

Withdrawn
4/6/04

MAR 31 2004
WAYS & MEANS CALENDAR

HOUSE FILE **2565**
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 723)

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

A BILL FOR

1 An Act relating to the policy administration of the tax and
2 related laws by the department of revenue, including
3 administration of and substantive changes to the state
4 individual income, corporate income, sales, use, property,
5 inheritance, motor fuel, special fuel, cigarette, and tobacco
6 taxes and including penalties.

HF 2565

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

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HOUSE FILE 2565

H-8371

1 Amend House File 2565 as follows:
2 1. Page 1, by inserting after line 19 the
3 following:
4 "Sec. ____ . Section 421.17, Code Supplement 2003,
5 is amended by adding the following new subsection:
6 NEW SUBSECTION. 28. To place on the department's
7 official website the official electronic state of Iowa
8 voter registration form and a link to the Iowa
9 secretary of state's official website."

By KRAMER of Polk

H-8371 FILED APRIL 2, 2004

1 Section 1. Section 15.335, subsection 4, unnumbered
2 paragraph 2, Code Supplement 2003, is amended to read as
3 follows:

4 For purposes of this section, "Internal Revenue Code" means
5 the Internal Revenue Code in effect on January 1, ~~2003~~ 2004.

6 Sec. 2. Section 15A.9, subsection 8, paragraph e,
7 unnumbered paragraph 2, Code Supplement 2003, is amended to
8 read as follows:

9 For purposes of this subsection, "Internal Revenue Code"
10 means the Internal Revenue Code in effect on January 1, ~~2003~~
11 2004.

12 Sec. 3. Section 421.1, subsection 4, Code Supplement 2003,
13 is amended by adding the following new unnumbered paragraph:

14 NEW UNNUMBERED PARAGRAPH. Judicial review of the decisions
15 or orders of the board resulting from the review of decisions
16 or orders of the director of revenue for assessment and
17 collection of taxes by the department may be sought by the
18 taxpayer or the director of revenue in accordance with the
19 terms of chapter 17A.

20 Sec. 4. Section 421.17A, subsection 2, paragraph a, Code
21 Supplement 2003, is amended to read as follows:

22 a. Notwithstanding other statutory provisions which
23 provide for the execution, attachment, garnishment, or levy
24 against accounts, the facility may utilize the process
25 established in this section to collect delinquent accounts,
26 charges, fees, loans, taxes, or other indebtedness due the
27 state or being collected by the state provided that any
28 exemptions or exceptions which specifically apply to
29 enforcement of such obligations also apply to this section.
30 Administrative levy under this section is the equivalent of
31 condemning funds under chapter 642. It is expressly provided
32 that these remedies shall be cumulative and that no action
33 taken by the director or attorney general shall be construed
34 to be an election on the part of the state or any of its
35 officers, employees, or representatives to pursue any other

1 remedy provided by law.

2 Sec. 5. Section 421.17A, subsection 3, Code Supplement
3 2003, is amended to read as follows:

4 3. ~~INITIAL~~ NOTICE OF INTENT TO OBLIGOR. The facility may
5 proceed under this section only if twenty days' notice has
6 been provided ~~to-the-obligor~~ by regular mail to the last known
7 address of the obligor, notifying the obligor that the obligor
8 is subject to this section and of the facility's intention to
9 use the levy process. ~~The-facility-shall-give-twenty-days'~~
10 ~~notice-of-its-intention-to-use-the-levy-process.~~ The twenty-
11 day twenty days' notice period shall not be required if the
12 facility determines that the collection of past due amounts
13 would be jeopardized.

14 Sec. 6. Section 421.17A, subsection 5, paragraph c,
15 subparagraph (7), Code Supplement 2003, is amended to read as
16 follows:

17 (7) ~~A~~ The telephone number, ~~address,~~ ~~and-contact-name~~ of
18 the agent for the facility initiating the action.

19 Sec. 7. Section 421.17A, subsection 6, Code Supplement
20 2003, is amended to read as follows:

21 6. ADMINISTRATIVE LEVY -- NOTICE OF INITIATION OF ACTION
22 TO OBLIGOR AND OTHER ACCOUNT HOLDERS.

23 a. The facility may administratively initiate an action to
24 seize one or more accounts of an obligor who is subject to
25 this section and section 421.17, subsection 27.

26 b. The facility shall notify an obligor subject to this
27 section. The notice shall contain all of the following:

28 (1) The name and social security number of the obligor.

29 (2) A statement that the obligor is believed to have an
30 account at the financial institution.

31 (3) A statement that pursuant to the provisions of this
32 section, the obligor's account is subject to seizure and the
33 financial institution is authorized and required to forward
34 moneys to the facility.

35 (4) The maximum amount to be forwarded by the financial

1 institution, which shall not exceed the delinquent or accrued
2 amount of debt being collected by or owed to the state by the
3 obligor.

4 (5) The prescribed time frames the financial institution
5 must meet in forwarding any amounts.

6 (6) A statement that any challenge to the action must be
7 in writing and must be received by the facility within ten
8 days of the date of the notice to the obligor.

9 (7) The address of the facility and the account number
10 utilized by the facility for the obligor.

11 (8) A The telephone number, ~~address, and contact name~~ of
12 the agent for the facility initiating the action.

13 c. The facility shall forward the notice of initiation of
14 action to the obligor by regular mail within two working days
15 of sending the notice to the financial institution pursuant to
16 subsection 5, paragraph "b".

17 d. The facility shall notify any other party known to have
18 an interest in the account. The notice shall contain all of
19 the following:

20 (1) The name of the obligor.

21 (2) The name of the financial institution.

22 (3) A statement that the account in which the other party
23 is known to have an interest is subject to seizure.

24 (4) A statement that any challenge to the action must be
25 in writing and must be received by the facility within ten
26 days of the date of the notice to the party known to have an
27 interest.

28 (5) The address of the facility and the name of the
29 obligor who also has an interest in the account.

30 (6) A The telephone number, ~~address, and contact name~~ of
31 the agent for the facility initiating the action.

32 e. The facility shall forward the notice to the other
33 party known to have an interest by regular mail within two
34 working days of sending the notice to the financial
35 institution pursuant to subsection 5, paragraph "b".

1 Sec. 8. Section 421.17A, subsection 8, paragraphs b, c,
2 and f, Code Supplement 2003, are amended to read as follows:

3 b. The person challenging the action shall submit a
4 written challenge to the person identified as the ~~contact~~
5 agent for the facility in the notice, within ten days of the
6 date of the notice of initiation of the levy.

7 c. The facility, upon receipt of a written challenge,
8 shall review the facts of the ~~case~~ administrative levy with
9 the challenging party within ten days of receipt of the
10 challenge. If the challenging party is not available for the
11 review on the scheduled date, the review shall take place
12 without the challenging party being present. Information in
13 favor of the challenging party shall be considered by the
14 facility in the review. The facility may utilize additional
15 information if such information is available. Only a mistake
16 of fact, including, but not limited to, a mistake in the
17 identity of the obligor or a mistake in the amount owed to or
18 being collected by the state shall be considered as a reason
19 to dismiss or modify the action.

20 f. The challenging party shall have the right to file an
21 action for wrongful levy in district court within thirty days
22 of the date of the notice in paragraph "e", either in the
23 county where the obligor or the party known to have an
24 interest in the account resides or in Polk county where the
25 facility is located. Actions under this section are in equity
26 and not actions at law.

27 Sec. 9. Section 421.17A, subsection 8, Code Supplement
28 2003, is amended by adding the following new paragraphs:

29 NEW PARAGRAPH. g. Recovery under this section is limited
30 to restitution of the amount that has been wrongfully
31 encumbered or obtained by the department.

32 NEW PARAGRAPH. h. A challenge to an administrative action
33 under this subsection cannot be used to extend or reopen the
34 statute of limitations to protest other departmental actions
35 or to contest the amount or validity of the tax. Only issues

1 involving the levy can be raised in a challenge to an
2 administrative action under this subsection.

3 Sec. 10. Section 421.17B, subsection 2, paragraph a, Code
4 Supplement 2003, is amended to read as follows:

5 a. Notwithstanding other statutory provisions which
6 provide for the execution, attachment, garnishment, or levy
7 against accounts, the facility may utilize the process
8 established in this section to collect delinquent accounts,
9 charges, fees, loans, taxes, or other indebtedness due the
10 facility or being collected by the facility provided all
11 administrative remedies have been waived or exhausted by the
12 obligor. Any exemptions or exceptions which specifically
13 apply to enforcement of such obligations also apply to this
14 section. Administrative wage assignment under this section is
15 the equivalent of condemning funds under chapter 642. It is
16 expressly provided that these remedies shall be cumulative and
17 that no action taken by the director or the attorney general
18 shall be construed to be an election on the part of the state
19 or any of its officers or representatives to pursue any other
20 remedy provided by law.

21 ~~Administrative-wage-assignment-under-this-section-is-the~~
22 ~~equivalent-of-condemning-funds-under-chapter-642.~~

23 ~~The-administrative-wage-assignment-is-to-be-considered-an~~
24 ~~additional-means-of-collection-by-the-facility-and-not-an~~
25 ~~exclusive-means-of-collection.--If-the-use-of-an~~
26 ~~administrative-wage-assignment-is-not-successful-in-collecting~~
27 ~~an-outstanding-debt-due-the-facility,-the-facility-may-use-the~~
28 ~~collection-provisions-set-forth-in-chapters-626-and-642.~~

29 Sec. 11. Section 421.17B, subsection 3, Code Supplement
30 2003, is amended to read as follows:

31 3. NOTICE OF INTENT TO THE OBLIGOR.

32 a. The facility may proceed under this section only if a
33 ten-day twenty days' notice has been provided ~~to-the-obligor.~~
34 ~~Notice-by-the-facility-may-be~~ by regular mail to the last
35 known address of the obligor, notifying the obligor that the

1 obligor is subject to this section. If the facility
2 determines that collection of the debt may be in jeopardy, the
3 facility may request that the employer deliver notice of the
4 wage assignment simultaneous with the remainder of or in lieu
5 of the obligor's compensation due from the employer.

6 The facility may obtain one or more wage assignments of an
7 obligor who is subject to this section. If the obligor has
8 more than one employer, the facility may receive wage
9 assignments from one or ~~at~~ more of the employers until the
10 full debt obligation of the obligor is satisfied. If an
11 obligor has more than one employer, the facility shall give
12 notice to all employers ~~that the facility seeks to have an~~
13 assignment of wages from whom an assignment is sought.

14 b. The notice from the facility to the obligor shall
15 contain all of the following:

16 (1) The name and social security number of the obligor.

17 (2) A statement that the obligor is believed to have
18 employment with the stated employer.

19 (3) A statement that pursuant to the provisions of this
20 section, the obligor's wages will be assigned to the facility
21 for payment of the specified debts and that the employer is
22 authorized and required to forward moneys to the facility.

23 (4) The maximum amount to be forwarded by the employer,
24 which shall not exceed the delinquent or accrued amount of
25 debt being collected by or owed to the facility by the
26 obligor.

27 (5) The prescribed time frames the employer must meet in
28 forwarding any amounts.

29 (6) A statement that any challenge to the action must be
30 in writing and must be received by the facility within ten
31 days of the date of the notice to the obligor.

32 (7) The address of the facility and the account number
33 utilized by the facility for the obligor.

34 (8) A The telephone number, ~~address, and contact name~~ of
35 the agent for the facility initiating the action.

1 Sec. 12. Section 421.17B, subsection 6, paragraph c,
2 subparagraph (7), Code Supplement 2003, is amended to read as
3 follows:

4 (7) A ~~The~~ telephone number, ~~address, and name of a contact~~
5 ~~person with the facility~~ of the agent for the facility
6 initiating the action.

7 Sec. 13. Section 421.17B, subsection 8, paragraphs a, b,
8 c, and f, Code Supplement 2003, are amended to read as
9 follows:

10 a. Challenges under this section may be initiated only by
11 an obligor. An administrative wage assignment only occurs
12 after the obligor has waived or exhausted administrative
13 remedies. Reviews by the facility of a challenge to an
14 administrative wage assignment are not subject to chapter 17A
15 ~~unless the challenge is regarding the validity of the~~
16 ~~assignment. Actions under this section are in equity and not~~
17 ~~actions at law.~~

18 b. The obligor challenging the administrative wage
19 assignment shall submit a written challenge to the person
20 identified as the ~~contact~~ agent for the facility in the
21 notice, within ten days of the date of the notice ~~to the~~
22 obligor of initiation of the assignment.

23 c. The facility, upon receipt of a written challenge,
24 shall review the facts of the ~~case~~ administrative wage
25 assignment with the obligor within ten days of receipt of the
26 challenge. If the obligor is not available for the review on
27 the scheduled date, the review shall take place without the
28 obligor being present. Information in favor of the obligor
29 shall be considered by the facility in the review. The
30 facility may utilize additional information if such
31 information is available. Only a mistake of fact, including,
32 but not limited to, a mistake in the identity of the obligor
33 or a mistake in the amount owed to or being collected by the
34 facility shall be considered as a reason to dismiss or modify
35 the administrative wage assignment.

1 f. The obligor shall have the right to file an action for
2 wrongful assignment in district court within thirty days of
3 the date of the notice to the obligor, either in the county
4 where the obligor is located or in Polk county where the
5 facility is located. Actions under this section are in equity
6 and not actions at law.

7 Sec. 14. Section 421.17B, subsection 8, Code Supplement
8 2003, is amended by adding the following new paragraphs:

9 NEW PARAGRAPH. g. Recovery under this subsection is
10 limited to restitution of the amount that has been wrongfully
11 encumbered or obtained by the department.

12 NEW PARAGRAPH. h. A challenge to an administrative action
13 under this subsection cannot be used to extend or reopen the
14 statute of limitations to protest other departmental actions
15 or to contest the amount or validity of the tax. Only issues
16 involving the assignment can be raised in a challenge to an
17 administrative action under this subsection.

18 Sec. 15. Section 421.17B, subsection 9, unnumbered
19 paragraph 2, Code Supplement 2003, is amended to read as
20 follows:

21 Expiration Cessation of the wage assignment does not affect
22 the obligor's duties and liabilities respecting the wages
23 already withheld pursuant to the wage assignment.

24 Sec. 16. Section 422.10, subsection 3, unnumbered
25 paragraph 2, Code Supplement 2003, is amended to read as
26 follows:

27 For purposes of this section, "Internal Revenue Code" means
28 the Internal Revenue Code in effect on January 1, ~~2003~~ 2004.

29 Sec. 17. Section 422.33, subsection 5, paragraph d,
30 unnumbered paragraph 2, Code Supplement 2003, is amended to
31 read as follows:

32 For purposes of this subsection, "Internal Revenue Code"
33 means the Internal Revenue Code in effect on January 1, ~~2003~~
34 2004.

35 Sec. 18. Section 422.42, subsection 6, Code 2003, is

1 amended by adding the following new paragraph:

2 NEW PARAGRAPH. c. That trade discounts given or allowed
3 by manufacturers, distributors, or wholesalers to retailers or
4 by manufacturers or distributors to wholesalers and payments
5 made by manufacturers, distributors, or wholesalers directly
6 to retailers or by manufacturers or distributors to
7 wholesalers to reduce the sales price of the manufacturer's,
8 distributor's, or wholesaler's product or to promote the sale
9 or recognition of the manufacturer's, distributor's, or
10 wholesaler's product shall not be included if excessive sales
11 tax is not collected from the purchaser. This paragraph does
12 not apply to coupons issued by manufacturers, distributors, or
13 wholesalers to consumers.

14 Sec. 19. Section 422A.1, unnumbered paragraph 8, Code
15 Supplement 2003, is amended to read as follows:

16 The tax levied shall be in addition to any state sales tax
17 imposed under section 422.43. Section 422.25, subsection 4,
18 sections 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67,
19 422.68, 422.69, subsection 1, and sections 422.70 to 422.75,
20 consistent with the provisions of this chapter, apply with
21 respect to the taxes authorized under this chapter, in the
22 same manner and with the same effect as if the hotel and motel
23 taxes were retail sales taxes within the meaning of those
24 statutes. Notwithstanding this paragraph, the director shall
25 provide for quarterly filing of returns as prescribed in
26 section 422.51 and for other than quarterly filing of returns
27 as prescribed in section 422.51, subsection 2. The director
28 may require all persons, as defined in section 422.42, who are
29 engaged in the business of deriving gross receipts subject to
30 tax under this chapter, to register with the department. All
31 taxes collected under this chapter by a retailer or any
32 individual are deemed to be held in trust for the state of
33 Iowa and the local jurisdictions imposing the taxes.

34 Sec. 20. Section 422B.9, subsection 3, paragraph a, Code
35 Supplement 2003, is amended to read as follows:

1 a. The director, in consultation with local officials,
2 shall collect and account for a local sales and services tax.
3 The director shall certify each quarter the amount of local
4 sales and services tax receipts and any interest and penalties
5 to be credited to the "local sales and services tax fund"
6 established in the office of the treasurer of state. All
7 taxes collected under this chapter by a retailer or any
8 individual are deemed to be held in trust for the state of
9 Iowa and the local jurisdictions imposing the taxes.

10 Sec. 21. Section 423.1, subsection 47, paragraph b, as
11 enacted by 2003 Iowa Acts, First Extraordinary Session,
12 chapter 2, section 94, is amended by adding the following new
13 subparagraph:

14 NEW SUBPARAGRAPH. (5) Trade discounts given or allowed by
15 manufacturers, distributors, or wholesalers to retailers or by
16 manufacturers or distributors to wholesalers and payments made
17 by manufacturers, distributors, or wholesalers directly to
18 retailers or by manufacturers or distributors to wholesalers
19 to reduce the sales price of the manufacturer's, distributors,
20 or wholesaler's product or to promote the sale or recognition
21 of the manufacturer's, distributor's, or wholesaler's product.
22 This subparagraph does not apply to coupons issued by
23 manufacturers, distributors, or wholesalers to consumers.

24 Sec. 22. Section 423.1, subsection 47, as enacted by 2003
25 Iowa Acts, First Extraordinary Session, chapter 2, section 94,
26 is amended by adding the following new paragraph:

27 NEW PARAGRAPH. c. For purposes of this definition, the
28 sales price from a rental or lease includes rent, royalties,
29 and copyright and license fees.

30 Sec. 23. Section 423.2, subsection 6, unnumbered paragraph
31 2, as enacted by 2003 Iowa Acts, First Extraordinary Session,
32 chapter 2, section 95, is amended to read as follows:

33 ~~For the purposes of this subsection, the sales price of a~~
34 ~~lease or rental includes rents, royalties, and copyright and~~
35 ~~license fees.~~ For the purposes of this subsection, "financial

1 institutions" means all national banks, federally chartered
2 savings and loan associations, federally chartered savings
3 banks, federally chartered credit unions, banks organized
4 under chapter 524, savings and loan associations and savings
5 banks organized under chapter 534, and credit unions organized
6 under chapter 533.

7 Sec. 24. Section 423.2, as enacted by 2003 Iowa Acts,
8 First Extraordinary Session, chapter 2, section 95, is amended
9 by adding the following new subsection:

10 NEW SUBSECTION. 11. All taxes collected under this
11 chapter by a retailer or any individual are deemed to be held
12 in trust for the state of Iowa.

13 Sec. 25. Section 423.3, subsections 33 and 82, as enacted
14 by 2003 Iowa Acts, First Extraordinary Session, chapter 2,
15 section 96, are amended to read as follows:

16 33. a. The sales price of mementos and other items
17 relating to Iowa history and historic sites, the general
18 assembly, and the state capitol, sold by the legislative
19 ~~service-bureau~~ services agency and its legislative information
20 office on the premises of property under the control of the
21 legislative council, at the state capitol, and on other state
22 property.

23 b. The legislative services agency is not a retailer under
24 this chapter and the sale of items or provision of services by
25 the legislative services agency is not a retail sale under
26 this chapter and is exempt from the sales tax.

27 82. a. The sales price from the sale or rental of core
28 ~~and making,~~ mold making, equipment and sand handling machinery
29 and equipment, including replacement parts, directly and
30 primarily used in the mold making process by a foundry.

31 b. The sales price from the sale of fuel used in creating
32 heat, power, steam, or for generating electric current, or
33 from the sale of electricity, consumed by core making, mold
34 making, and sand handling machinery and equipment used
35 directly and primarily in the mold-making process by a

1 foundry.

2 c. The sales price from the furnishing of the design and
3 installation, including electrical and electronic
4 installation, of core making, mold making, and sand handling
5 machinery and equipment used directly and primarily in the
6 mold-making process by a foundry.

7 Sec. 26. Section 423.3, as enacted by 2003 Iowa Acts,
8 First Extraordinary Session, chapter 2, section 96, is amended
9 by adding the following new subsection:

10 NEW SUBSECTION. 43A. The sales price from the sale of
11 wine which is shipped from outside Iowa and which meets the
12 requirements for sales and use tax exemption pursuant to
13 section 123.187.

14 Sec. 27. Section 424.3, subsection 1, Code 2003, is
15 amended by adding the following new unnumbered paragraph:

16 NEW UNNUMBERED PARAGRAPH. All taxes or charges collected
17 under this chapter by a depositor or any individual from a
18 receiver or any other individual are considered to be held in
19 trust on behalf of the state of Iowa.

20 Sec. 28. Section 441.21, subsection 2, Code Supplement
21 2003, is amended to read as follows:

22 2. In the event market value of the property being
23 assessed cannot be readily established in the foregoing
24 manner, then the assessor may determine the value of the
25 property using the other uniform and recognized appraisal
26 methods including its productive and earning capacity, if any,
27 industrial conditions, its cost, physical and functional
28 depreciation and obsolescence and replacement cost, and all
29 other factors which would assist in determining the fair and
30 reasonable market value of the property but the actual value
31 shall not be determined by use of only one such factor. The
32 following shall not be taken into consideration: Special
33 value or use value of the property to its present owner, and
34 the good will or value of a business which uses the property
35 as distinguished from the value of the property as property.

1 However, in assessing property that is rented or leased to
2 low-income individuals and families as authorized by section
3 42 of the Internal Revenue Code, as amended, and which section
4 limits the amount that the individual or family pays for the
5 rental or lease of units in the property, the assessor shall
6 use the productive and earning capacity from the actual rents
7 received as a method of appraisal and shall take into account
8 the extent to which that use and limitation reduces the market
9 value of the property. The assessor shall not consider any
10 tax credit equity or other subsidized financing as income
11 provided to the property in determining the assessed value.
12 The property owner shall notify the assessor when property is
13 withdrawn from section 42 eligibility under the Internal
14 Revenue Code. The property shall not be subject to section 42
15 assessment procedures for the assessment year for which
16 section 42 eligibility is withdrawn. This notification must
17 be provided to the assessor no later than March 1 of the
18 assessment year or the owner will be subject to a penalty of
19 five hundred dollars for that assessment year. The penalty
20 shall be collected at the same time and in the same manner as
21 regular property taxes. Upon adoption of uniform rules by the
22 revenue department or succeeding authority covering
23 assessments and valuations of such properties, said valuation
24 on such properties shall be determined in accordance therewith
25 for assessment purposes to assure uniformity, but such rules
26 shall not be inconsistent with or change the foregoing means
27 of determining the actual, market, taxable and assessed
28 values.

29 Sec. 29. Section 450.22, Code 2003, is amended to read as
30 follows:

31 450.22 ADMINISTRATION AVOIDED -- INHERITANCE TAX DUTIES
32 REQUIRED.

33 1. When the heirs or persons entitled to inherit the
34 property of an estate subject to tax under this chapter desire
35 to avoid the appointment of a personal representative as

1 provided in section 450.21, and in all instances where real
2 estate is involved and there are no regular probate
3 proceedings, they or one of them shall file under oath the
4 inventories required by section 633.361 and the required
5 reports, perform all the duties required by this chapter of
6 the personal representative, and file the inheritance tax
7 return.

8 2. However, this section does not apply and a return is
9 not required to be filed even though real estate is part of
10 the assets subject to tax under this chapter, if all of the
11 assets are held in joint tenancy with right of survivorship
12 between husband and wife alone, or if the estate exclusively
13 consists of property held in joint tenancy with the right of
14 survivorship solely by the decedent and ~~any~~ individuals listed
15 in section 450.9 as individuals that are entirely exempt from
16 Iowa inheritance tax and the estate does not have a federal
17 estate tax obligation.

18 3. However, this section does not apply and a return is
19 not required to be filed, even though real estate is involved,
20 if the estate does not have a federal estate tax filing
21 obligation and if all the estate's assets are described in any
22 of the following categories:

23 a. Assets held in joint tenancy with right of survivorship
24 between husband and wife alone.

25 b. Assets held in joint tenancy with right of survivorship
26 solely between the decedent and individuals listed in section
27 450.9 as individuals that are entirely exempt from Iowa
28 inheritance tax.

29 c. Assets passing by beneficiary designation, pursuant to
30 a trust intended to pass the decedent's property at death or
31 through any other nonprobate transfer solely to individuals
32 listed in section 450.9 as individuals that are entirely
33 exempt from Iowa inheritance tax.

34 This subsection does not apply to interests in an asset or
35 assets that pass to both an individual listed in section 450.9

1 and to that individual's spouse.

2 4. If a return is not required to be filed pursuant to
3 subsection 3, and if real estate is involved, one of the
4 individuals with an interest in, or succeeding to an interest
5 in, the real estate shall file an affidavit in the county in
6 which the real estate is located setting forth the legal
7 description of the real estate and the fact that an
8 inheritance tax return is not required pursuant to subsection
9 3. If a false affidavit is filed, the affiant and the
10 personal representative shall be jointly and severally liable
11 for any tax, penalty, and interest that may have been due.
12 Any otherwise applicable statute of limitations on the
13 assessment and collection of the tax, penalty, and interest
14 shall not apply.

15 5. When this section applies, proceedings for the
16 collection of the tax when a personal representative is not
17 appointed shall conform as nearly as possible to proceedings
18 under this chapter in other cases.

19 Sec. 30. Section 450.37, subsection 2, paragraph a, Code
20 Supplement 2003, is amended to read as follows:

21 a. If an agreement has not been reached on the fair market
22 value of real property in the ordinary course of trade, the
23 director of revenue has ~~thirty~~ sixty days after the return is
24 filed to request an appraisal under section 450.27. If an
25 appraisal request is not made within the ~~thirty-day~~ sixty-day
26 period, the value listed on the return is the agreed value of
27 the real property.

28 Sec. 31. Section 450.53, subsections 1 and 2, Code
29 Supplement 2003, are amended to read as follows:

30 1. a. All personal representatives, except guardians and
31 conservators, and other persons charged with the management or
32 settlement of any estate or trust from which a tax is due
33 under this chapter, shall file an inheritance tax return,
34 within the time limits set by section 450.6, with a copy of
35 any federal estate tax return and other documents required by

1 the director which may reasonably tend to prove the amount of
2 tax due, and at the time of filing, shall pay to the
3 department of revenue the amount of the tax due from any
4 devisee, grantee, donee, heir, or beneficiary of the decedent,
5 except in cases where payment of the tax is deferred until the
6 determination of a prior estate. The owner of the future
7 interest shall file a supplemental inheritance tax return and
8 pay to the department of revenue the tax due within the time
9 limits set in this chapter. The inheritance tax returns shall
10 be in the form prescribed by the director.

11 b. Notwithstanding paragraph "a", an inheritance tax
12 return is not required to be filed if the estate does not have
13 a federal estate tax filing obligation and if all the estate
14 or trust assets pass solely to individuals listed in section
15 450.9 as individuals that are entirely exempt from Iowa
16 inheritance tax. This paragraph is not applicable if
17 interests in the asset passes to both an individual listed in
18 section 450.9 and to that individual's spouse.

19 2. a. A person in possession of assets to be reported for
20 purposes of taxation, including a personal representative or
21 trustee, who willfully makes a false or fraudulent return, or
22 willfully fails to pay the tax, supply the information, make,
23 sign, or file the required return within the time required by
24 law, is guilty of a fraudulent practice. This paragraph does
25 not apply if a return is not required to be filed pursuant to
26 subsection 1, paragraph "b".

27 b. If a false affidavit is filed, the affiant and the
28 personal representative shall be jointly and severally liable
29 for any tax, penalty, and interest that may have been due.
30 Any otherwise applicable statute of limitations on the
31 assessment and collection of the tax, penalty, and interest
32 shall not apply.

33 Sec. 32. Section 450.58, Code Supplement 2003, is amended
34 to read as follows:

35 450.58 FINAL SETTLEMENT TO SHOW PAYMENT.

1 1. The Except as provided in subsection 2, the final
2 settlement of the account of a personal representative shall
3 not be accepted or allowed unless it shows, and the court
4 finds, that all taxes imposed by this chapter upon any
5 property or interest in property that are made payable by the
6 personal representative and to be settled by the account, have
7 been paid, and that the receipt of the department of revenue
8 for the tax has been obtained as provided in section 450.64.

9 2. If an inheritance tax return is not required to be
10 filed pursuant to section 450.53, subsection 1, paragraph "b",
11 the personal representative's final settlement of account need
12 not contain an inheritance tax receipt from the department,
13 but shall, instead, contain the personal representative's
14 statement, under oath, that an inheritance tax return is not
15 required to be filed pursuant to section 450.53, subsection 1,
16 paragraph "b". If a false affidavit is filed, the affiant and
17 the personal representative shall be jointly and severally
18 liable for any tax, penalty, and interest that may have been
19 due. Any otherwise applicable statute of limitations on the
20 assessment and collection of the tax, penalty, and interest
21 shall not apply.

22 3. Any order contravening any provision of this section is
23 void.

24 Sec. 33. Section 450.94, subsection 2, Code Supplement
25 2003, is amended to read as follows:

26 2. The Unless a return is not required to be filed
27 pursuant to section 450.22, subsection 3, or section 450.53,
28 subsection 1, paragraph "b", the taxpayer shall file an
29 inheritance tax return on forms to be prescribed by the
30 director of revenue on or before the last day of the ninth
31 month after the death of the decedent. When an inheritance
32 tax return is filed, the department shall examine it and
33 determine the correct amount of tax. If the amount paid is
34 less than the correct amount due, the department shall notify
35 the taxpayer of the total amount due together with any penalty

1 and interest which shall be a sum certain if paid on or before
2 the last day of the month in which the notice is dated, or on
3 or before the last day of the following month if the notice is
4 dated after the twentieth day of a month and before the first
5 day of the following month.

6 Sec. 34. Section 452A.3, Code 2003, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 7. All excise taxes collected under this
9 chapter by a supplier, restrictive supplier, importer, dealer,
10 blender, user, or any individual are deemed to be held in
11 trust for the state or Iowa.

12 Sec. 35. Section 453A.6, Code 2003, is amended by adding
13 the following new subsection:

14 NEW SUBSECTION. 6. All excise taxes collected under this
15 division by a distributor, manufacturer, or any individual are
16 deemed to be held in trust for the state of Iowa.

17 Sec. 36. Section 453A.11, Code 2003, is amended to read as
18 follows:

19 453A.11 CANCELLATION OF STAMPS.

20 Stamps affixed to a package of cigarettes shall not be
21 canceled by any letter, numeral, or other mark of
22 identification or otherwise mutilated in any manner that will
23 prevent or hinder the department in making an examination as
24 to the genuineness of the stamp. However, the director may
25 require such cancellation of the tax stamps affixed to
26 packages of cigarettes which is necessary to carry out
27 properly the provisions of this division. A person who
28 cancels or causes the cancellation of stamps in violation of
29 this section shall be considered in possession of unstamped
30 cigarettes and is subject to the penalty provided in section
31 453A.31, subsection 1.

32 Sec. 37. Section 453A.15, subsection 1, Code 2003, is
33 amended to read as follows:

34 1. The director may prescribe the forms necessary for the
35 efficient administration of this division and may require

1 uniform books and records to be used and kept by each permit
2 holder or other person as deemed necessary. The director may
3 also require each permit holder or other person to keep and
4 retain in the director's possession evidence on prescribed
5 forms of all transactions involving the purchase and sale of
6 cigarettes or the purchase and use of stamps. The evidence
7 shall be kept for a period of ~~two~~ three years from the date of
8 each transaction, for the inspection at all times by the
9 department.

10 Sec. 38. Section 453A.28, Code 2003, is amended to read as
11 follows:

12 453A.28 ASSESSMENT OF TAX BY DEPARTMENT -- INTEREST --
13 PENALTY.

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

1 possession of unstamped cigarettes.

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

9 Sec. 39. Section 453A.31, subsection 1, paragraphs c, d,
10 and e, Code 2003, are amended to read as follows:

11 c. A ~~one-thousand~~ twenty-five dollar per pack penalty for
12 the first violation if a person is in possession of more than
13 two thousand unstamped cigarettes.

14 d. For a second violation within ~~two~~ three years of the
15 first violation, the penalty is four hundred dollars if a
16 person is in possession of more than forty but not more than
17 four hundred unstamped cigarettes; one thousand dollars if a
18 person is in possession of more than four hundred but not more
19 than two thousand unstamped cigarettes; and ~~two-thousand~~
20 thirty-five dollars per pack if a person is in possession of
21 more than two thousand unstamped cigarettes.

22 e. For a third or subsequent violation within ~~two~~ three
23 years of the first violation, the penalty is six hundred
24 dollars if a person is in possession of more than forty but
25 not more than four hundred unstamped cigarettes; one thousand
26 five hundred dollars if a person is in possession of more than
27 four hundred but not more than two thousand unstamped
28 cigarettes; and ~~three-thousand~~ forty-five dollars per pack if
29 a person is in possession of more than two thousand unstamped
30 cigarettes.

31 Sec. 40. Section 453A.31, subsection 2, paragraphs b and
32 c, Code 2003, are amended to read as follows:

33 b. A five hundred dollar penalty for a second violation
34 within ~~two~~ three years of the first violation.

35 c. A thousand dollar penalty for a third or subsequent

1 violation within ~~two~~ three years of the first violation.

2 Sec. 41. Section 453A.32, subsections 1, 4, and 5, Code
3 2003, are amended to read as follows:

4 1. All cigarettes on which taxes are imposed or required
5 to be imposed by this division, which are found in the
6 possession or custody, or within the control of any person,
7 for the purpose of being sold, distributed, or removed by the
8 person in violation of this division, and all cigarettes which
9 are removed ~~or are~~, stored, transported, deposited, or
10 concealed in any place with intent to avoid payment of taxes
11 without the proper taxes paid, and any automobile, truck,
12 boat, conveyance, or other vehicle whatsoever, used in the
13 removal, storage, deposit, concealment, or transportation of
14 cigarettes for such the purpose of avoiding the payment of the
15 proper tax, and all equipment or other tangible personal
16 property incident to and used for such the purpose of avoiding
17 the payment of the proper tax, found in the place, building,
18 or vehicle where cigarettes are found, and all counterfeit
19 cigarettes may be seized by the department, with or without
20 process and shall be from the time of the seizure forfeited to
21 the state of Iowa. A proceeding in the nature of a proceeding
22 in rem shall be filed in a court of competent jurisdiction in
23 the county of seizure to maintain the seizure and declare and
24 perfect the forfeiture. All cigarettes, counterfeit
25 cigarettes, vehicles, and property seized, remaining in the
26 possession or custody of the department, sheriff or other
27 officer for forfeiture or other disposition as provided by
28 law, are not subject to replevin.

29 4. In the event final judgment is rendered in the
30 forfeiture proceedings aforesaid, maintaining the seizure, and
31 declaring and perfecting the forfeiture of said seized
32 property, the court shall order and decree the sale thereof of
33 the seized property, other than the counterfeit cigarettes, to
34 the highest bidder, by the sheriff at public auction in the
35 county of seizure after notice is given in the manner provided

1 in the case of the sale of personal property under execution,
2 and the proceeds of such sale, less expense of seizure and
3 court costs, shall be paid into the state treasury.

4 Counterfeit cigarettes shall be destroyed or disposed of in a
5 manner determined by the director.

6 5. In the event the cigarettes seized hereunder and sought
7 to be sold upon forfeiture ~~shall be~~ are unstamped, the
8 cigarettes shall be sold by the director or the director's
9 designee to the highest bidder among the ~~licensed~~ permitted
10 distributors in this state after written notice has been
11 mailed to all ~~such~~ distributors. If there is no bidder, or in
12 the opinion of the director the quantity of cigarettes to be
13 sold is insufficient or for any other reason such disposition
14 of the cigarettes is impractical, the cigarettes shall be
15 destroyed or disposed of in a manner as determined by the
16 director. The proceeds ~~of such~~ from the sales shall be paid
17 into the state treasury.

18 Sec. 42. Section 453A.36, Code 2003, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 9. a. It is unlawful for a person to
21 ship or import into this state or to offer for sale, sell,
22 distribute, transport, or possess counterfeit cigarettes,
23 knowing such cigarettes are counterfeit cigarettes or having
24 reasonable cause to believe that such cigarettes are
25 counterfeit cigarettes.

26 b. For purposes of this subsection and section 453A.32,
27 "counterfeit cigarettes" means cigarettes, packages of
28 cigarettes, cartons of cigarettes or other containers of
29 cigarettes with a label, trademark, service mark, trade name,
30 device, design, or word adopted or used by a cigarette
31 manufacturer to identify its product that is false or used
32 without authority of the cigarette manufacturer.

33 Sec. 43. NEW SECTION. 453A.39 TOBACCO PRODUCT AND
34 CIGARETTE SAMPLES -- RESTRICTIONS -- ADMINISTRATION.

35 1. A manufacturer, distributor, wholesaler, retailer, or

1 distributing agent, or agent thereof, shall not give away
2 cigarettes or tobacco products at any time in connection with
3 the manufacturer's, distributor's, wholesaler's, retailer's,
4 or distributing agent's business or for promotion of the
5 business or product, except as provided in subsection 2.

6 2. a. All cigarette samples shall be shipped only to a
7 distributor that has a permit to stamp cigarettes or little
8 cigars with Iowa tax. All cigarette samples must have a
9 cigarette stamp. The manufacturer shipping samples under this
10 section shall send an affidavit to the director stating the
11 shipment information, including the date shipped, quantity,
12 and to whom the samples were shipped. The distributor
13 receiving the shipment shall send an affidavit to the director
14 stating the shipment information, including the date shipped,
15 quantity, and from whom the samples were shipped. These
16 affidavits shall be duly notarized and submitted to the
17 director at the time of shipment and receipt of the samples.
18 The distributor shall pay the tax on samples by separate
19 remittance along with the affidavit.

20 b. A manufacturer, distributor, wholesaler, retailer, or
21 distributing agent or agent thereof shall not give away any
22 cigarettes or tobacco products to any person under eighteen
23 years of age, or within five hundred feet of any playground,
24 school, high school, or other facility when such facility is
25 being used primarily by persons under age eighteen for
26 recreational, educational, or other purposes.

27 c. Proof of age shall be required if a reasonable person
28 could conclude on the basis of outward appearance that a
29 prospective recipient of a sample may be under eighteen years
30 of age.

31 Sec. 44. Section 453A.43, Code 2003, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 6. All excise taxes collected under this
34 chapter by a distributor or any individual are deemed to be
35 held in trust for the state of Iowa.

1 Sec. 45. Section 453A.45, subsection 1, unnumbered
2 paragraph 2, Code 2003, is amended to read as follows:

3 When a licensed distributor sells tobacco products
4 exclusively to the ultimate consumer at the address given in
5 the license, an invoice of those sales is not required, but
6 itemized invoices shall be made of all tobacco products
7 transferred to other retail outlets owned or controlled by
8 that licensed distributor. All books, records and other
9 papers and documents required by this subdivision to be kept
10 shall be preserved for a period of at least ~~two~~ three years
11 after the date of the documents or the date of the entries
12 appearing in the records, unless the director, in writing,
13 authorized their destruction or disposal at an earlier date.
14 At any time during usual business hours, the director, or the
15 director's duly authorized agents or employees, may enter any
16 place of business of a distributor, without a search warrant,
17 and inspect the premises, the records required to be kept
18 under this subdivision, and the tobacco products contained
19 therein, to determine if all the provisions of this division
20 are being fully complied with. If the director, or any such
21 agent or employee, is denied free access or is hindered or
22 interfered with in making the examination, the license of the
23 distributor at that premises is subject to revocation by the
24 director.

25 Sec. 46. Section 453A.45, subsections 2, 3, and 4, Code
26 2003, are amended to read as follows:

27 2. Every person who sells tobacco products to persons
28 other than the ultimate consumer shall render with each sale
29 itemized invoices showing the seller's name and address, the
30 purchaser's name and address, the date of sale, and all prices
31 and discounts. The person shall preserve legible copies of
32 all ~~such~~ these invoices for ~~two~~ three years from the date of
33 sale.

34 3. Every retailer and subjobber shall procure itemized
35 invoices of all tobacco products purchased. The invoices

1 shall show the name and address of the seller and the date of
2 purchase. The retailer and subjobber shall preserve a legible
3 copy of each ~~such~~ invoice for ~~two~~ three years from the date of
4 purchase. Invoices shall be available for inspection by the
5 director or the director's authorized agents or employees at
6 the retailer's or subjobber's place of business.

7 4. Records of all deliveries or shipments of tobacco
8 products from any public warehouse of first destination in
9 this state which is subject to the provisions of and licensed
10 under chapter 554 shall be kept by the warehouse and be
11 available to the director for inspection. They shall show the
12 name and address of the consignee, the date, the quantity of
13 tobacco products delivered, and such other information as the
14 commissioner may require. These records shall be preserved
15 for ~~two~~ three years from the date of delivery of the tobacco
16 products.

17 Sec. 47. Section 453A.46, subsections 1 and 6, Code 2003,
18 are amended to read as follows:

19 1. On or before the twentieth day of each calendar month
20 every distributor with a place of business in this state shall
21 file a return with the director showing the quantity and
22 wholesale sales price of each tobacco product brought, or
23 caused to be brought, into this state for sale; and made,
24 manufactured, or fabricated in this state for sale in this
25 state, during the preceding calendar month. Every licensed
26 distributor outside this state shall in like manner file a
27 return showing the quantity and wholesale sales price of each
28 tobacco product shipped or transported to retailers in this
29 state to be sold by those retailers, during the preceding
30 calendar month. Returns shall be made upon forms furnished
31 and prescribed by the director and shall contain other
32 information as the director may require. Each return shall be
33 accompanied by a remittance for the full tax liability shown
34 on the return, less a discount as fixed by the director not to
35 exceed five percent of the tax. Within ~~two~~ three years after

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

9 The ~~two-year~~ three-year period of limitation may be
10 extended by a taxpayer by signing a waiver agreement form to
11 be provided by the department. The agreement must stipulate
12 the period of extension and the tax period to which the
13 extension applies. The agreement must also provide that a
14 claim for refund may be filed by the taxpayer at any time
15 during the period of extension.

16 6. On or before the twentieth day of each calendar month,
17 every consumer who, during the preceding calendar month, has
18 acquired title to or possession of tobacco products for use or
19 storage in this state, upon which tobacco products the tax
20 imposed by section 453A.43 has not been paid, shall file a
21 return with the director showing the quantity of tobacco
22 products so acquired. The return shall be made upon a form
23 furnished and prescribed by the director, and shall contain
24 other information as the director may require. The return
25 shall be accompanied by a remittance for the full unpaid tax
26 liability shown by it. Within ~~two~~ three years after the
27 return is filed or within ~~two~~ three years after the return
28 became due, whichever is later, the department shall examine
29 it, determine the correct amount of tax, and assess the tax
30 against the taxpayer for any deficiency. The period for
31 examination and determination of the correct amount of tax is
32 unlimited in the case of a false or fraudulent return made
33 with the intent to evade tax, or in the case of a failure to
34 file a return.

35 Sec. 48. Section 453B.3, Code 2003, is amended by adding

1 the following new unnumbered paragraph:

2 NEW UNNUMBERED PARAGRAPH. All excise taxes collected under
3 this chapter by a dealer or any individual are deemed to be
4 held in trust for the state of Iowa.

5 Sec. 49. Section 633.479, unnumbered paragraph 2, Code
6 Supplement 2003, is amended to read as follows:

7 An order approving the final report and discharging the
8 personal representative shall not be required if all
9 distributees otherwise entitled to notice are adults, under no
10 legal disability, have signed waivers of notice as provided in
11 section 633.478, have signed statements of consent agreeing
12 that the prayer of the final report shall constitute an order
13 approving the final report and discharging the personal
14 representative, and if the statements of consent are dated not
15 more than thirty days prior to the date of the final report,
16 and if compliance with sections 422.27 and 450.58 have been
17 fulfilled and receipts, sworn statements, and certificates, as
18 any of these that are required, are on file. In those
19 instances final order shall not be required and the prayer of
20 the final report shall be considered as granted and shall have
21 the same force and effect as an order of discharge of the
22 personal representative and an order approving the final
23 report.

24 Sec. 50. Sections 2A.8 and 48A.24, Code Supplement 2003,
25 are repealed.

26 Sec. 51. REFUNDS. Refunds of taxes, interest, or
27 penalties which arise from claims resulting from the amendment
28 to section 422.42, subsection 6, in this Act, for the
29 noninclusion of trade discounts in computing gross receipts on
30 sales occurring between January 1, 1997, and the effective
31 date of the section amending section 422.42, subsection 6, in
32 this Act, shall be limited to twenty-five thousand dollars in
33 the aggregate and shall not be allowed unless refund claims
34 are filed prior to October 1, 2004, notwithstanding any other
35 provision of law. If the amount of claims totals more than

1 twenty-five thousand dollars in the aggregate, the department
2 of revenue shall prorate the twenty-five thousand dollars
3 among all claimants in relation to the amounts of the
4 claimants' valid claims.

5 Sec. 52. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
6 PROVISIONS.

7 1. The section amending section 422.42, subsection 6, in
8 this Act, being deemed of immediate importance, takes effect
9 upon enactment and applies retroactively to January 1, 1997.

10 2. The section amending section 422.42, subsection 6, in
11 this Act is void on and after July 1, 2004.

12 3. The section providing for sales and use tax refunds in
13 this Act ceases to apply to any refund claims filed after
14 September 30, 2004.

15 EXPLANATION

16 Code sections 15.335, 15A.9, 422.10, and 422.33 are amended
17 to update the Iowa Code references to the state research
18 activities credit for individuals, corporations, corporations
19 in economic development areas, and corporations in quality
20 jobs enterprise zones to include the 2003 federal changes in
21 the research activities credit.

22 Code section 421.1(4) is amended to permit the department
23 of revenue to appeal decisions of the state board of tax
24 review to district court.

25 Code sections 421.17A, the administrative levy, and
26 421.17B, the administrative wage assignment, which apply to
27 the debtors of the state, are amended as follows:

28 1. Code sections 421.17A(8) and 421.17B(8) are amended by
29 adding to each a new paragraph "g" which limits recovery by a
30 debtor in district court when a wrongful administrative levy
31 or wage assignment is alleged and limits the ability of a
32 debtor to litigate administrative levies and wage assignments.

33 2. Code sections 421.17A(8) and 421.17B(8) are amended by
34 adding to each a new paragraph "h" which specifies that a
35 challenge to an administrative levy or administrative wage

1 assignment will result in the facts of the levy or assignment
2 being reviewed and not the amount or validity of the tax.

3 3. Code section 421.17A(2)(a) is amended to add identical
4 language that exists in Code section 421.17B(2)(a) to provide
5 that the administrative levy remedy is cumulative and that the
6 election to use such remedy does not forestall the use of any
7 other remedy provided by law.

8 4. The remaining changes to these sections provide more
9 uniformity between the administrative wage assignment statute
10 and the administrative levy statute and reflect actual
11 practice.

12 Code sections 422.42(6) and 423.1(47) are amended to
13 exclude from gross receipts for sales and use tax purposes
14 trade discounts given or allowed by manufacturers,
15 distributors, or wholesalers to retailers or payments made by
16 such persons to retailers to reduce the sales price of such
17 persons' products. The amendment is retroactive to January 1,
18 1997, with refunds arising from such retroactivity limited to
19 \$25,000. Claims for refunds must be filed prior to October 1,
20 2004. The amendment does not apply to coupons issued to
21 consumers.

22 Code sections 422A.1, 422B.9(3)(a), 423.2, 424.3(1),
23 452A.3, 453A.6, 453A.43, and 453B.3 are amended to give
24 priority to the department of revenue in the collection of
25 taxes by treating them as trust fund taxes.

26 Code sections 423.1(47) and 423.2(6) are amended to define
27 "sales price" to include rents, royalties, and copyright and
28 license fees. Under existing Iowa sales and use tax law,
29 leasing of tangible personal property is a taxable service.
30 Under the law which becomes effective July 1, 2004, leasing is
31 the sale of that property rather than the performance of a
32 taxable service. The taxable proceeds from these leases have
33 always included rents, royalties, copyright, and license fees.

34 Code section 423.3(33) is amended to change a reference
35 from legislative service bureau to legislative services agency

1 for purposes of the Iowa sales tax exemption as it is provided
2 in Code section 2A.8, which is repealed.

3 Code section 423.3(82) is amended to expand the exemption
4 from the sales and use taxes of molding and sand handling
5 machinery and equipment to include replacement parts and the
6 costs of utilities and installation costs associated with such
7 machinery and equipment.

8 Code section 423.3 is amended to add a new subsection 43A
9 to place the exemption from Iowa sales and use tax applicable
10 to the reciprocal shipment of wine contained in Code section
11 123.187 in this section of the Code.

12 Code section 441.21(2) is amended to require the owner of
13 section 42 property under the Internal Revenue Code to notify
14 the assessor when the property is withdrawn from the Internal
15 Revenue Code program. A monetary penalty of \$500 is also
16 included if this notification is not forthcoming.

17 Code sections 450.22, 450.53(1) and (2), 450.58, and
18 450.94(2) are amended so that an inheritance tax return is not
19 required to be filed if all property is passed to an exempt
20 entity. Iowa law currently requires estates of \$25,000 or
21 more to file a return regardless of to whom the property
22 passes. In the case where a return is not required to be
23 filed and the estate involves real property, an affidavit, of
24 such fact must be filed. Upon filing a false affidavit the
25 affiant and personal representative are jointly and severably
26 liable for tax, penalty, and interest. Code section 633.479
27 is amended to reflect the nonrequirement of filing an
28 inheritance tax return.

29 Code section 450.37(2)(a) is amended to extend from 30 to
30 60 days the period of time the director of revenue has to
31 request an appraisal after an inheritance tax return is filed.

32 Code section 453A.11 is amended to impose a penalty against
33 any person found to have altered a cigarette tax stamp.

34 Code sections 453.15(1), 453.28, 453A.45(1), unnumbered
35 paragraph 2 and subsections 2, 3, and 4, and 453A.46(1) and

1 (6) are amended to extend the statute of limitations for
2 cigarette and tobacco tax audits from two to three years.
3 This three-year period is consistent with all other taxes.

4 Code section 453A.31(1)(c), (d), and (e), is amended to
5 increase the penalty for possessing more than 2,000 unstamped
6 cigarettes (10 cartons) and to reflect the extension of time
7 from two to three years for the department to impose a penalty
8 for certain violations.

9 Code section 453A.31(2)(b) and (c) is amended to reflect
10 the extension of time from two to three years for the
11 department to impose a penalty for certain violations.

12 Code sections 453A.32 and 453A.36 are amended to make it
13 unlawful to ship or import into Iowa or sell, distribute, or
14 possess counterfeit cigarettes and allow for the confiscation
15 and destruction of those cigarettes. "Counterfeit cigarettes"
16 are cigarettes that are marked in such a manner that would
17 lead someone to believe the cigarettes were of a specific
18 known brand or manufacturer.

19 New Code section 453A.39 is added to place restrictions on
20 manufacturers, distributors, wholesalers, and retailers in
21 providing cigarette and tobacco product samples to the public.

22 Code section 48A.24 is repealed. This section requires
23 that two voter registration forms be inserted in each
24 individual income tax instruction booklet every other year.

25

26

HOUSE FILE 2565

H-8391

1 Amend House File 2565 as follows:

2 1. By striking page 8, line 35, through page 9,
3 line 13.

4 2. Page 10, by striking lines 10 through 23.

5 3. By striking page 27, line 26, through page 28,
6 line 14.

By SHOULTZ of Black Hawk

H-8391 FILED APRIL 6, 2004
OUT OF ORDER

LSB 6923HV 80

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 2565 - Tax Policy Administration (LSB 6923 HV)

Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)

Fiscal Note Version - New

Description

House File 2565 makes several substantive and technical changes to Iowa tax administration law. Changes with potential significant fiscal impact include:

- Coupling with 2003 federal tax law changes related to the Research Activities Credit.
- Expanding the sales and use tax exemption for mold making and sand handling equipment to include replacement parts, installation and electricity costs.
- Exempting certain methods of manufacturer discounts from State and local sales and use taxes. This change is retroactive to January 1, 1997, and refunds are allowed with a maximum of \$25,000.

Assumptions

1. Expanding the mold making sales and use tax exemption will exempt \$4.0 million in foundry purchases from the sales and use tax and the local option sales tax.
2. Audits by the Department of Revenue in the next 18 months will result in the assessment of \$5.0 million in unpaid State and local sales tax related to the sale of cigarettes where the tax was collected and remitted based on an improper tax calculation.
3. The Department will prevail in the tax assessments, either by voluntary payment, settlement agreements, or court action. Actual tax collection will occur in FY 2006 and FY 2007.
4. Regardless of the law change, the industry discounting practice will change to eliminate the sales tax collection issue in the future.

Fiscal Impact

Coupling with 2003 federal tax law changes related to the Research Activities Credit will not significantly impact General Fund tax revenues.

Expanding the mold making sales and use tax exemption will reduce General Fund sales and use tax revenues by \$200,000 per year, beginning FY 2005. Local option sales tax receipts will decrease \$40,000 per year.

Exempting certain methods of manufacturer discounts from State and local sales and use taxes will reduce net General Fund revenue by \$2.1 million and local option sales tax receipts by \$420,000 in FY 2006 and FY 2007.

Sources

Department of Revenue
Legislative Services Agency Analysis
Metal Casting Institute – University of Northern Iowa

Dennis C Prouty

April 6, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

Kramer-CH
Carroll
Shomshor

Succ^{ed}
SF 2565 HSB 723
WAYS AND MEANS

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON VAN FOSSEN)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the policy administration of the tax and
2 related laws by the department of revenue, including
3 administration of and substantive changes to the state
4 individual income, corporate income, sales, use, property,
5 inheritance, motor fuel, special fuel, cigarette, and tobacco
6 taxes and including penalties.

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

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1 Section 1. Section 15.335, subsection 4, unnumbered
2 paragraph 2, Code Supplement 2003, is amended to read as
3 follows:

4 For purposes of this section, "Internal Revenue Code" means
5 the Internal Revenue Code in effect on January 1, ~~2003~~ 2004.

6 Sec. 2. Section 15A.9, subsection 8, paragraph e,
7 unnumbered paragraph 2, Code Supplement 2003, is amended to
8 read as follows:

9 For purposes of this subsection, "Internal Revenue Code"
10 means the Internal Revenue Code in effect on January 1, ~~2003~~
11 2004.

12 Sec. 3. Section 421.1, subsection 4, Code Supplement 2003,
13 is amended by adding the following new unnumbered paragraph:

14 NEW UNNUMBERED PARAGRAPH. Judicial review of the decisions
15 or orders of the board resulting from the review of decisions
16 or orders of the director of revenue for assessment and
17 collection of taxes by the department may be sought by the
18 taxpayer or the director of revenue in accordance with the
19 terms of chapter 17A.

20 Sec. 4. Section 421.17A, subsection 2, paragraph a, Code
21 Supplement 2003, is amended to read as follows:

22 a. Notwithstanding other statutory provisions which
23 provide for the execution, attachment, garnishment, or levy
24 against accounts, the facility may utilize the process
25 established in this section to collect delinquent accounts,
26 charges, fees, loans, taxes, or other indebtedness due the
27 state or being collected by the state provided that any
28 exemptions or exceptions which specifically apply to
29 enforcement of such obligations also apply to this section.
30 Administrative levy under this section is the equivalent of
31 condemning funds under chapter 642. It is expressly provided
32 that these remedies shall be cumulative and that no action
33 taken by the director or attorney general shall be construed
34 to be an election on the part of the state or any of its
35 officers, employees, or representatives to pursue any other

1 remedy provided by law.

2 Sec. 5. Section 421.17A, subsection 3, Code Supplement
3 2003, is amended to read as follows:

4 3. ~~INITIAL~~ NOTICE OF INTENT TO OBLIGOR. The facility may
5 proceed under this section only if twenty days' notice has
6 been provided ~~to-the-obligor~~ by regular mail to the last known
7 address of the obligor, notifying the obligor that the obligor
8 is subject to this section and of the facility's intention to
9 use the levy process. ~~The-facility-shall-give-twenty-days'~~
10 ~~notice-of-its-intention-to-use-the-levy-process.~~ The twenty-
11 day twenty days' notice period shall not be required if the
12 facility determines that the collection of past due amounts
13 would be jeopardized.

14 Sec. 6. Section 421.17A, subsection 5, paragraph c,
15 subparagraph (7), Code Supplement 2003, is amended to read as
16 follows:

17 (7) A The telephone number, ~~address,~~ ~~and-contact-name~~ of
18 the agent for the facility initiating the action.

19 Sec. 7. Section 421.17A, subsection 6, Code Supplement
20 2003, is amended to read as follows:

21 6. ADMINISTRATIVE LEVY -- NOTICE OF INITIATION OF ACTION
22 TO OBLIGOR AND OTHER ACCOUNT HOLDERS.

23 a. The facility may administratively initiate an action to
24 seize one or more accounts of an obligor who is subject to
25 this section and section 421.17, subsection 27.

26 b. The facility shall notify an obligor subject to this
27 section. The notice shall contain all of the following:

28 (1) The name and social security number of the obligor.

29 (2) A statement that the obligor is believed to have an
30 account at the financial institution.

31 (3) A statement that pursuant to the provisions of this
32 section, the obligor's account is subject to seizure and the
33 financial institution is authorized and required to forward
34 moneys to the facility.

35 (4) The maximum amount to be forwarded by the financial

1 institution, which shall not exceed the delinquent or accrued
2 amount of debt being collected by or owed to the state by the
3 obligor.

4 (5) The prescribed time frames the financial institution
5 must meet in forwarding any amounts.

6 (6) A statement that any challenge to the action must be
7 in writing and must be received by the facility within ten
8 days of the date of the notice to the obligor.

9 (7) The address of the facility and the account number
10 utilized by the facility for the obligor.

11 (8) A The telephone number, address, and contact name of
12 the agent for the facility initiating the action.

13 c. The facility shall forward the notice of initiation of
14 action to the obligor by regular mail within two working days
15 of sending the notice to the financial institution pursuant to
16 subsection 5, paragraph "b".

17 d. The facility shall notify any other party known to have
18 an interest in the account. The notice shall contain all of
19 the following:

20 (1) The name of the obligor.

21 (2) The name of the financial institution.

22 (3) A statement that the account in which the other party
23 is known to have an interest is subject to seizure.

24 (4) A statement that any challenge to the action must be
25 in writing and must be received by the facility within ten
26 days of the date of the notice to the party known to have an
27 interest.

28 (5) The address of the facility and the name of the
29 obligor who also has an interest in the account.

30 (6) A The telephone number, address, and contact name of
31 the agent for the facility initiating the action.

32 e. The facility shall forward the notice to the other
33 party known to have an interest by regular mail within two
34 working days of sending the notice to the financial
35 institution pursuant to subsection 5, paragraph "b".

1 Sec. 8. Section 421.17A, subsection 8, paragraphs b, c,
2 and f, Code Supplement 2003, are amended to read as follows:

3 b. The person challenging the action shall submit a
4 written challenge to the person identified as the **contact**
5 agent for the facility in the notice, within ten days of the
6 date of the notice of initiation of the levy.

7 c. The facility, upon receipt of a written challenge,
8 shall review the facts of the **case administrative levy** with
9 the challenging party within ten days of receipt of the
10 challenge. If the challenging party is not available for the
11 review on the scheduled date, the review shall take place
12 without the challenging party being present. Information in
13 favor of the challenging party shall be considered by the
14 facility in the review. The facility may utilize additional
15 information if such information is available. Only a mistake
16 of fact, including, but not limited to, a mistake in the
17 identity of the obligor or a mistake in the amount owed to or
18 being collected by the state shall be considered as a reason
19 to dismiss or modify the action.

20 f. The challenging party shall have the right to file an
21 action for wrongful levy in district court within thirty days
22 of the date of the notice in paragraph "e", either in the
23 county where the obligor or the party known to have an
24 interest in the account resides or in Polk county where the
25 facility is located. Actions under this section are in equity
26 and not actions at law.

27 Sec. 9. Section 421.17A, subsection 8, Code Supplement
28 2003, is amended by adding the following new paragraphs:

29 NEW PARAGRAPH. g. Recovery under this section is limited
30 to restitution of the amount that has been wrongfully
31 encumbered or obtained by the department.

32 NEW PARAGRAPH. h. A challenge to an administrative action
33 under this subsection cannot be used to extend or reopen the
34 statute of limitations to protest other departmental actions
35 or to contest the amount or validity of the tax. Only issues

1 involving the levy can be raised in a challenge to an
2 administrative action under this subsection.

3 Sec. 10. Section 421.17B, subsection 2, paragraph a, Code
4 Supplement 2003, is amended to read as follows:

5 a. Notwithstanding other statutory provisions which
6 provide for the execution, attachment, garnishment, or levy
7 against accounts, the facility may utilize the process
8 established in this section to collect delinquent accounts,
9 charges, fees, loans, taxes, or other indebtedness due the
10 facility or being collected by the facility provided all
11 administrative remedies have been waived or exhausted by the
12 obligor. Any exemptions or exceptions which specifically
13 apply to enforcement of such obligations also apply to this
14 section. Administrative wage assignment under this section is
15 the equivalent of condemning funds under chapter 642. It is
16 expressly provided that these remedies shall be cumulative and
17 that no action taken by the director or the attorney general
18 shall be construed to be an election on the part of the state
19 or any of its officers or representatives to pursue any other
20 remedy provided by law.

21 ~~Administrative-wage-assignment-under-this-section-is-the~~
22 ~~equivalent-of-condemning-funds-under-chapter-642.~~

23 ~~The-administrative-wage-assignment-is-to-be-considered-an~~
24 ~~additional-means-of-collection-by-the-facility-and-not-an~~
25 ~~exclusive-means-of-collection.--If-the-use-of-an~~
26 ~~administrative-wage-assignment-is-not-successful-in-collecting~~
27 ~~an-outstanding-debt-due-the-facility,-the-facility-may-use-the~~
28 ~~collection-provisions-set-forth-in-chapters-626-and-642.~~

29 Sec. 11. Section 421.17B, subsection 3, Code Supplement
30 2003, is amended to read as follows:

31 3. NOTICE OF INTENT TO THE OBLIGOR.

32 a. The facility may proceed under this section only if a
33 ten-day twenty days' notice has been provided ~~to-the-obligor.~~
34 ~~Notice-by-the-facility-may-be~~ by regular mail to the last
35 known address of the obligor, notifying the obligor that the

1 obligor is subject to this section. If the facility
2 determines that collection of the debt may be in jeopardy, the
3 facility may request that the employer deliver notice of the
4 wage assignment simultaneous with the remainder of or in lieu
5 of the obligor's compensation due from the employer.

6 The facility may obtain one or more wage assignments of an
7 obligor who is subject to this section. If the obligor has
8 more than one employer, the facility may receive wage
9 assignments from one or ~~all~~ more of the employers until the
10 full debt obligation of the obligor is satisfied. If an
11 obligor has more than one employer, the facility shall give
12 notice to all employers ~~that-the-facility-seeks-to-have-an~~
13 assignment-of-wages from whom an assignment is sought.

14 b. The notice from the facility to the obligor shall
15 contain all of the following:

16 (1) The name and social security number of the obligor.

17 (2) A statement that the obligor is believed to have
18 employment with the stated employer.

19 (3) A statement that pursuant to the provisions of this
20 section, the obligor's wages will be assigned to the facility
21 for payment of the specified debts and that the employer is
22 authorized and required to forward moneys to the facility.

23 (4) The maximum amount to be forwarded by the employer,
24 which shall not exceed the delinquent or accrued amount of
25 debt being collected by or owed to the facility by the
26 obligor.

27 (5) The prescribed time frames the employer must meet in
28 forwarding any amounts.

29 (6) A statement that any challenge to the action must be
30 in writing and must be received by the facility within ten
31 days of the date of the notice to the obligor.

32 (7) The address of the facility and the account number
33 utilized by the facility for the obligor.

34 (8) A The telephone number, ~~address, and contact name~~ of
35 the agent for the facility initiating the action.

1 Sec. 12. Section 421.17B, subsection 6, paragraph c,
2 subparagraph (7), Code Supplement 2003, is amended to read as
3 follows:

4 (7) A ~~The telephone number, address, and name of a contact~~
5 ~~person with the facility~~ of the agent for the facility
6 initiating the action.

7 Sec. 13. Section 421.17B, subsection 8, paragraphs a, b,
8 c, and f, Code Supplement 2003, are amended to read as
9 follows:

10 a. Challenges under this section may be initiated only by
11 an obligor. An administrative wage assignment only occurs
12 after the obligor has waived or exhausted administrative
13 remedies. Reviews by the facility of a challenge to an
14 administrative wage assignment are not subject to chapter 17A
15 ~~unless the challenge is regarding the validity of the~~
16 ~~assignment. Actions under this section are in equity and not~~
17 ~~actions at law.~~

18 b. The obligor challenging the administrative wage
19 assignment shall submit a written challenge to the person
20 identified as the ~~contact~~ agent for the facility in the
21 notice, within ten days of the date of the notice ~~to the~~
22 obligor of initiation of the assignment.

23 c. The facility, upon receipt of a written challenge,
24 shall review the facts of the ~~case~~ administrative wage
25 assignment with the obligor within ten days of receipt of the
26 challenge. If the obligor is not available for the review on
27 the scheduled date, the review shall take place without the
28 obligor being present. Information in favor of the obligor
29 shall be considered by the facility in the review. The
30 facility may utilize additional information if such
31 information is available. Only a mistake of fact, including,
32 but not limited to, a mistake in the identity of the obligor
33 or a mistake in the amount owed to or being collected by the
34 facility shall be considered as a reason to dismiss or modify
35 the administrative wage assignment.

1 f. The obligor shall have the right to file an action for
2 wrongful assignment in district court within thirty days of
3 the date of the notice to the obligor, either in the county
4 where the obligor is located or in Polk county where the
5 facility is located. Actions under this section are in equity
6 and not actions at law.

7 Sec. 14. Section 421.17B, subsection 8, Code Supplement
8 2003, is amended by adding the following new paragraphs:

9 NEW PARAGRAPH. g. Recovery under this subsection is
10 limited to restitution of the amount that has been wrongfully
11 encumbered or obtained by the department.

12 NEW PARAGRAPH. h. A challenge to an administrative action
13 under this subsection cannot be used to extend or reopen the
14 statute of limitations to protest other departmental actions
15 or to contest the amount or validity of the tax. Only issues
16 involving the assignment can be raised in a challenge to an
17 administrative action under this subsection.

18 Sec. 15. Section 421.17B, subsection 9, unnumbered
19 paragraph 2, Code Supplement 2003, is amended to read as
20 follows:

21 Expiration Cessation of the wage assignment does not affect
22 the obligor's duties and liabilities respecting the wages
23 already withheld pursuant to the wage assignment.

24 Sec. 16. Section 422.10, subsection 3, unnumbered
25 paragraph 2, Code Supplement 2003, is amended to read as
26 follows:

27 For purposes of this section, "Internal Revenue Code" means
28 the Internal Revenue Code in effect on January 1, ~~2003~~ 2004.

29 Sec. 17. Section 422.33, subsection 5, paragraph d,
30 unnumbered paragraph 2, Code Supplement 2003, is amended to
31 read as follows:

32 For purposes of this subsection, "Internal Revenue Code"
33 means the Internal Revenue Code in effect on January 1, ~~2003~~
34 2004.

35 Sec. 18. Section 422.42, subsection 6, Code 2003, is

1 amended by adding the following new paragraph:

2 NEW PARAGRAPH. c. That trade discounts given or allowed
3 by manufacturers, distributors, or wholesalers to retailers or
4 by manufacturers or distributors to wholesalers and payments
5 made by manufacturers, distributors, or wholesalers directly
6 to retailers or by manufacturers or distributors to
7 wholesalers to reduce the sales price of the manufacturer's,
8 distributor's, or wholesaler's product or to promote the sale
9 or recognition of the manufacturer's, distributor's, or
10 wholesaler's product shall not be included if excessive sales
11 tax is not collected from the purchaser. This paragraph does
12 not apply to coupons issued by manufacturers, distributors, or
13 wholesalers to consumers.

14 Sec. 19. Section 422A.1, unnumbered paragraph 8, Code
15 Supplement 2003, is amended to read as follows:

16 The tax levied shall be in addition to any state sales tax
17 imposed under section 422.43. Section 422.25, subsection 4,
18 sections 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67,
19 422.68, 422.69, subsection 1, and sections 422.70 to 422.75,
20 consistent with the provisions of this chapter, apply with
21 respect to the taxes authorized under this chapter, in the
22 same manner and with the same effect as if the hotel and motel
23 taxes were retail sales taxes within the meaning of those
24 statutes. Notwithstanding this paragraph, the director shall
25 provide for quarterly filing of returns as prescribed in
26 section 422.51 and for other than quarterly filing of returns
27 as prescribed in section 422.51, subsection 2. The director
28 may require all persons, as defined in section 422.42, who are
29 engaged in the business of deriving gross receipts subject to
30 tax under this chapter, to register with the department. All
31 taxes collected under this chapter by a retailer or any
32 individual are deemed to be held in trust for the state of
33 Iowa.

34 Sec. 20. Section 422B.9, subsection 3, paragraph a, Code
35 Supplement 2003, is amended to read as follows:

1 a. The director, in consultation with local officials,
 2 shall collect and account for a local sales and services tax.
 3 The director shall certify each quarter the amount of local
 4 sales and services tax receipts and any interest and penalties
 5 to be credited to the "local sales and services tax fund"
 6 established in the office of the treasurer of state. All
 7 taxes collected under this chapter by a retailer or any
 8 individual are deemed to be held in trust for the state of
 9 Iowa.

10 Sec. 21. Section 423.1, subsection 47, paragraph b, as
 11 enacted by 2003 Iowa Acts, First Extraordinary Session,
 12 chapter 2, section 94, is amended by adding the following new
 13 subparagraph:

14 NEW SUBPARAGRAPH. (5) Trade discounts given or allowed by
 15 manufacturers, distributors, or wholesalers to retailers or by
 16 manufacturers or distributors to wholesalers and payments made
 17 by manufacturers, distributors, or wholesalers directly to
 18 retailers or by manufacturers or distributors to wholesalers
 19 to reduce the sales price of the manufacturer's, distributors,
 20 or wholesaler's product or to promote the sale or recognition
 21 of the manufacturer's, distributor's, or wholesaler's product.
 22 This subparagraph does not apply to coupons issued by
 23 manufacturers, distributors, or wholesalers to consumers.

24 Sec. 22. Section 423.1, subsection 47, as enacted by 2003
 25 Iowa Acts, First Extraordinary Session, chapter 2, section 94,
 26 is amended by adding the following new paragraph:

27 NEW PARAGRAPH. c. For purposes of this definition, the
 28 sales price from a rental or lease includes rent, royalties,
 29 and copyright and license fees.

30 Sec. 23. Section 423.2, subsection 6, unnumbered paragraph
 31 2, as enacted by 2003 Iowa Acts, First Extraordinary Session,
 32 chapter 2, section 95, is amended to read as follows:

33 ~~For the purposes of this subsection, the sales price of a~~
 34 ~~lease or rental includes rents, royalties, and copyright and~~
 35 ~~license fees.~~ For the purposes of this subsection, "financial

1 institutions" means all national banks, federally chartered
2 savings and loan associations, federally chartered savings
3 banks, federally chartered credit unions, banks organized
4 under chapter 524, savings and loan associations and savings
5 banks organized under chapter 534, and credit unions organized
6 under chapter 533.

7 Sec. 24. Section 423.2, as enacted by 2003 Iowa Acts,
8 First Extraordinary Session, chapter 2, section 95, is amended
9 by adding the following new subsection:

10 NEW SUBSECTION. 11. All taxes collected under this
11 chapter by a retailer or any individual are deemed to be held
12 in trust for the state of Iowa.

13 Sec. 25. Section 423.3, subsections 33 and 82, as enacted
14 by 2003 Iowa Acts, First Extraordinary Session, chapter 2,
15 section 96, are amended to read as follows:

16 33. a. The sales price of mementos and other items
17 relating to Iowa history and historic sites, the general
18 assembly, and the state capitol, sold by the legislative
19 ~~service-bureau~~ services agency and its legislative information
20 office on the premises of property under the control of the
21 legislative council, at the state capitol, and on other state
22 property.

23 b. The legislative services agency is not a retailer under
24 this chapter and the sale of items or provision of services by
25 the legislative services agency is not a retail sale under
26 this chapter and is exempt from the sales tax.

27 82. a. The sales price from the sale or rental of core
28 ~~and making,~~ mold making, equipment and sand handling machinery
29 and equipment, including replacement parts, directly and
30 primarily used in the mold making process by a foundry.

31 b. The sales price from the sale of fuel used in creating
32 heat, power, steam, or for generating electric current, or
33 from the sale of electricity, consumed by core making, mold
34 making, and sand handling machinery and equipment used
35 directly and primarily in the mold-making process by a

1 foundry.

2 c. The sales price from the furnishing of the design and
3 installation, including electrical and electronic
4 installation, of core making, mold making, and sand handling
5 machinery and equipment used directly and primarily in the
6 mold-making process by a foundry.

7 Sec. 26. Section 423.3, as enacted by 2003 Iowa Acts,
8 First Extraordinary Session, chapter 2, section 96, is amended
9 by adding the following new subsection:

10 NEW SUBSECTION. 43A. The sales price from the sale of
11 wine which is shipped from outside Iowa and which meets the
12 requirements for sales and use tax exemption pursuant to
13 section 123.187.

14 Sec. 27. Section 424.3, subsection 1, Code 2003, is
15 amended by adding the following new unnumbered paragraph:

16 NEW UNNUMBERED PARAGRAPH. All taxes or charges collected
17 under this chapter by a depositor or any individual from a
18 receiver or any other individual are considered to be held in
19 trust on behalf of the state of Iowa.

20 Sec. 28. Section 441.21, subsection 2, Code Supplement
21 2003, is amended to read as follows:

22 2. In the event market value of the property being
23 assessed cannot be readily established in the foregoing
24 manner, then the assessor may determine the value of the
25 property using the other uniform and recognized appraisal
26 methods including its productive and earning capacity, if any,
27 industrial conditions, its cost, physical and functional
28 depreciation and obsolescence and replacement cost, and all
29 other factors which would assist in determining the fair and
30 reasonable market value of the property but the actual value
31 shall not be determined by use of only one such factor. The
32 following shall not be taken into consideration: Special
33 value or use value of the property to its present owner, and
34 the good will or value of a business which uses the property
35 as distinguished from the value of the property as property.

1 However, in assessing property that is rented or leased to
2 low-income individuals and families as authorized by section
3 42 of the Internal Revenue Code, as amended, and which section
4 limits the amount that the individual or family pays for the
5 rental or lease of units in the property, the assessor shall
6 use the productive and earning capacity from the actual rents
7 received as a method of appraisal and shall take into account
8 the extent to which that use and limitation reduces the market
9 value of the property. The assessor shall not consider any
10 tax credit equity or other subsidized financing as income
11 provided to the property in determining the assessed value.
12 The property owner shall notify the assessor when property is
13 withdrawn from section 42 eligibility under the Internal
14 Revenue Code. The property shall not be subject to section 42
15 assessment procedures for the assessment year for which
16 section 42 eligibility is withdrawn. This notification must
17 be provided to the assessor no later than March 1 of the
18 assessment year or the owner will be subject to a penalty of
19 five hundred dollars for that assessment year. The penalty
20 shall be collected at the same time and in the same manner as
21 regular property taxes. Upon adoption of uniform rules by the
22 revenue department or succeeding authority covering
23 assessments and valuations of such properties, said valuation
24 on such properties shall be determined in accordance therewith
25 for assessment purposes to assure uniformity, but such rules
26 shall not be inconsistent with or change the foregoing means
27 of determining the actual, market, taxable and assessed
28 values.

29 Sec. 29. Section 450.22, Code 2003, is amended to read as
30 follows:

31 450.22 ADMINISTRATION AVOIDED -- INHERITANCE TAX DUTIES
32 REQUIRED.

33 1. When the heirs or persons entitled to inherit the
34 property of an estate subject to tax under this chapter desire
35 to avoid the appointment of a personal representative as

1 provided in section 450.21, and in all instances where real
2 estate is involved and there are no regular probate
3 proceedings, they or one of them shall file under oath the
4 inventories required by section 633.361 and the required
5 reports, perform all the duties required by this chapter of
6 the personal representative, and file the inheritance tax
7 return.

8 2. However, this section does not apply and a return is
9 not required to be filed even though real estate is part of
10 the assets subject to tax under this chapter, if all of the
11 assets are held in joint tenancy with right of survivorship
12 between husband and wife alone, or if the estate exclusively
13 consists of property held in joint tenancy with the right of
14 survivorship solely by the decedent and any individuals listed
15 in section 450.9 as individuals that are entirely exempt from
16 Iowa inheritance tax and the estate does not have a federal
17 estate tax obligation.

18 3. However, this section does not apply and a return is
19 not required to be filed, even though real estate is involved,
20 if the estate does not have a federal estate tax filing
21 obligation and if all the estate's assets are described in any
22 of the following categories:

23 a. Assets held in joint tenancy with right of survivorship
24 between husband and wife alone.

25 b. Assets held in joint tenancy with right of survivorship
26 solely between the decedent and individuals listed in section
27 450.9 as individuals that are entirely exempt from Iowa
28 inheritance tax.

29 c. Assets passing by beneficiary designation, pursuant to
30 a trust intended to pass the decedent's property at death or
31 through any other nonprobate transfer solely to individuals
32 listed in section 450.9 as individuals that are entirely
33 exempt from Iowa inheritance tax.

34 This subsection does not apply to interests in an asset or
35 assets that pass to both an individual listed in section 450.9

1 and to that individual's spouse.

2 4. If a return is not required to be filed pursuant to
3 subsection 3, and if real estate is involved, one of the
4 individuals with an interest in, or succeeding to an interest
5 in, the real estate shall file an affidavit in the county in
6 which the real estate is located setting forth the legal
7 description of the real estate and the fact that an
8 inheritance tax return is not required pursuant to subsection
9 3. If a false affidavit is filed, the affiant and the
10 personal representative shall be jointly and severally liable
11 for any tax, penalty, and interest that may have been due.
12 Any otherwise applicable statute of limitations on the
13 assessment and collection of the tax, penalty, and interest
14 shall not apply.

15 5. When this section applies, proceedings for the
16 collection of the tax when a personal representative is not
17 appointed shall conform as nearly as possible to proceedings
18 under this chapter in other cases.

19 Sec. 30. Section 450.37, subsection 2, paragraph a, Code
20 Supplement 2003, is amended to read as follows:

21 a. If an agreement has not been reached on the fair market
22 value of real property in the ordinary course of trade, the
23 director of revenue has ~~thirty~~ sixty days after the return is
24 filed to request an appraisal under section 450.27. If an
25 appraisal request is not made within the ~~thirty-day~~ sixty-day
26 period, the value listed on the return is the agreed value of
27 the real property.

28 Sec. 31. Section 450.53, subsections 1 and 2, Code
29 Supplement 2003, are amended to read as follows:

30 1. a. All personal representatives, except guardians and
31 conservators, and other persons charged with the management or
32 settlement of any estate or trust from which a tax is due
33 under this chapter, shall file an inheritance tax return,
34 within the time limits set by section 450.6, with a copy of
35 any federal estate tax return and other documents required by

1 the director which may reasonably tend to prove the amount of
 2 tax due, and at the time of filing, shall pay to the
 3 department of revenue the amount of the tax due from any
 4 devisee, grantee, donee, heir, or beneficiary of the decedent,
 5 except in cases where payment of the tax is deferred until the
 6 determination of a prior estate. The owner of the future
 7 interest shall file a supplemental inheritance tax return and
 8 pay to the department of revenue the tax due within the time
 9 limits set in this chapter. The inheritance tax returns shall
 10 be in the form prescribed by the director.

11 b. Notwithstanding paragraph "a", an inheritance tax
 12 return is not required to be filed if the estate does not have
 13 a federal estate tax filing obligation and if all the estate
 14 or trust assets pass solely to individuals listed in section
 15 450.9 as individuals that are entirely exempt from Iowa
 16 inheritance tax. This paragraph is not applicable if
 17 interests in the asset passes to both an individual listed in
 18 section 450.9 and to that individual's spouse.

19 2. a. A person in possession of assets to be reported for
 20 purposes of taxation, including a personal representative or
 21 trustee, who willfully makes a false or fraudulent return, or
 22 willfully fails to pay the tax, supply the information, make,
 23 sign, or file the required return within the time required by
 24 law, is guilty of a fraudulent practice. This paragraph does
 25 not apply if a return is not required to be filed pursuant to
 26 subsection 1, paragraph "b".

27 b. If a false affidavit is filed, the affiant and the
 28 personal representative shall be jointly and severally liable
 29 for any tax, penalty, and interest that may have been due.
 30 Any otherwise applicable statute of limitations on the
 31 assessment and collection of the tax, penalty, and interest
 32 shall not apply.

33 Sec. 32. Section 450.58, Code Supplement 2003, is amended
 34 to read as follows:

35 450.58 FINAL SETTLEMENT TO SHOW PAYMENT.

1 The 1. Except as provided in subsection 2, the final
2 settlement of the account of a personal representative shall
3 not be accepted or allowed unless it shows, and the court
4 finds, that all taxes imposed by this chapter upon any
5 property or interest in property that are made payable by the
6 personal representative and to be settled by the account, have
7 been paid, and that the receipt of the department of revenue
8 for the tax has been obtained as provided in section 450.64.

9 2. If an inheritance tax return is not required to be
10 filed pursuant to section 450.53, subsection 1, paragraph "b",
11 the personal representative's final settlement of account need
12 not contain an inheritance tax receipt from the department,
13 but shall, instead, contain the personal representative's
14 statement, under oath, that an inheritance tax return is not
15 required to be filed pursuant to section 450.53, subsection 1,
16 paragraph "b". If a false affidavit is filed, the affiant and
17 the personal representative shall be jointly and severally
18 liable for any tax, penalty, and interest that may have been
19 due. Any otherwise applicable statute of limitations on the
20 assessment and collection of the tax, penalty, and interest
21 shall not apply.

22 3. Any order contravening any provision of this section is
23 void.

24 Sec. 33. Section 450.94, subsection 2, Code Supplement
25 2003, is amended to read as follows:

26 2. The Unless a return is not required to be filed
27 pursuant to section 450.22, subsection 3, or section 450.53,
28 subsection 1, paragraph "b", the taxpayer shall file an
29 inheritance tax return on forms to be prescribed by the
30 director of revenue on or before the last day of the ninth
31 month after the death of the decedent. When an inheritance
32 tax return is filed, the department shall examine it and
33 determine the correct amount of tax. If the amount paid is
34 less than the correct amount due, the department shall notify
35 the taxpayer of the total amount due together with any penalty

1 and interest which shall be a sum certain if paid on or before
2 the last day of the month in which the notice is dated, or on
3 or before the last day of the following month if the notice is
4 dated after the twentieth day of a month and before the first
5 day of the following month.

6 Sec. 34. Section 452A.3, Code 2003, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 7. All excise taxes collected under this
9 chapter by a supplier, restrictive supplier, importer, dealer,
10 blender, user, or any individual are deemed to be held in
11 trust for the state or Iowa.

12 Sec. 35. Section 453A.6, Code 2003, is amended by adding
13 the following new subsection:

14 NEW SUBSECTION. 6. All excise taxes collected under this
15 division by a distributor, manufacturer, or any individual are
16 deemed to be held in trust for the state of Iowa.

17 Sec. 36. Section 453A.11, Code 2003, is amended to read as
18 follows:

19 453A.11 CANCELLATION OF STAMPS.

20 Stamps affixed to a package of cigarettes shall not be
21 canceled by any letter, numeral, or other mark of
22 identification or otherwise mutilated in any manner that will
23 prevent or hinder the department in making an examination as
24 to the genuineness of the stamp. However, the director may
25 require such cancellation of the tax stamps affixed to
26 packages of cigarettes which is necessary to carry out
27 properly the provisions of this division. A person who
28 cancels or causes the cancellation of stamps in violation of
29 this section shall be considered in possession of unstamped
30 cigarettes and is subject to the penalty provided in section
31 453A.31, subsection 1.

32 Sec. 37. Section 453A.15, subsection 1, Code 2003, is
33 amended to read as follows:

34 1. The director may prescribe the forms necessary for the
35 efficient administration of this division and may require

1 uniform books and records to be used and kept by each permit
2 holder or other person as deemed necessary. The director may
3 also require each permit holder or other person to keep and
4 retain in the director's possession evidence on prescribed
5 forms of all transactions involving the purchase and sale of
6 cigarettes or the purchase and use of stamps. The evidence
7 shall be kept for a period of ~~two~~ three years from the date of
8 each transaction, for the inspection at all times by the
9 department.

10 Sec. 38. Section 453A.28, Code 2003, is amended to read as
11 follows:

12 453A.28 ASSESSMENT OF TAX BY DEPARTMENT -- INTEREST --
13 PENALTY.

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

1 possession of unstamped cigarettes.

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

9 Sec. 39. Section 453A.31, subsection 1, paragraphs c, d,
10 and e, Code 2003, are amended to read as follows:

11 c. A ~~one-thousand~~ twenty-five dollar per pack penalty for
12 the first violation if a person is in possession of more than
13 two thousand unstamped cigarettes.

14 d. For a second violation within ~~two~~ three years of the
15 first violation, the penalty is four hundred dollars if a
16 person is in possession of more than forty but not more than
17 four hundred unstamped cigarettes; one thousand dollars if a
18 person is in possession of more than four hundred but not more
19 than two thousand unstamped cigarettes; and ~~two-thousand~~
20 thirty-five dollars per pack if a person is in possession of
21 more than two thousand unstamped cigarettes.

22 e. For a third or subsequent violation within ~~two~~ three
23 years of the first violation, the penalty is six hundred
24 dollars if a person is in possession of more than forty but
25 not more than four hundred unstamped cigarettes; one thousand
26 five hundred dollars if a person is in possession of more than
27 four hundred but not more than two thousand unstamped
28 cigarettes; and ~~three-thousand~~ forty-five dollars per pack if
29 a person is in possession of more than two thousand unstamped
30 cigarettes.

31 Sec. 40. Section 453A.31, subsection 2, paragraphs b and
32 c, Code 2003, are amended to read as follows:

33 b. A five hundred dollar penalty for a second violation
34 within ~~two~~ three years of the first violation.

35 c. A thousand dollar penalty for a third or subsequent

1 violation within ~~two~~ three years of the first violation.

2 Sec. 41. Section 453A.32, subsections 1, 4, and 5, Code
3 2003, are amended to read as follows:

4 1. All cigarettes on which taxes are imposed or required
5 to be imposed by this division, which are found in the
6 possession or custody, or within the control of any person,
7 for the purpose of being sold, distributed, or removed by the
8 person in violation of this division, and all cigarettes which
9 are removed ~~or-are~~, stored, transported, deposited, or
10 concealed in any place ~~with-intent-to-avoid-payment-of-taxes~~
11 without the proper taxes paid, and any automobile, truck,
12 boat, conveyance, or other vehicle whatsoever, used in the
13 removal, storage, deposit, concealment, or transportation of
14 cigarettes for ~~such~~ the purpose of avoiding the payment of the
15 proper tax, and all equipment or other tangible personal
16 property incident to and used for ~~such~~ the purpose of avoiding
17 the payment of the proper tax, found in the place, building,
18 or vehicle where cigarettes are found, and all counterfeit
19 cigarettes may be seized by the department, with or without
20 process and shall be from the time of the seizure forfeited to
21 the state of Iowa. A proceeding in the nature of a proceeding
22 in rem shall be filed in a court of competent jurisdiction in
23 the county of seizure to maintain the seizure and declare and
24 perfect the forfeiture. All cigarettes, counterfeit
25 cigarettes, vehicles, and property seized, remaining in the
26 possession or custody of the department, sheriff or other
27 officer for forfeiture or other disposition as provided by
28 law, are not subject to

29 4. In the event final judgment is rendered in the
30 forfeiture proceedings aforesaid, maintaining the seizure, and
31 declaring and perfecting the forfeiture of said seized
32 property, the court shall order and decree the sale ~~thereof~~ of
33 the seized property, other than the counterfeit cigarettes, to
34 the highest bidder, by the sheriff at public auction in the
35 county of seizure after notice is given in the manner provided

1 in the case of the sale of personal property under execution,
2 and the proceeds of such sale, less expense of seizure and
3 court costs, shall be paid into the state treasury.

4 Counterfeit cigarettes shall be destroyed or disposed of in a
5 manner determined by the director.

6 5. In the event the cigarettes seized hereunder and sought
7 to be sold upon forfeiture ~~shall be~~ are unstamped, the
8 cigarettes shall be sold by the director or the director's
9 designee to the highest bidder among the ~~licensed~~ permitted
10 distributors in this state after written notice has been
11 mailed to all such distributors. If there is no bidder, or in
12 the opinion of the director the quantity of cigarettes to be
13 sold is insufficient or for any other reason such disposition
14 of the cigarettes is impractical, the cigarettes shall be
15 destroyed or disposed of in a manner as determined by the
16 director. The proceeds ~~of such~~ from the sales shall be paid
17 into the state treasury.

18 Sec. 42. Section 453A.36, Code 2003, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 9. a. It is unlawful for a person to
21 ship or import into this state or to offer for sale, sell,
22 distribute, transport, or possess counterfeit cigarettes,
23 knowing such cigarettes are counterfeit cigarettes or having
24 reasonable cause to believe that such cigarettes are
25 counterfeit cigarettes.

26 b. For purposes of this subsection and section 453A.32,
27 "counterfeit cigarettes" means cigarettes, packages of
28 cigarettes, cartons of cigarettes or other containers of
29 cigarettes with a label, trademark, service mark, trade name,
30 device, design, or word adopted or used by a cigarette
31 manufacturer to identify its product that is false or used
32 without authority of the cigarette manufacturer.

33 Sec. 43. NEW SECTION. 453A.39 TOBACCO PRODUCT AND
34 CIGARETTE SAMPLES -- RESTRICTIONS -- ADMINISTRATION.

35 1. A manufacturer, distributor, wholesaler, retailer, or

1 distributing agent, or agent thereof, shall not give away
2 cigarettes or tobacco products at any time in connection with
3 the manufacturer's, distributor's, wholesaler's, retailer's,
4 or distributing agent's business or for promotion of the
5 business or product, except as provided in subsection 2.

6 2. All cigarette samples shall be shipped only to a
7 distributor that has a permit to stamp cigarettes or little
8 cigars with Iowa tax. All cigarette samples must have a
9 cigarette stamp. The manufacturer shipping samples under this
10 section shall send an affidavit to the director stating the
11 shipment information, including the date shipped, quantity,
12 and to whom the samples were shipped. The distributor
13 receiving the shipment shall send an affidavit to the director
14 stating the shipment information, including the date shipped,
15 quantity, and from whom the samples were shipped. These
16 affidavits shall be duly notarized and submitted to the
17 director at the time of shipment and receipt of the samples.
18 The distributor shall pay the tax on samples by separate
19 remittance along with the affidavit.

20 Sec. 44. Section 453A.43, Code 2003, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 6. All excise taxes collected under this
23 chapter by a distributor or any individual are deemed to be
24 held in trust for the state of Iowa.

25 Sec. 45. Section 453A.45, subsection 1, unnumbered
26 paragraph 2, Code 2003, is amended to read as follows:

27 When a licensed distributor sells tobacco products
28 exclusively to the ultimate consumer at the address given in
29 the license, an invoice of those sales is not required, but
30 itemized invoices shall be made of all tobacco products
31 transferred to other retail outlets owned or controlled by
32 that licensed distributor. All books, records and other
33 papers and documents required by this subdivision to be kept
34 shall be preserved for a period of at least ~~two~~ three years
35 after the date of the documents or the date of the entries

1 appearing in the records, unless the director, in writing,
 2 authorized their destruction or disposal at an earlier date.
 3 At any time during usual business hours, the director, or the
 4 director's duly authorized agents or employees, may enter any
 5 place of business of a distributor, without a search warrant,
 6 and inspect the premises, the records required to be kept
 7 under this subdivision, and the tobacco products contained
 8 therein, to determine if all the provisions of this division
 9 are being fully complied with. If the director, or any such
 10 agent or employee, is denied free access or is hindered or
 11 interfered with in making the examination, the license of the
 12 distributor at that premises is subject to revocation by the
 13 director.

14 Sec. 46. Section 453A.45, subsections 2, 3, and 4, Code
 15 2003, are amended to read as follows:

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

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

31 4. Records of all deliveries or shipments of tobacco
 32 products from any public warehouse of first destination in
 33 this state which is subject to the provisions of and licensed
 34 under chapter 554 shall be kept by the warehouse and be
 35 available to the director for inspection. They shall show the

1 name and address of the consignee, the date, the quantity of
2 tobacco products delivered, and such other information as the
3 commissioner may require. These records shall be preserved
4 for ~~two~~ three years from the date of delivery of the tobacco
5 products.

6 Sec. 47. Section 453A.46, subsections 1 and 6, Code 2003,
7 are amended to read as follows:

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

33 The ~~two-year~~ three-year period of limitation may be
34 extended by a taxpayer by signing a waiver agreement form to
35 be provided by the department. The agreement must stipulate

1 the period of extension and the tax period to which the
2 extension applies. The agreement must also provide that a
3 claim for refund may be filed by the taxpayer at any time
4 during the period of extension.

5 6. On or before the twentieth day of each calendar month,
6 every consumer who, during the preceding calendar month, has
7 acquired title to or possession of tobacco products for use or
8 storage in this state, upon which tobacco products the tax
9 imposed by section 453A.43 has not been paid, shall file a
10 return with the director showing the quantity of tobacco
11 products so acquired. The return shall be made upon a form
12 furnished and prescribed by the director, and shall contain
13 other information as the director may require. The return
14 shall be accompanied by a remittance for the full unpaid tax
15 liability shown by it. Within ~~two~~ three years after the
16 return is filed or within ~~two~~ three years after the return
17 became due, whichever is later, the department shall examine
18 it, determine the correct amount of tax, and assess the tax
19 against the taxpayer for any deficiency. The period for
20 examination and determination of the correct amount of tax is
21 unlimited in the case of a false or fraudulent return made
22 with the intent to evade tax, or in the case of a failure to
23 file a return.

24 Sec. 48. Section 453B.3, Code 2003, is amended by adding
25 the following new unnumbered paragraph:

26 NEW UNNUMBERED PARAGRAPH. All excise taxes collected under
27 this chapter by a dealer or any individual are deemed to be
28 held in trust for the state of Iowa.

29 Sec. 49. Section 633.479, unnumbered paragraph 2, Code
30 Supplement 2003, is amended to read as follows:

31 An order approving the final report and discharging the
32 personal representative shall not be required if all
33 distributees otherwise entitled to notice are adults, under no
34 legal disability, have signed waivers of notice as provided in
35 section 633.478, have signed statements of consent agreeing

1 that the prayer of the final report shall constitute an order
2 approving the final report and discharging the personal
3 representative, and if the statements of consent are dated not
4 more than thirty days prior to the date of the final report,
5 and if compliance with sections 422.27 and 450.58 have been
6 fulfilled and receipts, sworn statements, and certificates, as
7 any of these that are required, are on file. In those
8 instances final order shall not be required and the prayer of
9 the final report shall be considered as granted and shall have
10 the same force and effect as an order of discharge of the
11 personal representative and an order approving the final
12 report.

13 Sec. 50. Sections 2A.8 and 48A.24, Code Supplement 2003,
14 are repealed.

15 Sec. 51. REFUNDS. Refunds of taxes, interest, or
16 penalties which arise from claims resulting from the amendment
17 to section 422.42, subsection 6, in this Act, for the
18 noninclusion of trade discounts in computing gross receipts on
19 sales occurring between January 1, 1997, and the effective
20 date of the section amending section 422.42, subsection 6, in
21 this Act, shall be limited to twenty-five thousand dollars in
22 the aggregate and shall not be allowed unless refund claims
23 are filed prior to October 1, 2004, notwithstanding any other
24 provision of law. If the amount of claims totals more than
25 twenty-five thousand dollars in the aggregate, the department
26 of revenue shall prorate the twenty-five thousand dollars
27 among all claimants in relation to the amounts of the
28 claimants' valid claims.

29 Sec. 52. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
30 PROVISIONS.

31 1. The section amending section 422.42, subsection 6, in
32 this Act, being deemed of immediate importance, takes effect
33 upon enactment and applies retroactively to January 1, 1997.

34 2. The section amending section 422.42, subsection 6, in
35 this Act is void on and after July 1, 2004.

1 3. The section providing for sales and use tax refunds in
2 this Act ceases to apply to any refund claims filed after
3 September 30, 2004.

4 EXPLANATION

5 Code sections 15.335, 15A.9, 422.10, and 422.33 are amended
6 to update the Iowa Code references to the state research
7 activities credit for individuals, corporations, corporations
8 in economic development areas, and corporations in quality
9 jobs enterprise zones to include the 2003 federal changes in
10 the research activities credit.

11 Code section 421.1(4) is amended to permit the department
12 of revenue to appeal decisions of the state board of tax
13 review to district court.

14 Code sections 421.17A, the administrative levy, and
15 421.17B, the administrative wage assignment, which apply to
16 the debtors of the state, are amended as follows:

17 1. Code sections 421.17A(8) and 421.17B(8) are amended by
18 adding to each a new paragraph "g" which limits recovery by a
19 debtor in district court when a wrongful administrative levy
20 or wage assignment is alleged and limits the ability of a
21 debtor to litigate administrative levies and wage assignments.

22 2. Code sections 421.17A(8) and 421.17B(8) are amended by
23 adding to each a new paragraph "h" which specifies that a
24 challenge to an administrative levy or administrative wage
25 assignment will result in the facts of the levy or assignment
26 being reviewed and not the amount or validity of the tax.

27 3. Code section 421.17A(2)(a) is amended to add identical
28 language that exists in Code section 421.17B(2)(a) to provide
29 that the administrative levy remedy is cumulative and that the
30 election to use such remedy does not forestall the use of any
31 other remedy provided by law.

32 4. The remaining changes to these sections provide more
33 uniformity between the administrative wage assignment statute
34 and the administrative levy statute and reflect actual
35 practice.

1 Code sections 422.42(6) and 423.1(47) are amended to
2 exclude from gross receipts for sales and use tax purposes
3 trade discounts given or allowed by manufacturers,
4 distributors, or wholesalers to retailers or payments made by
5 such persons to retailers to reduce the sales price of such
6 persons' products. The amendment is retroactive to January 1,
7 1997, with refunds arising from such retroactivity limited to
8 \$25,000. Claims for refunds must be filed prior to October 1,
9 2004. The amendment does not apply to coupons issued to
10 consumers.

11 Code sections 422A.1, 422B.9(3)(a), 423.2, 424.3(1),
12 452A.3, 453A.6, 453A.43, and 453B.3 are amended to give
13 priority to the department of revenue in the collection of
14 taxes by treating them as trust fund taxes.

15 Code sections 423.1(47) and 423.2(6) are amended to define
16 "sales price" to include rents, royalties, and copyright and
17 license fees. Under existing Iowa sales and use tax law,
18 leasing of tangible personal property is a taxable service.
19 Under the law which becomes effective July 1, 2004, leasing is
20 the sale of that property rather than the performance of a
21 taxable service. The taxable proceeds from these leases have
22 always included rents, royalties, copyright, and license fees.

23 Code section 423.3(33) is amended to change a reference
24 from legislative service bureau to legislative services agency
25 for purposes of the Iowa sales tax exemption as it is provided
26 in Code section 2A.8, which is repealed.

27 Code section 423.3(82) is amended to expand the exemption
28 from the sales and use taxes of molding and sand handling
29 machinery and equipment to include replacement parts and the
30 costs of utilities and installation costs associated with such
31 machinery and equipment.

32 Code section 423.3 is amended to add a new subsection 43A
33 to place the exemption from Iowa sales and use tax applicable
34 to the reciprocal shipment of wine contained in Code section
35 123.187 in this section of the Code.

1 Code section 441.21(2) is amended to require the owner of
2 section 42 property under the Internal Revenue Code to notify
3 the assessor when the property is withdrawn from the Internal
4 Revenue Code program. A monetary penalty of \$500 is also
5 included if this notification is not forthcoming.

6 Code sections 450.22, 450.53(1) and (2), 450.58, and
7 450.94(2) are amended so that an inheritance tax return is not
8 required to be filed if all property is passed to an exempt
9 entity. Iowa law currently requires estates of \$25,000 or
10 more to file a return regardless of to whom the property
11 passes. In the case where a return is not required to be
12 filed and the estate involves real property, an affidavit, of
13 such fact must be filed. Upon filing a false affidavit the
14 affiant and personal representative are jointly and severably
15 liable for tax, penalty, and interest. Code section 633.479
16 is amended to reflect the nonrequirement of filing an
17 inheritance tax return.

18 Code section 450.37(2)(a) is amended to extend from 30 to
19 60 days the period of time the director of revenue has to
20 request an appraisal after an inheritance tax return is filed.

21 Code section 453A.11 is amended to impose a penalty against
22 any person found to have altered a cigarette tax stamp.

23 Code sections 453.15(1), 453.28, 453A.45(1), unnumbered
24 paragraph 2 and subsections 2, 3, and 4, and 453A.46(1) and
25 (6) are amended to extend the statute of limitations for
26 cigarette and tobacco tax audits from two to three years.
27 This three-year period is consistent with all other taxes.

28 Code section 453A.31(1)(c), (d), and (e), is amended to
29 increase the penalty for possessing more than 2,000 unstamped
30 cigarettes (10 cartons) and to reflect the extension of time
31 from two to three years for the department to impose a penalty
32 for certain violations.

33 Code section 453A.31(2)(b) and (c) is amended to reflect
34 the extension of time from two to three years for the
35 department to impose a penalty for certain violations.

ASB 723

S.F. _____ H.F. _____

1 Code sections 453A.32 and 453A.36 are amended to make it
2 unlawful to ship or import into Iowa or sell, distribute, or
3 possess counterfeit cigarettes and allow for the confiscation
4 and destruction of those cigarettes. "Counterfeit cigarettes"
5 are cigarettes that are marked in such a manner that would
6 lead someone to believe the cigarettes were of a specific
7 known brand or manufacturer.

8 New Code section 453A.39 is added to place restrictions on
9 manufacturers, distributors, wholesalers, and retailers in
10 providing cigarette samples to the public.

11 Code section 48A.24 is repealed. This section requires
12 that two voter registration forms be inserted in each
13 individual income tax instruction booklet every other year.

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