowa sales tax for services
30 performed on tangible property delivered into interstate
31 commerce the same as the exemption from Iowa sales tax on
32 tangible personal property delivered to a point outside of
33 Iowa.

34 Code section 422.45(7) is amended to provide that
35 governmental units, nonprofit educational institutions, and

1 nonprofit private museums have one year instead of six months
2 from final payment to apply for a refund of sales or use tax
3 paid by a contractor on materials used in the performance of a
4 construction contract.

5 Code section 422.47, which relates to the use of sales tax
6 exemption certificates, is amended to provide that an
7 exemption certificate may be used to substantiate the sale of
8 nontaxable items as well as sales made to persons holding a
9 direct pay permit. Current law only provides for exemption
10 certificates for materials purchased for resale or use in
11 processing.

12 Code section 422.50 is amended to provide that retailers
13 are required to keep records on the gross receipts from the
14 sale of services as well as the sale of tangible personal
15 property.

16 Code section 422.68(4) is amended to allow the department
17 to use new technologies to preserve records as required by
18 law.

19 Code section 422.72(1) is amended to make it unlawful to
20 willfully inspect returns for any reason other than as
21 authorized by the director of revenue and finance. The
22 penalty is a serious misdemeanor.

23 Code section 422.90 is repealed. The section stated that
24 the penalty imposed for underpayment of estimated tax is not
25 subject to waiver for reasonable cause.

26 Code section 422.110 is amended to provide that an income
27 tax credit in lieu of a full tax refund is not available for
28 credit relating to casualty loss, transport diversions,
29 pumping credits, blending errors, idle time, power takeoffs,
30 reefer units, and exports by eligible purchasers. However, a
31 refund remains available if a refund permit is obtained from
32 the department.

33 Code section 422.111 is amended to provide that a refund is
34 only available for undyed special fuel since no tax is imposed
35 on dyed special fuel.

1 Code section 422.121 is amended to specify the method for
2 calculating the livestock production tax credit for cow-calf
3 operations effective beginning with the 1997 tax year.

4 Code section 422B.10(2) is amended to provide that if an
5 overpayment has been made to a local jurisdiction for local
6 option sales tax during the previous fiscal year, the November
7 payment must reflect the adjustment.

8 Code section 422D.3 is amended to move a local income
9 surtax fund from the state treasurer's office to the
10 department of revenue and finance.

11 Code section 427.1(14) is amended to move the sign-up date
12 from July 1 to April 15 for claiming a property tax exemption
13 by war veterans organizations and religious, literary, and
14 charitable societies. This would allow the taxpayer to appeal
15 the assessment to the board of review prior to its adjournment
16 if the claim is denied.

17 Code section 427.1(24) is amended to provide a February 1
18 deadline for certifying eligibility for the wildlife habitat
19 property tax exemption. Other property tax credit and
20 exemptions provide specific certification deadlines.

21 Code sections 427.3 through 427.7 are to be transferred to
22 Code chapter 426A by the Iowa Code editor so that all
23 provisions pertaining to the military service property tax
24 exemption appear in the same chapter.

25 Code section 428.1 is amended to provide that the listing
26 contained in section 428.1, subsections 1 through 5, does not
27 encompass all situations where a person is required to list
28 property for the assessor.

29 Code section 450.22 is amended to provide that, in addition
30 to the surviving spouse as already provided in this statute,
31 when the estate does not have a federal estate tax obligation
32 and all property of the estate is held in joint tenancy with
33 the right of survivorship solely by the decedent and a lineal
34 ascendant, child, stepchild, or lineal descendant, or any
35 combination of these individuals, an Iowa inheritance tax

1 return need not be filed.

2 Code section 450.37 is amended to allow the department of
3 revenue and finance to adjust previously accepted, submitted,
4 appraised, or agreed upon values of real property if the new
5 values have been accepted for federal estate tax purposes.

6 Also, the personal representative for the estate may claim a
7 refund of tax if the personal representative for the estate
8 files a claim for refund within six months of the final
9 disposition of any real property valuation matter.

10 Code section 451.12 is amended to provide that a lien for
11 Iowa estate tax could be made on those items listed as
12 exemptions under Code section 450.7 for inheritance tax.

13 Code section 452A.2(11) and (17) are amended to provide
14 that a person need not export fuel exclusively to be
15 considered an exporter and that transmix is taxed as motor
16 vehicle fuel. Transmix is a product that is used as a buffer
17 between fuel types being transported through a pipeline.

18 Code section 452A.3(5) is amended to require the person who
19 owns the fuel at the time it is imported into the state to pay
20 the tax on motor fuel.

21 Code sections 452A.8, 452A.9, 452A.15, 452A.21, 452A.60,
22 452A.61, 452A.63, 452A.67, 452A.68, 452A.74A, and 452A.86 are
23 amended to provide consistency in the motor vehicle fuel tax
24 by changing the word "report" to "return". When the motor
25 vehicle fuel tax chapters were amended to change the point of
26 taxation during the 1995 Session of the General Assembly,
27 these sections were not amended.

28 Code section 452A.17(1) is amended to provide that a fuel
29 tax refund is available for machinery and equipment used for
30 nonhighway purposes and to clarify that distributors who are
31 eligible purchasers are entitled to refund of the tax paid.

32 Code section 452A.17 is also amended to provide that
33 records need to be kept relating to fuel used in watercraft
34 and further to provide that no refund will be issued for
35 undyed special fuel taken out of the state in the fuel supply

1 tank of a vehicle.

2 Code section 452A.21 is also amended to extend the time for
3 claiming refunds resulting from the excess tax paid on fuel
4 blended with alcohol to produce ethanol from 90 days to one
5 year and to prohibit claiming an income tax credit for the
6 excess tax paid.

7 Code section 452A.22 is created to require a licensee who
8 collects tax in error from a consumer to either return the tax
9 to the consumer or remit it to the department.

10 Code sections 452A.67, 453A.28, and 453A.46(1) are amended
11 to provide that the taxpayer may enter into an agreement with
12 the department of revenue and finance to extend the statute of
13 limitations for assessment and refund.

14 Code section 453A.6(3) is amended to list distributors and
15 manufacturers as those who must stamp cigarettes.

16 Code section 453A.6 is also amended by adding two new
17 subsections. The first new subsection provides that any
18 person who is in possession of unstamped cigarettes shall pay
19 the tax directly to the department. The second new subsection
20 provides that the tax shall be added to the selling price and
21 collected from the purchasers so that the ultimate consumer
22 bears the burden of the tax.

23 Code section 453A.8(1) is amended to provide that the
24 department is no longer required to sell cigarette stamps in
25 unbroken books of 1,000 stamps.

26 Code section 453A.15 is amended to provide that any person
27 who is not licensed must keep records, file reports, and pay
28 the cigarette tax in the same manner as permit holders.

29 Code section 453A.16 is amended to provide that
30 manufacturers of cigarettes may only ship unstamped cigarettes
31 into the state to licensed distributors or licensed
32 distributors' agents.

33 Code sections 453A.28 and 453A.46(1) and (6) are amended to
34 provide that the two-year statute of limitations does not
35 apply if a false or fraudulent report or return is made with

1 the intent to evade tax, if a report or return is not filed,
 2 or if the person is in possession of unstamped cigarettes. In
 3 these instances, the statute of limitations is unlimited.

4 Code section 453A.31 deals with a civil penalty for failure
 5 to keep records, selling cigarettes without a valid permit,
 6 making a false or incomplete report, or failing to abide with
 7 rules of the department. The present penalty is \$50 for each
 8 offense, each violation is a separate offense, and the same
 9 violation is a separate offense for each day it continues.

10 The amendment to the Code section strikes the \$50-a-day
 11 penalty in lieu of a three-tiered civil penalty for the above
 12 offenses: \$200 for the first offense; \$500 for the second
 13 offense within two years; \$1,000 for the third offense within
 14 two years and for subsequent offenses.

15 A second three-tiered penalty for possession of unstamped
 16 cigarettes is provided. This penalty is based on the number
 17 of cigarettes in the person's possession.

18 Number of	1st Violation	2nd Violation	Third
19 Cigarettes	Within 2 Years	Within 2 Years	Violation
20 41-400	\$200	\$400	\$600
21 401-2,000	\$500	\$1,000	\$1,500
22 2,001 or			
23 more	\$1,000	\$2,000	\$3,000

24 These penalties are no longer subject to mandatory waiver
 25 for reasonable cause.

26 Code section 453A.45(2), (3), and (4) are amended to
 27 require persons who sell tobacco products to retain records
 28 for two years from the date of sale instead of the present
 29 one-year requirement.

30 Code section 633.272 is amended to provide that, under
 31 partial intestacy, a surviving spouse is entitled to receive
 32 the amount of intestate property as provided in Code section
 33 633.211 or 633.212.

34 The bill takes effect upon enactment and some provisions
 35 have different applicability date provisions than the

1 effective date.

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TO: MEMBERS OF THE 1999 GENERAL ASSEMBLY

FROM: IOWA DEPARTMENT OF REVENUE & FINANCE

DATE: DECEMBER 21, 1998

SUBJECT: THE DEPARTMENT'S BILL RELATING TO TECHNICAL CORRECTIONS TO THE IOWA CODE AND PROVIDING AN EFFECTIVE AND RETROACTIVE APPLICABILITY DATE

The Department's bill makes technical corrections and deletes obsolete sections of the Iowa Code and provides retroactive effective dates of January 1, 1999, for tax years beginning on or after that date for some of the amendments.

Section 1 of the bill amends Iowa Code Section 421.1 by deleting the requirement that the state board of tax review meet six times a year and now provides the state board meet as necessary. This amendment is being made because there have been numerous occasions when the board was required to meet, but there were no cases to hear.

Section 2 of the bill amends Iowa Code Section 421.16 to clarify that all Department employees, not just the deputy director, secretaries and assistants, are entitled to necessary expenses while traveling on business.

Section 3 of the bill amends Iowa Code Section 421.18 to clarify that not only public officers need to give the director information to assist in tax administration, likewise employees and local governments need to provide information.

Section 4 of the bill amends Iowa Code Section 422.5 by striking subsection 3 which refers to taxation of active duty pay prior to January 1, 1977, and subsection 11 which refers to income exclusion between January 1, 1992, but before January 1, 1993.

Section 5 of the bill amends Iowa Code Section 422.13 by removing the requirement that taxpayers need to get permission to file a composite return. Permission is not required since the Department reviews all these returns which are few in number.

Section 6 of the bill amends Iowa Code Section 422.16 to provide, at the discretion of the director, withholding agents need not send wage statements with the annual report if the information is available from other sources such as the Internal Revenue Service or other state or federal agencies. Much of the wage information is now available by electronic means.

Section 7 of the bill amends Iowa Code Section 422.23 by striking the second unnumbered paragraph which provides that personal representatives of an estate can apply to the

district court to determine initially whether the estate is subject to Iowa income tax. This paragraph is in conflict with the Administrative Procedures Act which requires exhaustion of administrative remedies prior to seeking judicial review.

Sections 8, 30, 34, 37, and 69 amend the following Iowa Code Sections: 422.25, 424.10, 429.2, 450.94(2), and 453A.29 which all provide when the sixty day appeal period commences. Presently the sixty days commence on the postmark date of the notice. The amendment provides the sixty days commence on the date of the notice. The Department retains a copy of the notice but does not record mailing dates as they are sent by regular mail. The billing date is what is presently being used.

Section 9 amends Iowa Code Section 422.25(3) to provide that when a taxpayer has paid 90 percent of the final tax liability by the original due date and files the return sometime in the six-month extended period after the original due date, interest on an overpayment of tax on the return starts to accrue two months after the end of the six-month extended period.

Section 10 amends Iowa Code Section 422.33(1) to remove the provision that imposes the Iowa corporate income tax upon a corporation whose legal domicile (place where the corporation was created) is in Iowa. Such imposition seems to be contrary to the modern scope of state corporate income taxes which is to base the tax on corporate business activity or sources which are in the taxing state.

Section 11 of the bill amends Iowa Code Section 422.33 (2), introductory paragraph, to clarify that an Iowa based corporation whose only activity outside Iowa is the ownership of intangible assets that have acquired a business situs outside Iowa may apportion its income to determine the portion of its income which is subject to Iowa income tax.

Sections 12, 13, and 16 amend Iowa Code Sections 422.42(6), 422.42(18), and 422.45(46) to make the exemption from Iowa sales tax for services performed on tangible property delivered into interstate commerce the same as the exemption from Iowa sales tax on tangible personal property delivered outside of Iowa.

Section 14 of the bill amends Iowa Code Section 422.44 to remove an obsolete reference to cities and counties which are exempt under other sections of the Iowa Code.

Section 15 of the bill amends Iowa Code Section 422.45(7) which provides that governmental units, nonprofit educational institutions, and nonprofit private museums have one year instead of six months from final payment to apply for a refund of sales or use tax paid by a contractor on materials used in the performance of a construction contract.

There are situations where an agency fails to file within the six-month period, the Department is required to deny the refund. The agency then appeals to the State Appeal Board who in turn grants the refund. Extending the period to file will eliminate paper work for the Department and the agencies requesting the refund.

Sections 17, 18, and 19 make changes to various subsections of Iowa Code Section 422.47 relating to the use of sales tax exemption certificates. The amendments now provide the exemption certificate may be used to substantiate the sale of nontaxable items as well as sales made to persons holding a direct pay permit. Prior law only provided for exemption certificates for materials purchased for resale or use in processing.

Section 20 of the bill amends Iowa Code Section 422.50 to clarify that retailers are required to keep records on the gross receipts from the sale of services as well as the sale of tangible personal property.

Section 21 of the bill amends Iowa Code Section 422.52 by eliminating obsolete language relating to securities held by the Department for periods beginning July 1, 1991, and ending June 30, 1993.

Section 22 of the bill amends Iowa Code Section 422.68(4) to clarify that the Department can use new technologies to preserve records as required by law.

Section 23 of the bill amends Iowa Code Section 422.72(1) relating to release of confidential information. The new provision makes it unlawful to willfully inspect returns for personal reasons. (For IRS provisions this is classified as "employee browsing".)

Section 24 of the bill amends Iowa Code Section 422.110 relating income tax credit in lieu of refund for motor vehicle fuel tax. The amendment provides that an income tax credit is not available for credit relating to casualty loss, transport diversions, pumping credits, blending errors, idle time, power take offs, reefer units, and exports by eligible purchasers. However, a refund is available through a refund permit.

Sections 25 and 26 of the bill amend Iowa Code Section 422.111 to clarify that a refund is only available for undyed special fuel as no tax is imposed on dyed special fuel and strikes obsolete language that applies to only years 1975 and 1976.

Section 27 of the bill amends Iowa Code Section 422.121 to clarify what animals qualify for livestock production tax credit for tax years 1997 and years thereafter.

Section 28 of the bill amends Iowa Code Section 422B.10(2) to clarify that if there is an overpayment made to the local jurisdiction for local option sales tax during the previous fiscal year, the November payment will reflect the adjustment.

Section 29 of the bill amends Iowa Code Section 422D.3(4) which moves a local income surtax fund from the State Treasurer's Office to the Department. All the paperwork and processing is done within the Department so both agencies agree that the surtax fund should be in the Department of Revenue and Finance.

Section 31 of the bill amends Iowa Code Section 427.1(14) which permits claims for property tax exemption to be filed with the assessor through July 1. Iowa Code Section

441.37 permits a dissatisfied taxpayer to appeal an assessment to the board of review which meets during the month of May. The present appeal process does not work if the claim for exemption is filed with the assessor after the board adjourns which happens in many instances. The amendment will move the sign-up date from July 1 to April 15 so the taxpayer can appeal the assessment to the board of review prior to its adjournment.

Section 32 of the bill amends Iowa Code Section 427.1(24). Assessors have requested that a specific date be included in the statute for certifying eligibility for the wildlife habitat property tax exemption. Other property tax credit and exemptions provide specific certification dates. The amendment includes a February 1 certification date that will be of administrative benefit to assessors by giving them a cut-off point to finalize their certifications.

Section 33 of the bill amends Iowa Code Section 428.1 to clarify that the listing contained in Section 428.1, subsections 1 through 5, does not encompass all situations where a person is required to list property for the assessor. The amendment makes the list nonexclusive so it covers all circumstances not listed.

Section 35 of the bill amends Iowa Code Section 450.22 to provide that, in addition to the surviving spouse as already provided in this statute, when the estate does not have a federal estate tax obligation and all of the property of the estate is held in joint tenancy with the right of survivorship solely by the decedent and a lineal ascendant, child, stepchild, and/or lineal descendant, or any combination of these individuals, an Iowa inheritance tax return need not be filed.

Section 36 of the bill amends Iowa Code Section 450.37 to allow the Department of Revenue and Finance to adjust previously accepted, submitted, appraised, or agreed upon values of real property accepted for federal estate tax purposes. Also the personal representative for the estate may claim a refund of tax if the personal representative for the estate files a claim for refund within six months of the final disposition of any real property valuation matter.

Section 38 of the bill amends Iowa Code Section 451.12 to assure that a lien for Iowa estate tax could be made on those items listed as exceptions under Iowa Code Section 450.7.

Sections 39 and 40 of the bill amend Iowa Code Sections 452A.2 (11) and (17) to assure that "transmix" is taxed as motor vehicle fuel. Transmix is a product that is used as a buffer between fuel types being transported through a pipeline.

Section 41 of the bill amends Iowa Code Section 452A.3 to clarify that the person who owns the fuel owes tax when imported into the state.

Sections 42, 43, 44, 45, 46, 47, 53, 56, 57, 58, 60, 61, and 62 of the bill amend Iowa Code Sections 452A.8, 452A.9, 452A.15, 452A.21, 452A.60, 452A.61, 452A.63, 452A.68,

452A.74, and 452A.86 to provide consistency in the motor vehicle fuel tax by changing the word "report" to "return." When the motor vehicle fuel tax chapters were amended to change the point of taxation during the 1995 Session of the General Assembly, these chapters were missed.

Section 48 of the bill amends Iowa Code Section 452A.17(1) to clarify that a fuel tax refund is available for machinery and equipment used for non-highway purposes and provides that distributors can apply for a refund of tax paid in error.

Sections 49, 50, and 51 of the bill amend various subsections of Iowa Code Section 452A.17 relating to refund of fuel and records needed to be kept relating to fuel used in watercraft or aircraft and further provides that no refund will be issued for undyed fuel taken out of the state in the fuel supply tank of a vehicle or aircraft.

Section 52 of the bill strikes paragraph "c" of Iowa Code Section 452A.17 which relates to refunds of motor fuel tax to contractors who have a contract with a governmental agency. This provision has never been used and is meaningless.

Section 54 of the bill amends Iowa Code Section 452A.22 to allow for refund claims to be filed within one year of purchase instead of ninety days.

Section 55 of the bill amends Iowa Code Chapter 452A by adding a new subsection which requires a licensee who collects tax in error from a consumer to either return the tax to the consumer or remit it to the Department. This amendment is consistent with the same subsection on retail sales tax.

Section 59 of the bill amends Iowa Code Section 452A.67 by providing that a taxpayer may agree to extend the three year statute of limitations for assessments and refunds by signing a waiver agreement provided by the Department.

Sections 63 and 64 of the bill amend Iowa Code Section 453A.6 by adding two new subsections. The first new subsection provides that any person who is in possession of unstamped cigarettes shall pay the tax directly to the Department. The second new subsection provides that the tax shall be added to the selling price and collected from the purchasers so that the ultimate consumer bears the burden of the tax.

Section 65 of the bill amends Iowa Code Section 453A.8(1) to clarify that the Department no longer sells cigarette stamps in unbroken books of one thousand stamps and clarifies that manufacturers can stamp cigarettes.

Section 66 of the bill amends various subsections of Iowa Code Section 453A.15 to provide that any person who is not licensed must keep records, file reports, and pay tax in the same manner as permit holders.

Section 67 of the bill amends Iowa Code Section 453A.16 to clarify that manufacturers of cigarettes may only ship unstamped cigarettes into the state to licensed distributors or licensed distributor's agents.

Section 68 of the bill amends Iowa Code Section 453A.28 to provide that the two year statute of limitations does not apply in case of a false or fraudulent report made with the intent to evade tax, or the person is in possession of unstamped cigarettes. In these instances, the statute of limitations is unlimited. The amendment also provides that a taxpayer may agree to extend the two year statute of limitations for assessment and refunds by signing a waiver agreement provided by the Department.

Section 70 of the bill amends Iowa Code Section 453A.31 which deals with civil penalty for failure to keep records, selling cigarettes without a valid permit, making a false or incomplete report, or failing to abide with rules of the Department. The present penalty is \$50 for each offense, each violation is a separate offense, and the same violation is a separate offense for each day it continues. The amendment strikes the \$50 a day penalty in lieu of a three-tiered penalty for the above offenses. The first offense, \$200. Five hundred dollars for the second offense within two years, and \$1,000 for the third offense within two years and subsequent violations.

A second three tiered penalty for possession of unstamped cigarettes is provided. This penalty is based on the number of cigarettes in the person's possession.

Number of Cigarettes	1st Violation Within 2 Years	2nd Violation Within 2 Years	Third Violation
40 - 400	\$200	\$400	\$600
401 - 2,000	\$500	\$1,000	\$1,500
2,001 or more	\$1,000	\$2,000	\$3,000

These penalties are not subject to waiver for reasonable cause.

Section 71 of the bill amends Iowa Code Section 453A.45 to change the period of time records relating to tobacco tax are to be retained from one year to two years. This makes cigarette and tobacco tax the same.

Section 72 of the bill amends Iowa Code Section 453A.46. Subsections 1, 4, and 6 provide there is an unlimited statute of limitation in cases where a false or fraudulent return is filed with the intent to evade tax. The amendment also provides that a taxpayer may agree to extend the two year statute of limitations for assessment and refunds by signing a waiver agreement provided by the Department.

Section 73 of the bill strikes subsection 59 of Iowa Code Section 602.8102. Section 9 of this bill deletes a portion of Iowa Code Section 422.23 to eliminate a conflict with the

Administrative Procedures Act. Subsection 59 refers to the deleted portion of Iowa Code Section 422.23.

Section 74 of the bill amends Iowa Code Section 633.272 to clarify that under partial intestate, a surviving spouse is entitled to receive the amount of intestate property as provided in Iowa Code Sections 633.211 or 633.212.

Section 75 of the bill amends Iowa Code Section 422.90 by striking the section which relates to waiver of penalty for reasonable cause. Penalty is now subject to waivers only under statutory exceptions.

Section 76 of the bill strikes Iowa Code Section 450.92 relating to compromise settlements which is redundant in that the Director of Revenue and Finance has authority for compromise settlements for all taxes under Iowa Code Section 421.5.

Section 77 of the bill transfers Iowa Code Sections 427.3 through 427.7 to Iowa Code Chapter 426A. Under the existing statutes, some provisions pertaining to the military service property tax exemption appear in Chapter 426A and others appear in Chapter 427. The Department has, over the years, received a number of complaints from both the public and local government officials who administer the program that it would be beneficial if the provisions were all located in one chapter. This amendment will do that.

Section 78 provides effective and retroactive dates.

Attachment

FEB 23 1999

WAYS & MEANS CALENDAR

HOUSE FILE **350**
BY COMMITTEE ON WAYS
AND MEANS

(SUCCESSOR TO HSB 110)

(COMPANION TO SF 136)

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

A BILL FOR

1 An Act relating to the administration of the tax and related laws
2 by the department of revenue and finance, including
3 administration of state individual income, corporate income,
4 franchise, sales and use, motor fuel, cigarette and tobacco,
5 local option, inheritance and estate, and property taxes, and
6 the livestock production credit; providing penalties; and
7 including effective and retroactive applicability date
8 provisions.

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

HOUSE FILE 350

H-1128

1 Amend House File 350 as follows:
2 1. Page 13, by striking line 18 and inserting the
3 following: "Beginning with For the fiscal year years
4 beginning July 1, 1997, and July 1, 1998,".
5 2. Page 13, line 21, by inserting after the word
6 "division." the following: "Beginning with the fiscal
7 year beginning July 1, 1999, there is appropriated
8 annually from the general fund of the state four
9 million dollars to refund the credits allowed under
10 this division."

H-1128 FILED MARCH 18, 1999

By MUNDIE of Webster

HF 350

1 Section 1. Section 421.1, unnumbered paragraph 8, Code
2 1999, is amended to read as follows:

3 The state board shall ~~hold-at-least-six-regular-meetings~~
4 ~~each-year, the first of which shall be on the second secular~~
5 ~~day-of-July~~ meet as deemed necessary by the chairperson.

6 Special meetings of the state board may be called by the
7 chairperson on five days' notice given to each member. All
8 meetings shall be held at the office of the tax department
9 unless a different place within the state is designated by the
10 state board or in the notice of the meeting.

11 Sec. 2. Section 421.16, Code 1999, is amended to read as
12 follows:

13 421.16 EXPENSES.

14 The director, ~~deputy-directors,~~ and department employees
15 are entitled to receive from the state their actual necessary
16 expenses while traveling on the business of the department.
17 The expenditures shall be sworn to by the party who incurred
18 the expense, and approved and allowed by the director.
19 However, such expenses shall not be allowed residents of Polk
20 county while in the city of Des Moines or traveling between
21 their homes and the city of Des Moines.

22 Sec. 3. Section 421.18, Code 1999, is amended to read as
23 follows:

24 421.18 DUTIES OF PUBLIC OFFICERS AND EMPLOYEES.

25 It shall be the duty of all public officers and employees
26 of the state and ~~of-all-municipalities~~ local governments to
27 give to the director of revenue and finance information in
28 their possession relating to taxation when required by the
29 director, and to co-operate with and aid the director's
30 efforts to secure a fair, equitable, and just enforcement of
31 the taxation and revenue laws.

32 Sec. 4. Section 422.5, subsections 3 and 11, Code 1999,
33 are amended by striking the subsections.

34 Sec. 5. Section 422.13, subsection 5, Code 1999, is
35 amended to read as follows:

1 5. Notwithstanding subsections 1 through 4 and sections
2 422.15 and 422.36, a partnership, a limited liability company
3 whose members are taxed on the company's income under
4 provisions of the Internal Revenue Code, trust, or corporation
5 whose stockholders are taxed on the corporation's income under
6 the provisions of the Internal Revenue Code ~~is entitled to~~
7 ~~request permission from the director~~ may, not later than the
8 due date for filing its return for the taxable year, including
9 any extension thereof, elect to file a composite return for
10 the nonresident partners, members, beneficiaries, or
11 shareholders. The director may ~~grant permission to file or~~
12 require that a composite return be filed under the conditions
13 deemed appropriate by the director. A partnership, limited
14 liability company, trust, or corporation filing a composite
15 return is liable for tax required to be shown due on the
16 return. All powers of the director and requirements of the
17 director apply to returns filed under this subsection
18 including, but not limited to, the provisions of this division
19 and division VI of this chapter.

20 Sec. 6. Section 422.16, subsection 2, unnumbered paragraph
21 2, Code 1999, is amended to read as follows:

22 | Every withholding agent on or before the end of the second
23 month following the close of the calendar year in which the
24 withholding occurs shall make an annual reporting of taxes
25 withheld and other information prescribed by the director and
26 send to the department copies of wage and tax statements with
27 the return. At the discretion of the director, the
28 withholding agent shall not be required to send wage
29 statements and tax statements with the annual reporting return
30 form if the information is available from the Internal Revenue
31 Service or other state or federal agencies.

32 | Sec. 7. Section 422.23, unnumbered paragraph 2, Code 1999,
33 is amended by striking the unnumbered paragraph.

34 | Sec. 8. Section 422.25, subsection 1, paragraph b, Code
35 1999, is amended to read as follows:

1 b. The period for examination and determination of the
2 correct amount of tax is unlimited in the case of a false or
3 fraudulent return made with the intent to evade tax or in the
4 case of a failure to file a return. In lieu of the period of
5 limitation for any prior year for which an overpayment of tax
6 or an elimination or reduction of an underpayment of tax due
7 for that prior year results from the carryback to that prior
8 year of a net operating loss or net capital loss, the period
9 is the period of limitation for the taxable year of the net
10 operating loss or net capital loss which results in the
11 carryback. If the tax found due is greater than the amount
12 paid, the department shall compute the amount due, together
13 with interest and penalties as provided in subsection 2, and
14 shall mail a notice of assessment to the taxpayer and, if
15 applicable, to the taxpayer's authorized representative of the
16 total, which shall be computed as a sum certain if paid on or
17 before the last day of the month in which the notice is
18 postmarked dated, or on or before the last day of the
19 following month if the notice is postmarked dated after the
20 twentieth day of any month. The notice shall also inform the
21 taxpayer of the additional interest and penalty which will be
22 added to the total due if not paid on or before the last day
23 of the applicable month.

24 Sec. 9. Section 422.25, subsection 3, Code 1999, is
25 amended to read as follows:

26 3. If the amount of the tax as determined by the
27 department is less than the amount paid, the excess shall be
28 refunded with interest, the interest to begin to accrue on the
29 first day of the second calendar month following the date of
30 payment or the date the return was due to be filed, or the
31 extended due date by which the return was due to be filed if
32 ninety percent of the tax was paid by the original due date,
33 or was filed, whichever is the latest, at the rate in effect
34 under section 421.7 counting each fraction of a month as an
35 entire month under the rules prescribed by the director. If

1 an overpayment of tax results from a net operating loss or net
2 capital loss which is carried back to a prior year, the
3 overpayment, for purposes of computing interest on refunds,
4 shall be considered as having been made on the date a claim
5 for refund or amended return carrying back the net operating
6 loss or net capital loss is filed with the department or on
7 the first day of the second calendar month following the date
8 of the actual payment of the tax, whichever is later.

9 However, when the net operating loss or net capital loss
10 carryback to a prior year eliminates or reduces an
11 underpayment of tax due for an earlier year, the full amount
12 of the underpayment of tax shall bear interest at the rate in
13 effect under section 421.7 for each month counting each
14 fraction of a month as an entire month from the due date of
15 the tax for the earlier year to the last day of the taxable
16 year in which the net operating loss or net capital loss
17 occurred.

18 Sec. 10. Section 422.33, subsection 1, unnumbered
19 paragraph 1, Code 1999, is amended to read as follows:

20 A tax is imposed annually upon each corporation organized
21 ~~under the laws of this state, and upon each foreign~~
22 corporation doing business in this state, or deriving income
23 from sources within this state, in an amount computed by
24 applying the following rates of taxation to the net income
25 received by the corporation during the income year:

26 Sec. 11. Section 422.33, subsection 2, unnumbered
27 paragraph 1, Code 1999, is amended to read as follows:

28 If the trade or business of the corporation is carried on
29 entirely within the state, the tax shall be imposed on the
30 entire net income, but if the trade or business is carried on
31 partly within and partly without the state or if income is
32 derived from sources partly within and partly without the
33 state, or if income is derived from trade or business and
34 sources, all of which are not entirely in the state, the tax
35 shall be imposed only on the portion of the net income

1 reasonably attributable to the trade or business or sources
2 within the state, with the net income attributable to the
3 state to be determined as follows:

4 Sec. 12. Section 422.42, subsection 6, Code 1999, is
5 amended to read as follows:

6 6. "Gross taxable services" means the total amount
7 received in money, credits, property, or other consideration,
8 valued in money, from services rendered, furnished, or
9 performed in this state except where such service ~~is-performed~~
10 ~~on-tangible-personal-property-delivered-into-interstate~~
11 ~~commerce-or~~ is used in processing of tangible personal
12 property for use in taxable retail sales or services and
13 embraced within the provisions of this division. However, the
14 taxpayer may take credit in the taxpayer's report of gross
15 taxable services for an amount equal to the value of services
16 rendered, furnished, or performed when the full value of ~~such~~
17 ~~the services thereof~~ is refunded either in cash or by credit.
18 Taxes paid on gross taxable services represented by accounts
19 found to be worthless and actually charged off for income tax
20 purposes may be credited upon a subsequent payment of the tax
21 due ~~hereunder~~, but if any such accounts are thereafter
22 collected by the taxpayer, a tax shall be paid upon the
23 amounts so collected.

24 Sec. 13. Section 422.42, subsection 18, unnumbered
25 paragraph 1, Code 1999, is amended to read as follows:

26 "Services" means all acts or services rendered, furnished,
27 or performed, other than services ~~performed-on-tangible~~
28 ~~personal-property-delivered-into-interstate-commerce,-or~~
29 ~~services~~ used in processing of tangible personal property for
30 use in taxable retail sales or services, for an "employer" as
31 defined in section 422.4, subsection 3, for a valuable
32 consideration by any person engaged in any business or
33 occupation specifically enumerated in this division. The tax
34 shall be due and collectible when the service is rendered,
35 furnished, or performed for the ultimate user thereof of the

1 service.

2 Sec. 14. Section 422.44, unnumbered paragraph 2, Code
3 1999, is amended by striking the unnumbered paragraph.

4 Sec. 15. Section 422.45, subsection 7, paragraph b,
5 unnumbered paragraph 1, Code 1999, is amended to read as
6 follows:

7 Such governmental unit, educational institution, or
8 nonprofit private museum shall, not more than ~~six-months~~ one
9 year after the final settlement has been made, make
10 application to the department for any refund of the amount of
11 ~~such~~ the sales or use tax which shall have been paid upon any
12 goods, wares or merchandise, or services rendered, furnished,
13 or performed, ~~such~~ the application to be made in the manner
14 and upon forms to be provided by the department, and the
15 department shall forthwith audit ~~such~~ the claim and, if
16 approved, issue a warrant to ~~such~~ the governmental unit,
17 educational institution, or nonprofit private museum in the
18 amount of ~~such~~ the sales or use tax which has been paid to the
19 state of Iowa under ~~such~~ the contract.

20 Sec. 16. Section 422.45, subsection 46, Code 1999, is
21 amended to read as follows:

22 46. The gross receipts from the sale of property or of
23 services performed on property which the ~~seller~~ retailer
24 transfers to a carrier for shipment to a point outside of
25 Iowa, places in the United States mail or parcel post directed
26 to a point outside of Iowa, or transports to a point outside
27 of Iowa by means of the ~~seller's~~ retailer's own vehicles, and
28 which is not thereafter returned to a point within Iowa,
29 except solely in the course of interstate commerce or
30 transportation. This exemption shall not apply if the
31 purchaser, consumer, or their agent, other than a carrier,
32 takes physical possession of the property in Iowa.

33 Sec. 17. Section 422.47, subsection 3, paragraphs a and b,
34 Code 1999, are amended to read as follows:

35 a. The department shall issue or the seller may separately

1 provide exemption certificates in the form prescribed by the
2 director to assist retailers in properly accounting for
3 nontaxable sales of tangible personal property or services to
4 purchasers for ~~purposes of resale or for processing~~, except
5 ~~fuel consumed in processing~~ a nontaxable purpose. The
6 department shall also allow the use of exemption certificates
7 for those circumstances in which a sale is taxable but the
8 seller is not obligated to collect tax from the buyer.

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 a nontaxable purpose and is not a retail sale as
15 defined in section 422.42, subsection 14, or the seller is not
16 obligated to collect tax due, or unless the seller takes a
17 fuel exemption certificate pursuant to subsection 4. If the
18 tangible personal property or services are purchased tax free
19 pursuant to a valid exemption certificate which is taken in
20 good faith by the seller, and the tangible personal property
21 or services are used or disposed of by the purchaser in a
22 nonexempt manner, the purchaser is solely liable for the taxes
23 and shall remit the taxes directly to the department and
24 sections 422.50, 422.51, 422.52, 422.54, 422.55, 422.56,
25 422.57, 422.58, and 422.59 shall apply to the purchaser.

26 Sec. 18. Section 422.47, subsection 3, paragraph e, Code
27 1999, is amended to read as follows:

28 e. If the circumstances change and as a result the
29 tangible personal property or services are used or disposed of
30 by the purchaser in a nonexempt manner or the purchaser
31 becomes obligated to pay the tax, the purchaser is liable
32 solely for the taxes and shall remit the taxes directly to the
33 department in accordance with this subsection.

34 Sec. 19. Section 422.47, subsection 4, paragraph c, Code
35 1999, is amended to read as follows:

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

31 Sec. 20. Section 422.50, Code 1999, is amended to read as
32 follows:

33 422.50 RECORDS REQUIRED.

34 It shall be the duty of every retailer required to make a
35 ~~report~~ return and pay any tax under this division, to preserve

1 those records of the gross ~~proceeds-of~~ receipts from sales or
2 services as the director may require and it shall be the duty
3 of every retailer to preserve for a period of five years all
4 invoices and other records of goods, wares, merchandise, or
5 ~~services purchased-for-resale~~; and all these books, invoices,
6 and other records shall be open to examination at any time by
7 the department, and shall be made available within this state
8 for examination upon reasonable notice when the director
9 orders.

10 Sec. 21. Section 422.52, subsection 3, unnumbered
11 paragraph 2, Code 1999, is amended by striking the unnumbered
12 paragraph.

13 Sec. 22. Section 422.68, subsection 4, Code 1999, is
14 amended to read as follows:

15 4. The department may make photostat, microfilm, or other
16 photographic copies of records, reports, and other papers
17 either filed by the taxpayer or prepared by the department.
18 In addition, the department may create and use any system of
19 recordkeeping reasonably calculated to preserve its records
20 for any time period required by law. When such photostat, or
21 microfilm, or other copies have been made, the department may
22 destroy such the original records which are the basis for the
23 copies in such any manner as prescribed by the director. Such
24 photostat-or Photostat, microfilm, or other types of copies,
25 when no longer of use, may be destroyed as provided in
26 subsection 3. Such-photostat Photostat, microfilm, or other
27 photographic records shall be admissible in evidence when duly
28 certified and authenticated by the officer having custody and
29 control thereof of them.

30 Sec. 23. Section 422.72, subsection 1, unnumbered
31 paragraph 1, Code 1999, is amended to read as follows:

32 It is unlawful for the director, or any person having an
33 administrative duty under this chapter, or any present or
34 former officer or other employee of the state authorized by
35 the director to examine returns, to divulge in any manner

1 whatever, the business affairs, operations, or information
2 obtained by an investigation under this chapter of records and
3 equipment of any person visited or examined in the discharge
4 of official duty, or the amount or source of income, profits,
5 losses, expenditures or any particular thereof, set forth or
6 disclosed in any return, or to permit any return or copy of a
7 return or any book containing any abstract or particulars
8 thereof to be seen or examined by any person except as
9 provided by law. It is unlawful for any person to willfully
10 inspect, except as authorized by the director, any return or
11 return information. However, the director may authorize
12 examination of such state returns and other state information
13 which is confidential under this section, if a reciprocal
14 arrangement exists, by tax officers of another state or the
15 federal government. The director may, by rules adopted
16 pursuant to chapter 17A, authorize examination of state
17 information and returns by other officers or employees of this
18 state to the extent required by their official duties and
19 responsibilities. Disclosure of state information to tax
20 officers of another state is limited to disclosures which have
21 a tax administrative purpose and only to officers of those
22 states which by agreement with this state limit the disclosure
23 of the information as strictly as the laws of this state
24 protecting the confidentiality of returns and information.
25 The director shall place upon the state tax form a notice to
26 the taxpayer that state tax information may be disclosed to
27 tax officials of another state or of the United States for tax
28 administrative purposes.

29 | Sec. 24. Section 422.110, Code 1999, is amended to read as
30 follows:

31 422.110 INCOME TAX CREDIT IN LIEU OF REFUND.

32 In lieu of the fuel tax refund provided in sections section
33 452A.17 to-452A-19, a person or corporation subject to
34 taxation under divisions II or III of this chapter ~~7-except~~
35 ~~persons-or-corporations-licensed-under-section-452A-47~~ may

1 elect to receive an income tax credit for-tax-years-beginning
2 on-or-after-January-1,-1975. The person or corporation which
3 elects to receive an income tax credit shall cancel its refund
4 permit obtained under section 452A.18 within thirty days after
5 the first day of its tax year or the permit becomes invalid at
6 that time. For the purposes of this section, "person"
7 includes a person claiming a tax credit based upon the
8 person's pro rata share of the earnings from a partnership,
9 limited liability company, or corporation which is not subject
10 to a tax under division II or III of this chapter as a
11 partnership, limited liability company, or corporation. If
12 the election to receive an income tax credit has been made, it
13 remains effective for at least one tax year, and for
14 subsequent tax years unless a change is requested and a new
15 refund permit applied for within thirty days after the first
16 day of the person's or corporation's tax year. The income tax
17 credit shall be the amount of the Iowa fuel tax paid on fuel
18 purchased by the person or corporation and used-as-follows: is
19 subject to the conditions provided in section 452A.17 with the
20 exception that the income tax credit is not available for
21 refunds relating to casualty losses, transport diversions,
22 pumping credits, blending errors, idle time, power takeoffs,
23 reefer units, and exports by eligible purchasers.

24 1.--Motor-fuel-as-defined-in-section-452A-2,-subsection-17
25 used-for-the-purpose-of-operating-or-propelling-farm-tractors,
26 corn-shellers,-roller-mills,-truck-mounted-feed-grinders,
27 stationary-engines,-for-producing-denatured-alcohol-within-the
28 state,-for-cleaning-or-dyeing,-or-for-any-purpose-other-than
29 in-watercraft-or-aircraft-or-in-motor-vehicles-operated-or
30 intended-to-be-operated-upon-the-public-highways.

31 2.--Special-fuel,-as-defined-in-section-452A-2,-used-for
32 the-purpose-of-operation-of-corn-shellers,-roller-mills,-and
33 feed-grinders-mounted-on-trucks.

34 3.--Motor-fuel-placed-in-motor-vehicles-and-used,-other
35 than-on-public-highways,-in-the-extraction-and-processing-of

1 natural-deposits-

2 4.--Motor-fuel-or-special-fuel-used-by-a-bona-fide
3 commercial-fisher,-licensed-and-operating-under-an-owner's
4 certificate-for-commercial-fishing-gear-issued-pursuant-to
5 section-482.4-

6 However,-no-credit-shall-be-given-with-respect-to-motor
7 fuel-taken-out-of-the-state-in-fuel-supply-tanks-of-motor
8 vehicles,-motor-fuel-used-in-aircraft-or-watercraft,-or-motor
9 fuel-used-in-the-performance-of-a-contract-which-is-paid-out
10 of-state-funds-unless-the-contract-for-the-work-contains-a
11 certificate-made-under-penalty-for-false-certificate-that-the
12 estimate,-bid-or-price-to-be-paid-for-the-work-includes-no
13 amount-representing-motor-fuel-tax-subject-to-a-credit. The
14 right to a credit under this section is not assignable and the
15 credit may be claimed only by the person or corporation that
16 purchased the fuel.

17 Sec. 25. Section 422.111, unnumbered paragraph 1, Code
18 1999, is amended to read as follows:

19 The fuel tax credit may be applied against the income tax
20 liability of the person or corporation as determined on the
21 tax return filed for the year in which the fuel tax was paid.
22 The department shall provide forms for claiming the fuel tax
23 credit. If the fuel tax credit would result in an overpayment
24 of income tax, the person or corporation may apply for a
25 refund of the amount of overpayment or may have the
26 overpayment credited to income tax due in subsequent years.
27 Each person or corporation that claims a fuel tax credit shall
28 maintain the original invoices showing the purchase of the
29 fuel on which a credit is claimed. No An invoice is not
30 acceptable in support of a claim for credit unless it the
31 invoice is a separate serially numbered invoice covering no
32 more than one purchase of motor fuel or undyed special fuel,
33 prepared by the seller on a form approved by the department,
34 nor-unless-it or unless the invoice is legibly written with no
35 corrections or erasures and shows the date of sale, the name

1 and address of the seller and of the purchaser, the kind of
2 fuel, the gallonage in figures, the per gallon price of the
3 fuel, the total purchase price including the Iowa fuel tax,
4 and that the total purchase price has been paid. However, as
5 to refund invoices made on a billing machine the department
6 may waive these requirements. If an original invoice is lost
7 or destroyed, the department may approve a credit supported by
8 a copy identified and certified by the seller as being a true
9 copy of the original. Each person or corporation that claims
10 a fuel tax credit shall maintain complete records of purchases
11 of motor fuel or undyed special fuel on which Iowa fuel tax
12 was paid, and for which a fuel tax credit is claimed.

13 | Sec. 26. Section 422.111, unnumbered paragraph 3, Code
14 1999, is amended by striking the unnumbered paragraph.

15 | Sec. 27. Section 422.121, Code 1999, is amended to read as
16 follows:

17 | 422.121 APPROPRIATION -- LIMITATION.

18 | Beginning with the fiscal year beginning July 1, 1997,
19 there is appropriated annually from the general fund of the
20 state two million dollars to refund the credits allowed under
21 this division. Notwithstanding section 422.120, for tax years
22 beginning on or after January 1, 1997, the livestock
23 production tax credit shall only be allowed for cow-calf
24 operations. In calculating the tax credit for cow-calf
25 operations for tax years beginning in the 1997 calendar year,
26 mature beef cows bred or for breeding, bred yearling heifers,
27 and breeding bulls in the operations' inventory on December 31
28 of the tax year which were also in the operations on July 1 of
29 the tax year and stockers and feeders sold during the tax year
30 may be counted. In calculating the tax credit for cow-calf
31 operations for tax years beginning on or after January 1,
32 1998, only those bred cows, bred heifers, and breeding bulls
33 in the operations' inventory on December 31 of the tax year
34 which were also in the operations on July 1 of the tax year
35 may be counted.

1 Sec. 28. Section 422B.10, subsection 2, paragraph c, Code
2 1999, is amended to read as follows:

3 | c. The director of revenue and finance shall remit a final
4 payment of the remainder of tax moneys due the city or county
5 for the fiscal year before November 10 of the next fiscal
6 year. If an overpayment has resulted during the previous
7 fiscal year, the first November ~~payment of the new fiscal year~~
8 shall be adjusted to reflect any overpayment.

9 Sec. 29. Section 422D.3, unnumbered paragraph 4, Code
10 1999, is amended to read as follows:

11 The director, in consultation with local officials, shall
12 collect and account for a local income surtax and any interest
13 and penalties. The director shall credit local income surtax
14 receipts and any interest and penalties collected from returns
15 filed on or before November 1 of the calendar year following
16 the tax year for which the local income surtax is imposed to a
17 "local income surtax fund" established in the ~~office of the~~
18 treasurer of state department of revenue and finance. All
19 local income surtax receipts and any interest and penalties
20 received or refunded from returns filed after November 1 of
21 the calendar year following the tax year for which the local
22 income surtax is imposed shall be deposited in or withdrawn
23 from the state general fund and shall be considered part of
24 the cost of administering the local income surtax.

25 | Sec. 30. Section 424.10, subsections 2 and 3, Code 1999,
26 are amended to read as follows:

27 2. If a return required by this chapter is not filed, or
28 if a return when filed is incorrect or insufficient and the
29 maker fails to file a corrected or sufficient return within
30 twenty days after the return is required by notice from the
31 department, the department shall determine the amount of
32 charge due from information as the department may be able to
33 obtain and, if necessary, may estimate the charge on the basis
34 of external indices or factors. The department shall give
35 notice of the determination to the person liable for the

1 charge. The determination shall fix the charge unless the
2 person against whom it is assessed shall, within sixty days
3 after the ~~giving-of~~ date of the notice of the determination,
4 apply to the director for a hearing or unless the taxpayer
5 contests the determination by paying the tax, interest, and
6 penalty and timely filing a claim for refund. At the hearing
7 evidence may be offered to support the determination or to
8 prove that it is incorrect. After the hearing the director
9 shall give notice of the decision to the person liable for the
10 charge.

11 If a depositor's, receiver's, or other person's challenge
12 relates to the diminution rate, the burden of proof upon the
13 challenger shall only be satisfied by clear and convincing
14 evidence.

15 3. If the amount paid is greater than the correct charge,
16 penalty, and interest due, the department shall refund the
17 excess, with interest after sixty days from the date of
18 payment at the rate in effect under section 421.7, pursuant to
19 rules prescribed by the director. However, the director shall
20 not allow a claim for refund that has not been filed with the
21 department within five years after the charge payment upon
22 which a refund is claimed became due, or one year after the
23 charge payment was made, whichever time is later. A
24 determination by the department of the amount of charge,
25 penalty, and interest due, or the amount of refund for any
26 excess amount paid, is final unless the person aggrieved by
27 the determination appeals to the director for a revision of
28 the determination within ~~thirty~~ sixty days from the postmark
29 date of the notice of determination of charge, penalty, and
30 interest due or refund owing. The director shall grant a
31 hearing, and upon hearing the director shall determine the
32 correct charge, penalty, and interest due or refund owing, and
33 notify the appellant of the decision by mail. The decision of
34 the director is final unless the appellant seeks judicial
35 review of the director's decision under section 424.13.

1 Sec. 31. Section 427.1, subsection 14, unnumbered
2 paragraph 1, Code 1999, is amended to read as follows:
3 A society or organization claiming an exemption under
4 subsection 5 or subsection 8 ~~of this section~~ shall file with
5 the assessor not later than ~~July 1~~ April 15 a statement upon
6 forms to be prescribed by the director of revenue and finance,
7 describing the nature of the property upon which the exemption
8 is claimed and setting out in detail any uses and income from
9 the property derived from the rentals, leases, or other uses
10 of the property not solely for the appropriate objects of the
11 society or organization. Upon the filing and allowance of the
12 claim, the claim shall be allowed on the property for
13 successive years without further filing as long as the
14 property is used for the purposes specified in the original
15 claim for exemption. When the property is sold or
16 transferred, the county recorder shall provide notice of the
17 transfer to the assessor. The notice shall describe the
18 property transferred and the name of the person to whom title
19 to the property is transferred.

20 Sec. 32. Section 427.1, subsection 24, Code 1999, is
21 amended to read as follows:

22 24. LAND CERTIFIED AS A WILDLIFE HABITAT. The owner of
23 agricultural land may designate not more than two acres of the
24 land for use as a wildlife habitat. After inspection, if the
25 land meets the standards established by the natural resource
26 commission for a wildlife habitat under section 483A.3, the
27 department of natural resources shall certify the designated
28 land as a wildlife habitat and shall send a copy of the
29 certification to the appropriate assessor not later than
30 February 1 of the assessment year for which the exemption is
31 requested. The department of natural resources may
32 subsequently withdraw certification of the designated land if
33 it fails to meet the established standards for a wildlife
34 habitat and the assessor shall be given written notice of the
35 decertification.

1 Sec. 33. Section 428.1, unnumbered paragraph 1, Code 1999,
2 is amended to read as follows:

3 Every person shall list for the assessor all property
4 subject to taxation in the state, of which the person is the
5 owner, or has the control or management, ~~in the following~~
6 manner including but not limited to the following:

7 Sec. 34. Section 429.2, subsection 1, Code 1999, is
8 amended to read as follows:

9 1. Notwithstanding the provisions of chapter 17A, the
10 taxpayer shall have thirty days from the date of ~~postmark~~ of
11 the notice of assessment to appeal the assessment to the state
12 board of tax review. Thereafter, the proceedings before the
13 state board of tax review shall conform to the provisions of
14 subsection 2, section 421.1, subsection 4, and chapter 17A.

15 Sec. 35. Section 450.22, Code 1999, is amended to read as
16 follows:

17 450.22 ADMINISTRATION AVOIDED -- INHERITANCE TAX DUTIES
18 REQUIRED.

19 When the heirs or persons entitled to inherit the property
20 of an estate subject to tax under this chapter desire to avoid
21 the appointment of a personal representative as provided in
22 section 450.21, and in all instances where real estate is
23 involved and there are no regular probate proceedings, they or
24 one of them shall file under oath the inventories required by
25 section 633.361 and the required reports, perform all the
26 duties required by this chapter of the personal
27 representative, and file the inheritance tax return. However,
28 this section does not apply and a return is not required even
29 though real estate is part of the assets subject to tax under
30 this chapter, if all of the assets are held in joint tenancy
31 with right of survivorship between husband and wife alone, or
32 if the estate exclusively consists of property held in joint
33 tenancy with the right of survivorship solely by the decedent
34 and any individuals listed in section 450.9 as individuals
35 that are entirely exempt from Iowa inheritance tax and the

1 estate does not have a federal estate tax obligation. When
2 this section applies, proceedings for the collection of the
3 tax when a personal representative is not appointed, shall
4 conform as nearly as possible to proceedings under this
5 chapter in other cases.

6 | Sec. 36. Section 450.37, Code 1999, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 3. In addition to the applicable period
9 of limitation for examination and determination, the
10 department shall make an examination to adjust the value of
11 real property for Iowa inheritance tax purposes to the value
12 accepted by the internal revenue service for federal estate
13 tax purposes. The department shall make an examination and
14 adjustment for the value of the real property at any time
15 within six months from the date of receipt by the department
16 of written notice from the personal representative for the
17 estate that all federal estate tax matters between the estate
18 and the internal revenue service have been concluded. To
19 begin the running of the six-month period, the notice shall be
20 in writing in a form sufficient to inform the department of
21 the final disposition of the federal estate tax obligation
22 with the internal revenue service and a copy of the federal
23 document showing the final disposition and final federal
24 adjustments of all real property values must be attached. The
25 department shall make an adjustment to the value of real
26 property for inheritance tax purposes to the value accepted
27 for federal estate tax purposes regardless of whether an
28 inheritance clearance has been issued, an appraisal has been
29 obtained on the real property indicating a contrary value,
30 whether there has been an acceptance of another value for real
31 property by the department, or whether an agreement has been
32 entered into by the department and the personal representative
33 for the estate and persons having an interest in the real
34 property regarding the value of the real property.
35 Notwithstanding the period of limitation specified in section

1 450.94, subsection 3, the personal representative for the
2 estate shall have six months from the day of final disposition
3 of any real property valuation matter between the personal
4 representative for the estate and the internal revenue service
5 to claim a refund of an overpayment of tax due to the change
6 in the valuation of real property by the internal revenue
7 service.

8 Sec. 37. Section 450.94, subsections 2 and 3, Code 1999,
9 are amended to read as follows:

10 2. The taxpayer shall file an inheritance tax return on
11 forms to be prescribed by the director of revenue and finance
12 on or before the last day of the ninth month after the death
13 of the decedent. When an inheritance tax return is filed, the
14 department shall examine it and determine the correct amount
15 of tax. If the amount paid is less than the correct amount
16 due, the department shall notify the taxpayer of the total
17 amount due together with any penalty and interest which shall
18 be a sum certain if paid on or before the last day of the
19 month in which the notice is postmarked dated, or on or before
20 the last day of the following month if the notice is
21 postmarked dated after the twentieth day of a month and before
22 the first day of the following month.

23 3. If the amount paid is greater than the correct tax,
24 penalty, and interest due, the department shall refund the
25 excess with interest. Interest shall be computed at the rate
26 in effect under section 421.7, under the rules prescribed by
27 the director counting each fraction of a month as an entire
28 month and the interest shall begin to accrue on the first day
29 of the second calendar month following the date of payment or
30 on the date the return was due to be filed or was filed,
31 whichever is the latest. However, the director shall not
32 allow a claim for refund or credit that has not been filed
33 with the department within three years after the tax payment
34 upon which a refund or credit is claimed became due, or one
35 year after the tax payment was made, whichever time is later.

1 A determination by the department of the amount of tax,
2 penalty, and interest due, or the amount of refund for excess
3 tax paid, is final unless the person aggrieved by the
4 determination appeals to the director for a revision of the
5 determination within sixty days from the postmark date of the
6 notice of determination of tax, penalty, and interest due or
7 refund owing or unless the taxpayer contests the determination
8 by paying the tax, interest, and penalty and timely filing a
9 claim for refund. The director shall grant a hearing, and
10 upon the hearing the director shall determine the correct tax,
11 penalty, and interest or refund due, and notify the appellant
12 of the decision by mail. The decision of the director is
13 final unless the appellant seeks judicial review of the
14 director's decision under section 450.59 within sixty days
15 after the postmark date of the notice of the director's
16 decision.

17 Sec. 38. Section 451.12, Code 1999, is amended to read as
18 follows:

19 451.12 APPLICABLE STATUTES -- PENALTIES.

20 All the provisions of chapter 450 with respect to the lien
21 provisions of section 450.7, and the determination,
22 imposition, payment, and collection of the tax imposed under
23 that chapter, including penalty and interest upon delinquent
24 taxes and the confidentiality of the tax return, are
25 applicable to this chapter, except as they are in conflict
26 with this chapter. The exceptions to the lien provisions
27 found in section 450.7 do not apply to this chapter. The
28 penalty provisions set out in section 450.53 shall apply to a
29 person in possession of assets to be reported for purposes of
30 taxation who willfully makes a false or fraudulent return or
31 willfully fails to pay the tax, supply the information, make,
32 sign, or file the required return within the time required by
33 law or a person who willfully attempts in any manner to evade
34 taxes imposed by this chapter or avoid payment of the tax.
35 The director of revenue and finance shall adopt rules

1 necessary for the enforcement of this chapter.

2 Sec. 39. Section 452A.2, subsection 11, Code 1999, is
3 amended to read as follows:

4 11. "Exporter" means a person or other entity who acquires
5 fuel in this state exclusively for export to another state.

6 Sec. 40. Section 452A.2, subsection 17, paragraph a, Code
7 1999, is amended to read as follows:

8 a. All products commonly or commercially known or sold as
9 gasoline, (including casinghead and absorption or natural
10 gasoline), regardless of their classifications or uses, and
11 including transmix which serves as a buffer between fuel
12 products in the pipeline distribution process.

13 Sec. 41. Section 452A.3, subsection 5, paragraph b, Code
14 1999, is amended to read as follows:

15 b. The person who owns or-causes the fuel to-be at the
16 time it is brought into the state by a restrictive supplier or
17 importer, upon the invoiced gross gallonage of motor fuel or
18 undyed special fuel imported.

19 Sec. 42. Section 452A.8, subsection 1, unnumbered
20 paragraph 1, Code 1999, is amended to read as follows:

21 For the purpose of determining the amount of the
22 supplier's, restrictive supplier's, or importer's tax
23 liability, a supplier or restrictive supplier shall file a
24 return, not later than the last day of the month following the
25 month in which this division becomes effective and not later
26 than the last day of each calendar month thereafter, and an
27 importer shall file a report return semi-monthly with the
28 department, signed under penalty for false certification. For
29 an importer for the reporting period from the first day of the
30 month through the fifteenth of the month, the report return is
31 due on the last day of the month. For an importer for the
32 reporting period from the sixteenth of the month through the
33 last day of the month, the report return is due on the
34 fifteenth day of the following month. The reports returns
35 shall include the following:

1 Sec. 43. Section 452A.8, subsection 2, unnumbered
2 paragraph 1, Code 1999, is amended to read as follows:

3 At the time of filing a report return, a supplier or
4 restrictive supplier shall pay to the department the full
5 amount of the fuel tax due for the preceding calendar month.
6 An importer shall pay to the department the full amount of
7 fuel tax due for the preceding semimonthly period. The tax
8 shall be computed as follows:

9 Sec. 44. Section 452A.8, subsection 2, paragraph d, Code
10 1999, is amended to read as follows:

11 d. The director may require by rule that reports and
12 returns be filed by electronic transmission.

13 Sec. 45. Section 452A.8, subsection 3, Code 1999, is
14 amended to read as follows:

15 3. For the purpose of determining the amount of the tax
16 liability on alcohol blended to produce ethanol blended
17 gasoline, each licensed blender shall, not later than the last
18 day of each month following the month in which the blending is
19 done, file with the department a monthly report return, signed
20 under penalty for false certificate, containing information
21 required by rules adopted by the director.

22 Sec. 46. Section 452A.9, Code 1999, is amended to read as
23 follows:

24 | 452A.9 REPORT RETURNS FROM PERSONS NOT LICENSED AS
25 SUPPLIERS, RESTRICTIVE SUPPLIERS, OR IMPORTERS.

26 Every person other than a licensed supplier, restrictive
27 supplier, or importer, who purchases, brings into this state,
28 or otherwise acquires within this state motor fuel or undyed
29 special fuel, not otherwise exempted, which the person has
30 knowingly not paid or incurred liability to pay either to a
31 licensee or to a dealer the motor fuel or special fuel tax,
32 shall be subject to the provisions of this division that apply
33 to suppliers, restrictive suppliers, and importers of motor
34 fuel or undyed special fuel and shall make file the same
35 reports returns and make the same tax payments and be subject

1 to the same penalties for delinquent ~~reporting-or-nonreporting~~
2 filing or nonfiling or delinquent payment or nonpayment as
3 apply to suppliers, restrictive suppliers, and importers.

4 Sec. 47. Section 452A.15, subsection 3, Code 1999, is
5 amended to read as follows:

6 3. The reports required in this section shall be for
7 information purposes only and the department may in its
8 discretion waive the filing of any of these reports not
9 necessary for proper administration of this division. The
10 reports required in this section shall be certified under
11 penalty for false certificate and filed with the department
12 within the time allowed for filing of suppliers' and
13 restrictive suppliers' ~~reports~~ returns of motor fuel or
14 special fuel withdrawn from a terminal within this state or
15 imported into this state.

16 Sec. 48. Section 452A.17, subsection 1, paragraph a,
17 subparagraphs (4) and (6), Code 1999, are amended to read as
18 follows:

19 (4) Fuel used in unlicensed vehicles, stationary engines,
20 ~~and implements used in agricultural production,~~ and machinery
21 and equipment used for nonhighway purposes.

22 (6) Fuel used for idle time, power takeoffs, reefer units,
23 pumping credits, and transport diversions, fuel lost through
24 casualty, exports by ~~eligible-purchasers~~ distributors, and
25 blending errors for special fuel. The department shall adopt
26 rules setting forth specific requirements relating to refunds
27 for idle time, power takeoffs, reefer units, pumping credits,
28 and transport diversions, fuel lost through casualty, and
29 blending errors for special fuel.

30 Sec. 49. Section 452A.17, subsection 1, paragraph b,
31 subparagraphs (4) and (5), Code 1999, are amended to read as
32 follows:

33 (4) The claim shall state the gallonage of motor fuel or
34 ~~undyed-special-fuel~~ that was used or will be used by the
35 claimant other than in aircraft, watercraft, or to propel

1 motor vehicles and the gallonage of undyed special fuel that
2 was or will be used by the claimant other than in aircraft or
3 to propel motor vehicles, the manner in which the motor fuel
4 or undyed special fuel was used or will be used, and the
5 equipment in which it was used or will be used.

6 (5) The claim shall state whether the claimant used fuel
7 for aircraft, watercraft, or to propel motor vehicles from the
8 same tanks or receptacles in which the claimant kept the motor
9 fuel ~~or-undyed-special-fuel~~ on which the refund is claimed or
10 whether the claimant used fuel for aircraft or to propel motor
11 vehicles from the same tanks or receptacles in which the
12 claimant kept the undyed special fuel on which the refund is
13 claimed.

14 Sec. 50. Section 452A.17, subsection 2, Code 1999, is
15 amended to read as follows:

16 2. In lieu of the refund provided in this section, a
17 person may receive an income tax credit as provided in chapter
18 422, division IX, but only as to motor fuel ~~or-undyed-special~~
19 ~~fuel~~ not used in motor vehicles, aircraft, or watercraft or as
20 to undyed special fuel not used in motor vehicles or aircraft.

21 Sec. 51. Section 452A.17, subsection 3, paragraph b, Code
22 1999, is amended to read as follows:

23 b. A refund shall not be paid with respect to any motor
24 fuel ~~or-undyed-special-fuel~~ taken out of this state in supply
25 tanks of watercraft, aircraft, or motor vehicles or with
26 respect to any undyed special fuel taken out of this state in
27 supply tanks of aircraft or motor vehicles.

28 Sec. 52. Section 452A.17, subsection 3, paragraph c, Code
29 1999, is amended by striking the paragraph.

30 Sec. 53. Section 452A.21, unnumbered paragraph 1, Code
31 1999, is amended to read as follows:

32 Persons not licensed under this division who blend motor
33 fuel and alcohol to produce ethanol blended gasoline may file
34 for a refund for the difference between taxes paid on the
35 motor fuel purchased to produce ethanol blended gasoline and

1 the tax due on the ethanol blended gasoline blended. If,
2 during any month, a person licensed under this division uses
3 tax paid motor fuel to blend ethanol blended gasoline and the
4 refund otherwise due under this section is greater than the
5 licensee's total tax liability for that month, the licensee is
6 entitled to a credit. The claim for credit shall be filed as
7 part of the report return required by section 452A.8.

8 Sec. 54. Section 452A.21, unnumbered paragraph 3, Code
9 1999, is amended to read as follows:

10 A refund shall not be issued unless the claim is filed
11 within ninety-days one year following the end of the month
12 during which the ethanol blended gasoline was actually
13 blended. An income tax credit is not allowed under this
14 section.

15 Sec. 55. NEW SECTION. 452A.22 TAX COLLECTED ON EXEMPT
16 FUEL.

17 If an amount of tax represented by a licensee to a
18 purchaser as constituting tax due is computed upon gallonage
19 that is not taxable or the amount represented is in excess of
20 the actual amount of tax due and the amount represented is
21 actually paid by the purchaser to the licensee, the excess
22 amount of tax paid shall be returned to the purchaser by the
23 licensee. If the licensee fails to return the excess tax paid
24 to the purchaser, the amount which the purchaser has paid to
25 the licensee shall be remitted by the licensee to the
26 department.

27 Sec. 56. Section 452A.60, unnumbered paragraph 1, Code
28 1999, is amended to read as follows:

29 The department of revenue and finance or the state
30 department of transportation shall prescribe and furnish all
31 forms, as applicable, upon which reports, returns, and
32 applications shall be made and claims for refund presented
33 under this chapter and may prescribe forms of record to be
34 kept by suppliers, restrictive suppliers, importers,
35 exporters, blenders, common carriers, contract carriers,

1 licensed compressed natural gas and liquefied petroleum gas
2 dealers and users, terminal operators, and interstate
3 commercial motor vehicle operators.

4 Sec. 57. Section 452A.61, Code 1999, is amended to read as
5 follows:

6 452A.61 TIMELY FILING OF REPORTS AND RETURNS -- EXTENSION.

7 The reports, returns, and remittances required under this
8 chapter shall be deemed filed within the required time if
9 postpaid, properly addressed and postmarked on or before
10 midnight of the day on which due and payable. If the final
11 filing date falls on a Saturday, Sunday or legal holiday the
12 next secular or business day shall be the final filing date.

13 The department of revenue and finance or the state
14 department of transportation upon application may grant a
15 reasonable extension of time for the filing of any required
16 report, return, or tax payment, ~~or-both~~.

17 Sec. 58. Section 452A.63, Code 1999, is amended to read as
18 follows:

19 452A.63 INFORMATION CONFIDENTIAL.

20 All information obtained by the department of revenue and
21 finance or the state department of transportation from the
22 examining of reports, returns, or records required to be filed
23 or kept under this chapter shall be treated as confidential
24 and shall not be divulged except to other state officers, a
25 member or members of the general assembly, or any duly
26 appointed committee of either or both houses of the general
27 assembly, or to a representative of the state having some
28 responsibility in connection with the collection of the taxes
29 imposed or in proceedings brought under ~~the-provisions-of~~ this
30 chapter. The appropriate state agency may make available to
31 the public on or before forty-five days following the last day
32 of the month in which the tax is required to be paid, the
33 names of suppliers, restrictive suppliers, and importers and
34 as to each of them the total gallons of motor fuel, undyed
35 special fuel, and ethanol-blended gasoline withdrawn from

1 terminals or imported into the state during that month. The
2 department of revenue and finance or the state department of
3 transportation, upon request of officials entrusted with
4 enforcement of the motor vehicle fuel tax laws of the federal
5 government or any other state, may forward to such these
6 officials any pertinent information which the appropriate
7 state agency may have relative to motor fuel and special fuel
8 provided the officials of the other state furnish like
9 information.

10 Any person violating ~~the provisions of~~ this section, and
11 disclosing the contents of any records, returns, or reports
12 required to be kept or made under ~~the provisions of~~ this
13 chapter, except as otherwise provided, shall be guilty of a
14 simple misdemeanor.

15 Sec. 59. Section 452A.67, Code 1999, is amended to read as
16 follows:

17 452A.67 LIMITATION ON COLLECTION PROCEEDINGS.

18 The department shall examine the return and enforce
19 collection of any amount of tax, penalty, fine, or interest
20 over and above the amount shown to be due by reports the
21 return filed by a licensee as soon as practicable but no later
22 than three years after the return is filed. An assessment
23 shall not be made covering a period beyond three years after
24 the return is filed except that the period for the examination
25 and determination of the correct amount of tax is unlimited in
26 the case of a false or fraudulent return made with the intent
27 to evade tax or in the case of a failure to file a return.

28 The three-year period of limitation may be extended by a
29 taxpayer by signing a waiver agreement form to be provided by
30 the department. The agreement must stipulate the period of
31 extension and the tax period to which the extension applies.
32 The agreement must also provide that a claim for refund may be
33 filed by the taxpayer at any time during the period of
34 extension.

35 Sec. 60. Section 452A.68, unnumbered paragraph 1, Code

1 1999, is amended to read as follows:

2 | If a licensee files a false report return of the data or
3 information required by this chapter, or fails, refuses, or
4 neglects to file a report return required by this chapter, or
5 to pay the full amount of fuel tax as required by this
6 chapter, or is substantially delinquent in paying a tax due,
7 owing, and administered by the department of revenue and
8 finance, and interest and penalty if appropriate, or if the
9 person is a corporation and if any officer having a
10 substantial legal or equitable interest in the ownership of
11 the corporation owes any delinquent tax of the licensee
12 corporation, or interest or penalty on the tax, administered
13 by the department, then after ten days' written notice by mail
14 directed to the last known address of the licensee setting a
15 time and place at which the licensee may appear and show cause
16 why the license should not be canceled, and if the licensee
17 fails to appear or if upon the hearing it is shown that the
18 licensee failed to correctly report or pay the tax, the
19 appropriate state agency may cancel the license and shall
20 notify the licensee of the cancellation by mail to the
21 licensee's last known address.

22 | Sec. 61. Section 452A.74A, subsection 7, Code 1999, is
23 amended to read as follows:

24 | 7. FALSE OR FRAUDULENT REPORT OR RETURN. Any person,
25 including an officer of a corporation or a manager of a
26 limited liability company, who is required to make, render,
27 sign, or verify any report or return required by this chapter
28 and who makes a false or fraudulent report or return, or who
29 fails to file a report or return with the intent to evade the
30 tax, shall be guilty of a fraudulent practice. Any person who
31 aids, abets, or assists another person in making any false or
32 fraudulent report or return or false statement in any report
33 or return with the intent to evade payment of tax shall be
34 guilty of a fraudulent practice.

35 | Sec. 62. Section 452A.86, Code 1999, is amended to read as

1 follows:

2 452A.86 METHOD OF DETERMINING GALLONAGE.

3 The exclusive method of determining gallonage of any
4 purchases or sales of motor fuel, undyed special fuel,
5 compressed natural gas, or liquefied petroleum gas as defined
6 in this chapter and distillate fuels shall be on a gross
7 volume basis. A temperature-adjusted or other method shall
8 not be used, except as it applies to liquefied petroleum gas
9 and the sale or exchange of petroleum products between
10 petroleum refiners. All invoices, bills of lading, or other
11 records of sale or purchase and all reports returns or records
12 required to be made, kept, and maintained by a supplier,
13 restrictive supplier, importer, exporter, blender, or
14 compressed natural gas or liquefied petroleum gas dealer or
15 user shall be made, kept, and maintained on the gross volume
16 basis. For purposes of this section, "distillate fuels" means
17 any fuel oil, gas oil, topped crude oil, or other petroleum
18 oils derived by refining or processing crude oil or unfinished
19 oils which have a boiling range at atmospheric pressure which
20 falls completely or in part between five hundred fifty and
21 twelve hundred degrees Fahrenheit.

22 Sec. 63. Section 453A.6, subsection 3, Code 1999, is
23 amended to read as follows:

24 3. Payment of such the tax shall be evidenced by stamps
25 purchased from the department by a distributor or manufacturer
26 and securely affixed to each individual package of cigarettes
27 in amounts equal to the tax thereon as imposed by this
28 chapter, or by the impressing of an indicium upon individual
29 packages of cigarettes, under regulations prescribed by the
30 director.

31 Sec. 64. Section 453A.6, Code 1999, is amended by adding
32 the following new subsections:

33 NEW SUBSECTION. 4. Any other person who purchases or is
34 in possession of unstamped cigarettes shall pay the tax
35 directly to the department.

1 NEW SUBSECTION. 5. The per cigarette amount of the tax
2 shall be added to the selling price of every package of
3 cigarettes sold in this state and shall be collected from the
4 purchaser so that the ultimate consumer bears the burden of
5 the tax.

6 Sec. 65. Section 453A.8, subsection 1, Code 1999, is
7 amended to read as follows:

8 1. Stamps shall be sold by and purchased from the
9 department. The department shall sell stamps to the holder of
10 a state distributor's or manufacturer's permit which has not
11 been revoked and to no other person. Stamps shall be sold to
12 the permit holders at a discount of two percent of the face
13 value. Stamps shall be sold in ~~unbroken books of one thousand~~
14 ~~stamps~~, unbroken rolls of thirty thousand stamps, or unbroken
15 lots of any other form authorized by the director.

16 Sec. 66. Section 453A.15, subsections 1, 3, 4, and 6, Code
17 1999, are amended to read as follows:

18 1. The director may prescribe the forms necessary for the
19 efficient administration of this division and may require
20 uniform books and records to be used and kept by each permit
21 holder or other person as deemed necessary. The director may
22 also require each permit holder or other person to keep and
23 retain in the director's possession evidence on prescribed
24 forms of all transactions involving the purchase and sale of
25 cigarettes or the purchase and use of stamps. The evidence
26 shall be kept for a period of two years from the date of each
27 transaction, for the inspection at all times by the
28 department.

29 3. The director may by regulation require every holder of
30 a manufacturer's or state permit or other person to make and
31 deliver to the department on or before the tenth day of each
32 month a report or reports for the preceding calendar month,
33 upon a form or forms prescribed by the director, and may
34 require that ~~such~~ the reports shall be properly sworn to and
35 executed by the permit holder or the holder's duly authorized

1 representative or other person.

2 4. Every permit holder or other person shall, when
3 requested by the department, make such additional reports as
4 the department deems necessary and proper and shall at the
5 request of the department furnish full and complete
6 information pertaining to any transaction of the permit holder
7 or other person involving the purchase or sale or use of
8 cigarettes or purchase of cigarette stamps.

9 6. If any distributor, manufacturer, or other person fails
10 or refuses to pay any tax, penalties, or cost of audit
11 hereinafter provided, and it becomes necessary to bring suit
12 or to intervene in any manner for the establishment or
13 collection of said claims, in any judicial proceedings, any
14 report filed in the office of the director by such the
15 distributor, manufacturer, or other person, or the
16 distributor's, manufacturer's, or other person's
17 representative, or a copy thereof, certified to by the
18 director, showing the number of cigarettes sold by such the
19 distributor, or the distributor's representative, the
20 manufacturer, or the other person, upon which such a tax,
21 penalty, or cost of audit has not been paid, or any audit made
22 by the department from the books or records of said the
23 distributor, manufacturer, or other person when signed and
24 sworn to by the agent of the department making the audit as
25 being made from the records of said the distributor,
26 manufacturer, or other person from or to whom such the
27 distributor, manufacturer, or other person has bought,
28 received, or delivered cigarettes, whether from a
29 transportation company or otherwise, such report or audit
30 shall be admissible in evidence in such proceedings and shall
31 be prima facie evidence of the contents thereof, ~~provided,~~
32 ~~however, that.~~ However, the incorrectness of said the report
33 or audit may be shown.

34 Sec. 67. Section 453A.16, Code 1999, is amended to read as
35 follows:

1 453A.16 MANUFACTURER'S PERMIT.

2 The department may, upon application of any manufacturer,
3 issue without charge to ~~such~~ the manufacturer a manufacturer's
4 permit. ~~Such~~ The application shall contain ~~such~~ information
5 as the director shall prescribe. The holder of ~~such~~ a
6 manufacturer's permit ~~shall-be~~ is authorized to purchase
7 stamps from the department, and to must affix ~~such~~ stamps to
8 individual packages of cigarettes outside of this state, prior
9 to their shipment into the state unless the cigarettes are
10 shipped to an Iowa permitted distributor or an Iowa permitted
11 distributor's agent.

12 Sec. 68. Section 453A.28, Code 1999, is amended to read as
13 follows:

14 453A.28 ASSESSMENT OF TAX BY DEPARTMENT -- INTEREST --
15 PENALTY.

16 If after any audit, examination of records, or other
17 investigation the department finds that any person has sold
18 cigarettes without stamps affixed ~~thereto~~ or that any person
19 responsible for paying the tax has not done so as required by
20 this division, the department shall fix and determine the
21 amount of tax due, and shall assess the tax against the
22 person, together with a penalty as provided in section 421.27.
23 The taxpayer shall pay interest on the tax or additional tax
24 at the rate determined under section 421.7 counting each
25 fraction of a month as an entire month, computed from the date
26 the tax was due. If any person fails to furnish evidence
27 satisfactory to the director showing purchases of sufficient
28 stamps to stamp unstamped cigarettes purchased by the person,
29 the presumption shall be that the cigarettes were sold without
30 the proper stamps affixed ~~thereto~~. Within two years after the
31 return report is filed or within two years after the return
32 report became due, whichever is later, the department shall
33 examine the return report and determine the correct amount of
34 tax. The period for examination and determination of the
35 correct amount of tax is unlimited in the case of a false or

1 fraudulent report made with the intent to evade tax, or in the
2 case of a failure to file a report, or if a person purchases
3 or is in possession of unstamped cigarettes.

4 The two-year period of limitation may be extended by a
5 taxpayer by signing a waiver agreement form to be provided by
6 the department. The agreement must stipulate the period of
7 extension and the tax period to which the extension applies.
8 The agreement must also provide that a claim for refund may be
9 filed by the taxpayer at any time during the period of
10 extension.

11 Sec. 69. Section 453A.29, Code 1999, is amended to read as
12 follows:

13 453A.29 NOTICE AND APPEAL.

14 The department shall notify any person assessed pursuant to
15 section 453A.28 by sending a written notice of the
16 determination by mail to the principal place of business of
17 the person as shown on the person's application for permit,
18 and if an application was not filed by the person, to the
19 person's last known address. A determination by the
20 department of the amount of tax, penalty, and interest due, or
21 the amount of refund for excess tax paid, is final, unless the
22 person aggrieved by the determination appeals to the director
23 for a revision of the determination within sixty days from the
24 postmark date of the notice of determination of tax, penalty,
25 and interest or refund owing or unless the taxpayer contests
26 the determination by paying the tax, interest, and penalty and
27 timely filing a claim for refund. The director shall grant a
28 hearing and upon the hearing, the director shall determine the
29 correct tax, penalty, and interest or refund due and notify
30 the appellant of the decision by mail. Judicial review of
31 action of the director may be sought in accordance with the
32 Iowa administrative procedure Act and section 422.29.

33 Sec. 70. Section 453A.31, Code 1999, is amended by
34 striking the section and inserting in lieu thereof the
35 following:

1 453A.31 CIVIL PENALTY FOR CERTAIN VIOLATIONS.

2 If a permit holder fails to keep any of the records
3 required to be kept by the provisions of this division, or
4 sells cigarettes upon which a tax is required to be paid by
5 this division without at the time having a valid permit, or if
6 a distributor, wholesaler, manufacturer, or distributing agent
7 fails to make reports to the department as required, or makes
8 a false or incomplete report to the department, or if a
9 distributing agent stores unstamped cigarettes in the state or
10 distributes or delivers unstamped cigarettes within this state
11 without at the time of storage or delivery having a valid
12 permit, or if a person purchases or is in possession of
13 unstamped cigarettes, or if a person affected by this division
14 fails or refuses to abide by any of its provisions or the
15 rules adopted under this division, the person is civilly
16 liable to the state for a penalty as follows:

17 1. For possession of unstamped cigarettes:

18 a. A two hundred dollar penalty for the first violation if
19 a person is in possession of more than forty but not more than
20 four hundred unstamped cigarettes.

21 b. A five hundred dollar penalty for the first violation
22 if a person is in possession of more than four hundred but not
23 more than two thousand unstamped cigarettes.

24 c. A one thousand dollar penalty for the first violation
25 if a person is in possession of more than two thousand
26 unstamped cigarettes.

27 d. For a second violation within two years of the first
28 violation, the penalty is four hundred dollars if a person is
29 in possession of more than forty but not more than four
30 hundred unstamped cigarettes; one thousand dollars if a person
31 is in possession of more than four hundred but not more than
32 two thousand unstamped cigarettes; and two thousand dollars if
33 a person is in possession of more than two thousand unstamped
34 cigarettes.

35 e. For a third or subsequent violation within two years of

1 the first violation, the penalty is six hundred dollars if a
2 person is in possession of more than forty but not more than
3 four hundred unstamped cigarettes; one thousand five hundred
4 dollars if a person is in possession of more than four hundred
5 but not more than two thousand unstamped cigarettes; and three
6 thousand dollars if a person is in possession of more than two
7 thousand unstamped cigarettes.

8 2. For all other violations of this section:

9 a. A two hundred dollar penalty for the first violation.

10 b. A five hundred dollar penalty for a second violation
11 within two years of the first violation.

12 c. A thousand dollar penalty for a third or subsequent
13 violation within two years of the first violation.

14 The penalty imposed under this section shall be assessed
15 and collected pursuant to section 453A.28 and is in addition
16 to the tax, penalty, and interest imposed in that section.

17 Sec. 71. Section 453A.45, subsections 2, 3, and 4, Code
18 1999, are amended to read as follows:

19 2. Every person who sells tobacco products to persons
20 other than the ultimate consumer shall render with each sale
21 itemized invoices showing the seller's name and address, the
22 purchaser's name and address, the date of sale, and all prices
23 and discounts. The person shall preserve legible copies of
24 all such invoices for ~~one-year~~ two years from the date of
25 sale.

26 3. Every retailer and subjobber shall procure itemized
27 invoices of all tobacco products purchased. The invoices
28 shall show the name and address of the seller and the date of
29 purchase. The retailer and subjobber shall preserve a legible
30 copy of each such invoice for ~~one-year~~ two years from the date
31 of purchase. Invoices shall be available for inspection by
32 the director or the director's authorized agents or employees
33 at the retailer's or subjobber's place of business.

34 4. Records of all deliveries or shipments of tobacco
35 products from any public warehouse of first destination in

1 this state which is subject to the provisions of and licensed
2 under chapter 554 shall be kept by the warehouse and be
3 available to the director for inspection. They shall show the
4 name and address of the consignee, the date, the quantity of
5 tobacco products delivered, and such other information as the
6 commissioner may require. These records shall be preserved
7 for one-year two years from the date of delivery of the
8 tobacco products.

9 Sec. 72. Section 453A.46, subsections 1, 4, and 6, Code
10 1999, are amended to read as follows:

11 1. On or before the twentieth day of each calendar month
12 every distributor with a place of business in this state shall
13 file a return with the director showing the quantity and
14 wholesale sales price of each tobacco product brought, or
15 caused to be brought, into this state for sale; and made,
16 manufactured or fabricated in this state for sale in this
17 state, during the preceding calendar month. Every licensed
18 distributor outside this state shall in like manner file a
19 return showing the quantity and wholesale sales price of each
20 tobacco product shipped or transported to retailers in this
21 state to be sold by those retailers, during the preceding
22 calendar month. Returns shall be made upon forms furnished
23 and prescribed by the director and shall contain other
24 information as the director may require. Each return shall be
25 accompanied by a remittance for the full tax liability shown
26 on the return, less a discount as fixed by the director not to
27 exceed five percent of the tax. Within two years after the
28 return is filed or within two years after the return became
29 due, whichever is later, the department shall examine it,
30 determine the correct amount of tax, and assess the tax
31 against the taxpayer for any deficiency. The period for
32 examination and determination of the correct amount of tax is
33 unlimited in the case of a false or fraudulent return made
34 with the intent to evade tax, or in the case of a failure to
35 file a return.

1 The two-year period of limitation may be extended by a
2 taxpayer by signing a waiver agreement form to be provided by
3 the department. The agreement must stipulate the period of
4 extension and the tax period to which the extension applies.
5 The agreement must also provide that a claim for refund may be
6 filed by the taxpayer at any time during the period of
7 extension.

8 4. The department shall notify any person assessed
9 pursuant to this section by sending a written notice of the
10 determination by mail to the principal place of business of
11 the person as shown on the person's application for permit,
12 and if an application was not filed by the person, to the
13 person's last known address. A determination by the
14 department of the amount of tax, penalty, and interest due, or
15 the amount of refund for excess tax paid, is final, unless the
16 person aggrieved by the determination appeals to the director
17 for a revision of the determination within sixty days from the
18 postmark date of the notice of determination of tax, penalty,
19 and interest or refund owing or unless the taxpayer contests
20 the determination by paying the tax, interest, and penalty and
21 timely filing a claim for refund. The director shall grant a
22 hearing and upon the hearing, the director shall determine the
23 correct tax, penalty, and interest or refund due and notify
24 the appellant of the decision by mail. Judicial review of
25 action of the director may be sought in accordance with
26 chapter 17A and section 422.29.

27 6. On or before the twentieth day of each calendar month,
28 every consumer who, during the preceding calendar month, has
29 acquired title to or possession of tobacco products for use or
30 storage in this state, upon which tobacco products the tax
31 imposed by section 453A.43 has not been paid, shall file a
32 return with the director showing the quantity of tobacco
33 products so acquired. The return shall be made upon a form
34 furnished and prescribed by the director, and shall contain
35 such other information as the director may require. The

1 return shall be accompanied by a remittance for the full
2 unpaid tax liability shown by it. Within two years after the
3 return is filed or within two years after the return became
4 due, whichever is later, the department shall examine it,
5 determine the correct amount of tax, and assess the tax
6 against the taxpayer for any deficiency. The period for
7 examination and determination of the correct amount of tax is
8 unlimited in the case of a false or fraudulent return made
9 with the intent to evade tax, or in the case of a failure to
10 file a return.

11 Sec. 73. Section 602.8102, subsection 59, Code 1999, is
12 amended by striking the subsection.

13 Sec. 74. Section 633.272, Code 1999, is amended to read as
14 follows:

15 633.272 PARTIAL INTESTACY.

16 If part but not all of the estate of a decedent is validly
17 disposed of by will, the part not disposed of by will shall be
18 distributed as provided herein for intestate estates. If the
19 testator left a surviving spouse, and the spouse does not
20 elect to take against the will, the spouse shall receive, in
21 addition to the property given to the spouse by the will, ~~all~~
22 ~~of-the-intestate-property-which-shall-be-subject-to-the~~
23 ~~payment-of-its-proportionate-share-of-debts-and-charges~~
24 ~~against-the-estate~~ the amount of intestate property set forth
25 in section 633.211 or 633.212.

26 Sec. 75. Section 422.90, Code 1999, is repealed.

27 Sec. 76. Section 450.92, Code 1999, is repealed.

28 Sec. 77. DIRECTIONS TO CODE EDITOR. The Iowa Code editor
29 shall transfer sections 427.3 through 427.7 to chapter 426A
30 and change internal references as necessary.

31 Sec. 78. EFFECTIVE AND APPLICABILITY DATES.

32 1. Section 5 of this Act, amending section 422.13,
33 subsection 5, applies retroactively to January 1, 1999, for
34 tax years beginning on or after that date.

35 2. Section 7 of this Act, amending section 422.23,

1 unnumbered paragraph 2, applies retroactively to January 1,
2 1999, for tax years beginning on or after that date.

3 3. Section 9 of this Act, amending section 422.25,
4 subsection 3, applies retroactively to January 1, 1999, for
5 tax years beginning on or after that date.

6 4. Section 11 of this Act, amending section 422.33,
7 subsection 2, applies retroactively to January 1, 1999, for
8 tax years beginning on or after that date.

9 5. Section 27 of this Act, amending section 422.121,
10 applies retroactively to January 1, 1997, for tax years
11 beginning on or after that date.

12 6. Sections 35 through 38 and section 76 of this Act;
13 amending chapters 450 and 451, take effect July 1, 1999, for
14 estates of decedents dying on or after that date.

15 7. Except as otherwise provided in this section, this Act,
16 being deemed of immediate importance, takes effect upon
17 enactment.

18 **EXPLANATION**

19 The bill amends various provisions of state tax law. The
20 amendments that are not just eliminating obsolete provisions
21 are as follows:

22 Code section 421.1 is amended to delete the requirement
23 that the state board of tax review meet six times a year and
24 now provides that the state board meet as necessary.

25 Code section 421.18 is amended to provide that not only
26 public officers need to give the director information to
27 assist in tax administration but employees and local
28 governments need to also provide the information.

29 Code section 422.13 is amended to remove the requirement
30 that taxpayers need to get permission to file a composite
31 return and provides that limited liability companies may join
32 the filing of a composite return.

33 Code section 422.16 is amended to provide that, at the
34 discretion of the director, withholding agents need not send
35 wage and tax statements with the annual report if the

1 information is available from other sources such as the
2 internal revenue service or other state or federal agencies.
3 Code sections 422.23 and 602.8102(59) are amended to strike
4 the requirement that provides that personal representatives of
5 an estate can apply to the district court to determine
6 initially whether the estate is subject to Iowa income tax.

7 Code sections 422.25, 422.47(4), 424.10, 429.2(1),
8 450.94(2), 450.94(3), 453A.29, and 453A.46(4) are amended to
9 provide that the 30-or 60-day appeal period, as applicable,
10 commences on the date of the notice. Presently, the appeal
11 period commences on the postmark date of the notice.

12 Code section 422.25(3) is amended to provide that when a
13 taxpayer has paid 90 percent of the final tax liability by the
14 original due date and files the return sometime in the six-
15 month extended period after the original due date, interest on
16 an overpayment of tax on the return starts to accrue two
17 months after the end of the six-month extended period.

18 Code section 422.33(1) is amended to remove the provision
19 that imposes the Iowa corporate income tax upon a corporation
20 whose legal domicile (place where the corporation was created)
21 is in Iowa and instead provides it on all corporations doing
22 business in Iowa.

23 Code section 422.33(2) is amended to provide that an Iowa-
24 based corporation whose only activity outside Iowa is the
25 ownership of intangible assets that have acquired a business
26 situs outside Iowa may apportion its income to determine the
27 portion of its income which is subject to Iowa income tax.

28 Code sections 422.42(6), 422.42(18), and 422.45(46) are
29 amended to make the exemption from Iowa sales tax for services
30 performed on tangible property delivered into interstate
31 commerce the same as the exemption from Iowa sales tax on
32 tangible personal property delivered to a point outside of
33 Iowa.

34 Code section 422.45(7) is amended to provide that
35 governmental units, nonprofit educational institutions, and

1 nonprofit private museums have one year instead of six months
2 from final payment to apply for a refund of sales or use tax
3 paid by a contractor on materials used in the performance of a
4 construction contract.

5 Code section 422.47, which relates to the use of sales tax
6 exemption certificates, is amended to provide that an
7 exemption certificate may be used to substantiate the sale of
8 nontaxable items as well as sales made to persons holding a
9 direct pay permit. Current law only provides for exemption
10 certificates for materials purchased for resale or use in
11 processing.

12 Code section 422.50 is amended to provide that retailers
13 are required to keep records on the gross receipts from the
14 sale of services as well as the sale of tangible personal
15 property.

16 Code section 422.68(4) is amended to allow the department
17 to use new technologies to preserve records as required by
18 law.

19 Code section 422.72(1) is amended to make it unlawful to
20 willfully inspect returns for any reason other than as
21 authorized by the director of revenue and finance. The
22 penalty is a serious misdemeanor.

23 Code section 422.90 is repealed. The section stated that
24 the penalty imposed for underpayment of estimated tax is not
25 subject to waiver for reasonable cause.

26 Code section 422.110 is amended to provide that an income
27 tax credit in lieu of a full tax refund is not available for
28 credit relating to casualty loss, transport diversions,
29 pumping credits, blending errors, idle time, power takeoffs,
30 reefer units, and exports by eligible purchasers. However, a
31 refund remains available if a refund permit is obtained from
32 the department.

33 Code section 422.111 is amended to provide that a refund is
34 only available for undyed special fuel since no tax is imposed
35 on dyed special fuel.

1 Code section 422.121 is amended to specify the method for
2 calculating the livestock production tax credit for cow-calf
3 operations effective beginning with the 1997 tax year.

4 Code section 422B.10(2) is amended to provide that if an
5 overpayment has been made to a local jurisdiction for local
6 option sales tax during the previous fiscal year, the November
7 payment must reflect the adjustment.

8 Code section 422D.3 is amended to move a local income
9 surtax fund from the state treasurer's office to the
10 department of revenue and finance.

11 Code section 427.1(14) is amended to move the sign-up date
12 from July 1 to April 15 for claiming a property tax exemption
13 by war veterans organizations and religious, literary, and
14 charitable societies. This would allow the taxpayer to appeal
15 the assessment to the board of review prior to its adjournment
16 if the claim is denied.

17 Code section 427.1(24) is amended to provide a February 1
18 deadline for certifying eligibility for the wildlife habitat
19 property tax exemption. Other property tax credit and
20 exemptions provide specific certification deadlines.

21 Code sections 427.3 through 427.7 are to be transferred to
22 Code chapter 426A by the Iowa Code editor so that all
23 provisions pertaining to the military service property tax
24 exemption appear in the same chapter.

25 Code section 428.1 is amended to provide that the listing
26 contained in section 428.1, subsections 1 through 5, does not
27 encompass all situations where a person is required to list
28 property for the assessor.

29 Code section 450.22 is amended to provide that, in addition
30 to the surviving spouse as already provided in this statute,
31 when the estate does not have a federal estate tax obligation
32 and all property of the estate is held in joint tenancy with
33 the right of survivorship solely by the decedent and a lineal
34 ascendant, child, stepchild, or lineal descendant, or any
35 combination of these individuals, an Iowa inheritance tax

1 return need not be filed.

2 Code section 450.37 is amended to allow the department of
3 revenue and finance to adjust previously accepted, submitted,
4 appraised, or agreed upon values of real property if the new
5 values have been accepted for federal estate tax purposes.

6 Also, the personal representative for the estate may claim a
7 refund of tax if the personal representative for the estate
8 files a claim for refund within six months of the final
9 disposition of any real property valuation matter.

10 Code section 451.12 is amended to provide that a lien for
11 Iowa estate tax could be made on those items listed as
12 exemptions under Code section 450.7 for inheritance tax.

13 Code section 452A.2(11) and (17) are amended to provide
14 that a person need not export fuel exclusively to be
15 considered an exporter and that transmix is taxed as motor
16 vehicle fuel. Transmix is a product that is used as a buffer
17 between fuel types being transported through a pipeline.

18 Code section 452A.3(5) is amended to require the person who
19 owns the fuel at the time it is imported into the state to pay
20 the tax on motor fuel.

21 Code sections 452A.8, 452A.9, 452A.15, 452A.21, 452A.60,
22 452A.61, 452A.63, 452A.67, 452A.68, 452A.74A, and 452A.86 are
23 amended to provide consistency in the motor vehicle fuel tax
24 by changing the word "report" to "return". When the motor
25 vehicle fuel tax chapters were amended to change the point of
26 taxation during the 1995 Session of the General Assembly,
27 these sections were not amended.

28 Code section 452A.17(1) is amended to provide that a fuel
29 tax refund is available for machinery and equipment used for
30 nonhighway purposes and to clarify that distributors who are
31 eligible purchasers are entitled to refund of the tax paid.

32 Code section 452A.17 is also amended to provide that
33 records need to be kept relating to fuel used in watercraft
34 and further to provide that no refund will be issued for
35 undyed special fuel taken out of the state in the fuel supply

1 tank of a vehicle.

2 Code section 452A.21 is also amended to extend the time for
3 claiming refunds resulting from the excess tax paid on fuel
4 blended with alcohol to produce ethanol from 90 days to one
5 year and to prohibit claiming an income tax credit for the
6 excess tax paid.

7 Code section 452A.22 is created to require a licensee who
8 collects tax in error from a consumer to either return the tax
9 to the consumer or remit it to the department.

10 Code sections 452A.67, 453A.28, and 453A.46(1) are amended
11 to provide that the taxpayer may enter into an agreement with
12 the department of revenue and finance to extend the statute of
13 limitations for assessment and refund.

14 Code section 453A.6(3) is amended to list distributors and
15 manufacturers as those who must stamp cigarettes.

16 Code section 453A.6 is also amended by adding two new
17 subsections. The first new subsection provides that any
18 person who is in possession of unstamped cigarettes shall pay
19 the tax directly to the department. The second new subsection
20 provides that the tax shall be added to the selling price and
21 collected from the purchasers so that the ultimate consumer
22 bears the burden of the tax.

23 Code section 453A.8(1) is amended to provide that the
24 department is no longer required to sell cigarette stamps in
25 unbroken books of 1,000 stamps.

26 Code section 453A.15 is amended to provide that any person
27 who is not licensed must keep records, file reports, and pay
28 the cigarette tax in the same manner as permit holders.

29 Code section 453A.16 is amended to provide that
30 manufacturers of cigarettes may only ship unstamped cigarettes
31 into the state to licensed distributors or licensed
32 distributors' agents.

33 Code sections 453A.28 and 453A.46(1) and (6) are amended to
34 provide that the two-year statute of limitations does not
35 apply if a false or fraudulent report or return is made with

1 the intent to evade tax, if a report or return is not filed,
2 or if the person is in possession of unstamped cigarettes. In
3 these instances, the statute of limitations is unlimited.

4 Code section 453A.31 deals with a civil penalty for failure
5 to keep records, selling cigarettes without a valid permit,
6 making a false or incomplete report, or failing to abide by
7 rules of the department. The present penalty is \$50 for each
8 offense, each violation is a separate offense, and the same
9 violation is a separate offense for each day it continues.

10 The amendment to the Code section strikes the \$50-a-day
11 penalty in lieu of a three-tiered civil penalty for the above
12 offenses: \$200 for the first offense; \$500 for the second
13 offense within two years; \$1,000 for the third offense within
14 two years and for subsequent offenses.

15 A second three-tiered penalty for possession of unstamped
16 cigarettes is provided. This penalty is based on the number
17 of cigarettes in the person's possession.

18 Number of	1st Violation	2nd Violation	Third
19 Cigarettes	Within 2 Years	Within 2 Years	Violation
20 41-400	\$200	\$400	\$600
21 401-2,000	\$500	\$1,000	\$1,500
22 2,001 or			
23 more	\$1,000	\$2,000	\$3,000

24 These penalties are no longer subject to mandatory waiver
25 for reasonable cause.

26 Code section 453A.45(2), (3), and (4) are amended to
27 require persons who sell tobacco products to retain records
28 for two years from the date of sale instead of the present
29 one-year requirement.

30 Code section 633.272 is amended to provide that, under
31 partial intestacy, a surviving spouse is entitled to receive
32 the amount of intestate property as provided in Code section
33 633.211 or 633.212.

34 The bill takes effect upon enactment and some provisions
35 have different applicability date provisions than the

S.F. _____

H.F. _____

350

1 effective date.

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