

FEB 19 2001
WAYS AND MEANS

HOUSE FILE 303
BY SUKUP

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

A BILL FOR

1 An Act providing for a partial deduction under the individual
2 income tax for the capital gain from the sale or exchange of
3 capital stock of a corporation which was acquired by an
4 individual on account of employment with the corporation or
5 while employed by the corporation and including an effective
6 and retroactive applicability date provision.

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

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HF 303

1 Section 1. Section 422.7, Code 2001, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 36. a. For purposes of this subsection:

4 (1) "Capital stock" means voting and nonvoting common and
5 preferred stock and stock options issued pursuant to an
6 incentive stock option plan. "Capital stock" does not include
7 stock rights, stock warrants, or debt securities, and does not
8 include stock options issued by a corporation which does not
9 offer incentive stock options to all full-time employees.

10 (2) "Corporation" means any of the following:

11 (a) A corporation which at the time of the first sale or
12 exchange for which an election is made under paragraph "c" has
13 been in existence and actively doing business for at least
14 three years and is not a personal holding company as defined
15 in section 542(a) of the Internal Revenue Code.

16 (b) A corporation which is a member of an affiliated
17 group, as defined in section 1504(a) of the Internal Revenue
18 Code, which group includes a corporation described in
19 subparagraph subdivision (a).

20 (c) A predecessor or successor corporation of a
21 corporation described in subparagraph subdivision (a). A
22 corporation is a predecessor or successor corporation if the
23 corporation was a party to a reorganization that was entirely
24 or substantially income tax free and that occurred during or
25 after the employment of the taxpayer making an election under
26 paragraph "c".

27 (3) "Incentive stock option" means the same as defined in
28 section 422(b) of the Internal Revenue Code.

29 b. For purposes of this subsection, the corporation
30 issuing capital stock for which an election under paragraph
31 "c" is made must, at the time of the first sale or exchange
32 for which the election is made, have at least five
33 shareholders and at least two shareholders or groups of
34 shareholders who are not related to each other and each of
35 which owns at least five percent of the capital stock.

1 For purposes of this paragraph "b", two persons shall be
2 considered to be related when, under section 318 of the
3 Internal Revenue Code, one is a person who owns, directly or
4 indirectly, capital stock that if directly owned would be
5 attributed to the other person or is the spouse, child,
6 parent, grandparent, brother, sister, aunt, uncle, cousin,
7 niece, or nephew of the other person who owns capital stock
8 either directly or indirectly.

9 c. (1) An individual may elect to subtract one-half of
10 the capital gain from the sale or exchange of capital stock of
11 a corporation acquired by the individual on account of
12 employment with that corporation or while employed by that
13 corporation. However, for tax years beginning in the 2001
14 calendar year, the amount that may be subtracted is one-fourth
15 of such capital gain.

16 (2) (a) Each individual shall be entitled to two
17 elections under subparagraph (1) during the individual's
18 lifetime for the capital stock of two corporations.

19 (b) The election applies only to the tax year for which
20 the election was made and applies to all sales and exchanges
21 in the tax year for which the election was made of capital
22 stock in the same corporation which was acquired as provided
23 in subparagraph (1).

24 (c) After the individual makes an election for the tax
25 year, the election shall also apply to the sale or exchange in
26 that tax year of capital stock of the corporation which had
27 been transferred by inter vivos gift from the individual to
28 the individual's spouse if the capital stock was acquired as
29 provided in subparagraph (1). This provision applies in the
30 case of the spouse, only if the spouse was married to such
31 individual on the date of sale or exchange or the date of
32 death of the individual and if the spouse and individual file
33 a joint Iowa income tax return on which the election is made.
34 If the individual dies without making an election, the
35 surviving spouse may make the election for capital stock that

1 would have qualified under this subparagraph subdivision.
2 However, if there is no surviving spouse, the oldest surviving
3 issue who owns capital stock that would have qualified under
4 this subparagraph subdivision may make the election.

5 d. An election under paragraph "c" shall be made by
6 including a written statement with the taxpayer's Iowa income
7 tax return for the tax year for which the election is made.
8 The written statement shall identify the corporation that
9 issued the stock, the grounds for the election under this
10 subsection, and that the taxpayer elects to have this
11 subsection apply to sales and exchanges in that tax year.

12 e. The deduction under this subsection is in lieu of any
13 deduction allowable under section 1202 of the Internal Revenue
14 Code for the capital gain from the sale or exchange of the
15 same capital stock.

16 Sec. 2. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE.
17 This Act, being deemed of immediate importance, takes effect
18 upon enactment and applies retroactively to January 1, 2001,
19 for tax years beginning on or after that date.

20 EXPLANATION

21 This bill provides a deduction under the individual income
22 tax of 50 percent (25 percent for the 2001 tax year) of the
23 capital gain from the sale or exchange of capital stock of a
24 corporation acquired by the taxpayer on account of employment
25 with the corporation or acquired while employed by the
26 corporation. The taxpayer must make an election to take the
27 deduction and the election only applies for that tax year. A
28 taxpayer may make two elections for two different corporations
29 during the taxpayer's lifetime. The election would also apply
30 to stock sold during that tax year which was previously
31 granted to a spouse of the taxpayer but only if they file a
32 joint Iowa income tax return. The election would not apply to
33 capital gains from stock options unless the corporation
34 issuing the options offered them to all full-time employees.

35 The deduction is in lieu of the deduction that may be

1 allowable under the Internal Revenue Code for sale or exchange
2 of stock in a small business held for five years.

3 The bill takes effect upon enactment and applies
4 retroactively to January 1, 2001, for tax years beginning on
5 or after that date.

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