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SENATE FILE 2296
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3167)

Passed Senate, Date _____ Passed House, 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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SF 2296 WAYS & MEANS

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 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. 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.

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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Fiscal Services Division
Legislative Services Agency
Fiscal Note

SF 2296 - Tax Policy Administration (LSB 6923 SV)

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

Fiscal Note Version - New

Description

Senate File 2296 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
Metal Casting Institute – University of Northern Iowa

Dennis C Prouty

March 31, 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.

SENATE FILE 2296

S-5170

1 Amend Senate File 2296 as follows:
2 1. Page 27, by striking lines 13 and 14 and
3 inserting the following:
4 "Sec. 50. Section 2A.8, Code Supplement 2003, is
5 repealed."

By HERMAN C. QUIRMBACH

S-5170 FILED MARCH 29, 2004

SENATE FILE 2296

S-5173

1 Amend Senate File 2996 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 HERMAN C. QUIRMBACH

S-5173 FILED MARCH 29, 2004

SENATE FILE 2296

S-5230

1 Amend Senate File 2296 as follows:
2 1. Page 9, line 33, by inserting after the word
3 "Iowa" the following: "and the local jurisdictions
4 imposing the taxes".
5 2. Page 10, line 9, by inserting after the word
6 "Iowa" the following: "and the local jurisdictions
7 imposing the taxes".
8 3. Page 23, line 6, by inserting after the figure
9 "2." the following: "a."
10 4. Page 23, by inserting after line 19 the
11 following:
12 "b. A manufacturer, distributor, wholesaler,
13 retailer, or distributing agent or agent thereof shall
14 not give away any cigarettes or tobacco products to
15 any person under eighteen years of age, or within five
16 hundred feet of any playground, school, high school,
17 or other facility when such facility is being used
18 primarily by persons under age eighteen for
19 recreational, educational, or other purposes.
20 c. Proof of age shall be required if a reasonable
21 person could conclude on the basis of outward
22 appearance that a prospective recipient of a sample
23 may be under eighteen years of age."

By PAUL MCKINLEY

S-5230 FILED MARCH 31, 2004
ADOPTED

SENATE FILE 2296

S-5233

1 Amend Senate File 2296 as follows:

2 1. Page 13, by striking lines 1 through 11 and
3 inserting the following: "However, in assessing
4 property that is rented or leased to low-income
5 individuals and families as authorized by section 42
6 of the Internal Revenue Code, as amended, and which
7 ~~section limits the amount that establishes annually~~
8 the rent the individual or family pays for the rental
9 or lease of units in the property, the assessor shall
10 use the ~~productive and earning capacity from the~~
11 ~~actual rents received as a method of appraisal and~~
12 ~~shall take into account the extent to which that use~~
13 ~~and limitation reduces the market value of the~~
14 ~~property section 42 rents in conjunction with the~~
15 ~~income method of appraisal in compliance with the~~
16 ~~uniform standards of professional appraisal practice~~
17 ~~to arrive at the assessed value for the property. In~~
18 ~~no case shall the value of the property exceed the~~
19 ~~assessed value if it had been valued without~~
20 ~~consideration to the special procedures established~~
21 ~~herein for section 42 properties. In arriving at the~~
22 ~~actual value of the property, the impact of applicable~~
23 ~~rent restrictions, affordability requirements, or any~~
24 ~~other related restrictions prescribed by any federal~~
25 ~~or state programs shall be considered. The assessor~~
26 ~~shall not directly or indirectly consider any tax~~
27 ~~credit equity or other subsidized financing as income~~
28 ~~provided to the property in determining the assessed~~
29 ~~value. An owner of section 42 property may elect to~~
30 ~~not have such property assessed using the section 42~~
31 ~~valuation process by notifying the assessor in writing~~
32 ~~prior to March 1 of each assessment year."~~

33 2. Page 13, by inserting after line 28 the
34 following:

35 "Sec. ____ Section 441.37, subsection 3, Code
36 Supplement 2003, is amended by adding the following
37 new unnumbered paragraph:

38 NEW UNNUMBERED PARAGRAPH. If an assessment is
39 protested pursuant to subsection 1, paragraphs "a",
40 "b", "c", "d", and "e", costs of the protest incurred
41 by the property owner or taxpayer protesting the
42 assessment shall be paid from the respective
43 assessment expense fund of the city or county
44 described in section 441.16, if the board of review
45 determines that the assessed value protested is
46 greater than one hundred ten percent of the assessed
47 value of the property as determined by the assessor.
48 These costs incurred by the property owner or taxpayer
49 may include reasonable attorney fees, property
50 appraisal reports, expert testimony, travel and

S-5233

1 lodging, and any other costs incurred by the property
2 owner or taxpayer who filed the protest if such costs
3 are reasonably related to the protest.
4 Sec. ____ . Section 441.40, Code 2003, is amended by
5 adding the following new unnumbered paragraph:
6 NEW UNNUMBERED PARAGRAPH. However, costs of the
7 appeal incurred by the property owner or taxpayer
8 appealing the action of the board of review on an
9 assessment protested pursuant to section 441.37,
10 subsection 1, paragraphs "a", "b", "c", "d", and "e",
11 shall be paid from the respective assessment expense
12 fund of the city or county described in section
13 441.16, if the court determines that the assessed
14 value appealed is greater than one hundred ten percent
15 of the assessed value of the property as determined by
16 the board of review or if the judgment of the court
17 results in the assessed value being reduced such that
18 the assessed value appealed is greater than one
19 hundred ten percent of the assessed value placed on
20 the property pursuant to the decision of the court.
21 These costs incurred by the property owner or taxpayer
22 may include reasonable attorney fees, property
23 appraisal reports, expert testimony, court recorders,
24 depositions, travel and lodging, and any other costs
25 incurred by the property owner or taxpayer who filed
26 the appeal if such costs are reasonably related to the
27 appeal."

By STEVEN H. WARNSTADT

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 421.17, Code Supplement 2003, is amended
21 by adding the following new subsection:

22 NEW SUBSECTION. 28. To place on the department's official
23 website the official electronic state of Iowa voter
24 registration form and a link to the Iowa secretary of state's
25 official website.

26 Sec. 5. Section 421.17A, subsection 2, paragraph a, Code
27 Supplement 2003, is amended to read as follows:

28 a. Notwithstanding other statutory provisions which
29 provide for the execution, attachment, garnishment, or levy
30 against accounts, the facility may utilize the process
31 established in this section to collect delinquent accounts,
32 charges, fees, loans, taxes, or other indebtedness due the
33 state or being collected by the state provided that any
34 exemptions or exceptions which specifically apply to
35 enforcement of such obligations also apply to this section.

1 Administrative levy under this section is the equivalent of
2 condemning funds under chapter 642. It is expressly provided
3 that these remedies shall be cumulative and that no action
4 taken by the director or attorney general shall be construed
5 to be an election on the part of the state or any of its
6 officers, employees, or representatives to pursue any other
7 remedy provided by law.

8 Sec. 6. Section 421.17A, subsection 3, Code Supplement
9 2003, is amended to read as follows:

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

20 Sec. 7. Section 421.17A, subsection 5, paragraph c,
21 subparagraph (7), Code Supplement 2003, is amended to read as
22 follows:

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

25 Sec. 8. Section 421.17A, subsection 6, Code Supplement
26 2003, is amended to read as follows:

27 6. ADMINISTRATIVE LEVY -- NOTICE OF INITIATION OF ACTION
28 TO OBLIGOR AND OTHER ACCOUNT HOLDERS.

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

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

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

35 (2) A statement that the obligor is believed to have an

1 account at the financial institution.

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

6 (4) The maximum amount to be forwarded by the financial
7 institution, which shall not exceed the delinquent or accrued
8 amount of debt being collected by or owed to the state by the
9 obligor.

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

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

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

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

19 c. The facility shall forward the notice of initiation of
20 action to the obligor by regular mail within two working days
21 of sending the notice to the financial institution pursuant to
22 subsection 5, paragraph "b".

23 d. The facility shall notify any other party known to have
24 an interest in the account. The notice shall contain all of
25 the following:

26 (1) The name of the obligor.

27 (2) The name of the financial institution.

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

30 (4) A statement that any challenge to the action must be
31 in writing and must be received by the facility within ten
32 days of the date of the notice to the party known to have an
33 interest.

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

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

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

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

9 b. The person challenging the action shall submit a
10 written challenge to the person identified as the ~~contact~~
11 agent for the facility in the notice, within ten days of the
12 date of the notice of initiation of the levy.

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

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

33 Sec. 10. Section 421.17A, subsection 8, Code Supplement
34 2003, is amended by adding the following new paragraphs:

35 NEW PARAGRAPH. g. Recovery under this section is limited

1 to restitution of the amount that has been wrongfully
2 encumbered or obtained by the department.

3 NEW PARAGRAPH. h. A challenge to an administrative action
4 under this subsection cannot be used to extend or reopen the
5 statute of limitations to protest other departmental actions
6 or to contest the amount or validity of the tax. Only issues
7 involving the levy can be raised in a challenge to an
8 administrative action under this subsection.

9 Sec. 11. Section 421.17B, subsection 2, paragraph a, Code
10 Supplement 2003, is amended to read as follows:

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

27 ~~Administrative wage assignment under this section is the~~
28 ~~equivalent of condemning funds under chapter 642.~~

29 ~~The administrative wage assignment is to be considered an~~
30 ~~additional means of collection by the facility and not an~~
31 ~~exclusive means of collection. If the use of an~~
32 ~~administrative wage assignment is not successful in collecting~~
33 ~~an outstanding debt due the facility, the facility may use the~~
34 ~~collection provisions set forth in chapters 626 and 642.~~

35 Sec. 12. Section 421.17B, subsection 3, Code Supplement

1 2003, is amended to read as follows:

2 3. NOTICE OF INTENT TO THE OBLIGOR.

3 a. The facility may proceed under this section only if a
4 ten-day twenty days' notice has been provided ~~to-the-obligor.~~
5 ~~Notice-by-the-facility-may-be~~ by regular mail to the last
6 known address of the obligor, notifying the obligor that the
7 obligor is subject to this section. If the facility
8 determines that collection of the debt may be in jeopardy, the
9 facility may request that the employer deliver notice of the
10 wage assignment simultaneous with the remainder of or in lieu
11 of the obligor's compensation due from the employer.

12 The facility may obtain one or more wage assignments of an
13 obligor who is subject to this section. If the obligor has
14 more than one employer, the facility may receive wage
15 assignments from one or ~~at~~ more of the employers until the
16 full debt obligation of the obligor is satisfied. If an
17 obligor has more than one employer, the facility shall give
18 notice to all employers ~~that-the-facility-seeks-to-have-an~~
19 assignment-of-wages from whom an assignment is sought.

20 b. The notice from the facility to the obligor shall
21 contain all of the following:

- 22 (1) The name and social security number of the obligor.
- 23 (2) A statement that the obligor is believed to have
24 employment with the stated employer.
- 25 (3) A statement that pursuant to the provisions of this
26 section, the obligor's wages will be assigned to the facility
27 for payment of the specified debts and that the employer is
28 authorized and required to forward moneys to the facility.
- 29 (4) The maximum amount to be forwarded by the employer,
30 which shall not exceed the delinquent or accrued amount of
31 debt being collected by or owed to the facility by the
32 obligor.
- 33 (5) The prescribed time frames the employer must meet in
34 forwarding any amounts.
- 35 (6) A statement that any challenge to the action must be

1 in writing and must be received by the facility within ten
2 days of the date of the notice to the obligor.

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

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

7 Sec. 13. Section 421.17B, subsection 6, paragraph c,
8 subparagraph (7), Code Supplement 2003, is amended to read as
9 follows:

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

13 Sec. 14. Section 421.17B, subsection 8, paragraphs a, b,
14 c, and f, Code Supplement 2003, are amended to read as
15 follows:

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

24 b. The obligor challenging the administrative wage
25 assignment shall submit a written challenge to the person
26 identified as the contact agent for the facility in the
27 notice, within ten days of the date of the notice ~~to the~~
28 obligor of initiation of the assignment.

29 c. The facility, upon receipt of a written challenge,
30 shall review the facts of the case administrative wage
31 assignment with the obligor within ten days of receipt of the
32 challenge. If the obligor is not available for the review on
33 the scheduled date, the review shall take place without the
34 obligor being present. Information in favor of the obligor
35 shall be considered by the facility in the review. The

1 facility may utilize additional information if such
2 information is available. Only a mistake of fact, including,
3 but not limited to, a mistake in the identity of the obligor
4 or a mistake in the amount owed to or being collected by the
5 facility shall be considered as a reason to dismiss or modify
6 the administrative wage assignment.

7 f. The obligor shall have the right to file an action for
8 wrongful assignment in district court within thirty days of
9 the date of the notice to the obligor, either in the county
10 where the obligor is located or in Polk county where the
11 facility is located. Actions under this section are in equity
12 and not actions at law.

13 Sec. 15. Section 421.17B, subsection 8, Code Supplement
14 2003, is amended by adding the following new paragraphs:

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

18 NEW PARAGRAPH. h. A challenge to an administrative action
19 under this subsection cannot be used to extend or reopen the
20 statute of limitations to protest other departmental actions
21 or to contest the amount or validity of the tax. Only issues
22 involving the assignment can be raised in a challenge to an
23 administrative action under this subsection.

24 Sec. 16. Section 421.17B, subsection 9, unnumbered
25 paragraph 2, Code Supplement 2003, is amended to read as
26 follows:

27 Expiration Cessation of the wage assignment does not affect
28 the obligor's duties and liabilities respecting the wages
29 already withheld pursuant to the wage assignment.

30 Sec. 17. Section 422.10, subsection 3, unnumbered
31 paragraph 2, Code Supplement 2003, is amended to read as
32 follows:

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

35 Sec. 18. Section 422.33, subsection 5, paragraph d,

1 unnumbered paragraph 2, Code Supplement 2003, is amended to
2 read as follows:

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

6 Sec. 19. Section 422.42, subsection 6, Code 2003, is
7 amended by adding the following new paragraph:

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

20 Sec. 20. Section 422A.1, unnumbered paragraph 8, Code
21 Supplement 2003, is amended to read as follows:

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

1 tax under this chapter, to register with the department. All
2 taxes collected under this chapter by a retailer or any
3 individual are deemed to be held in trust for the state of
4 Iowa and the local jurisdictions imposing the taxes.

5 Sec. 21. Section 422B.9, subsection 3, paragraph a, Code
6 Supplement 2003, is amended to read as follows:

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

16 Sec. 22. Section 423.1, subsection 47, paragraph b, as
17 enacted by 2003 Iowa Acts, First Extraordinary Session,
18 chapter 2, section 94, is amended by adding the following new
19 subparagraph:

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

30 Sec. 23. Section 423.1, subsection 47, as enacted by 2003
31 Iowa Acts, First Extraordinary Session, chapter 2, section 94,
32 is amended by adding the following new paragraph:

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

1 Sec. 24. Section 423.2, subsection 6, unnumbered paragraph
2 2, as enacted by 2003 Iowa Acts, First Extraordinary Session,
3 chapter 2, section 95, is amended to read as follows:

4 ~~For the purposes of this subsection, the sales price of a~~
5 ~~lease or rental includes rents, royalties, and copyright and~~
6 ~~license fees.~~ For the purposes of this subsection, "financial
7 institutions" means all national banks, federally chartered
8 savings and loan associations, federally chartered savings
9 banks, federally chartered credit unions, banks organized
10 under chapter 524, savings and loan associations and savings
11 banks organized under chapter 534, and credit unions organized
12 under chapter 533.

13 Sec. 25. Section 423.2, as enacted by 2003 Iowa Acts,
14 First Extraordinary Session, chapter 2, section 95, is amended
15 by adding the following new subsection:

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

19 Sec. 26. Section 423.3, subsections 33 and 82, as enacted
20 by 2003 Iowa Acts, First Extraordinary Session, chapter 2,
21 section 96, are amended to read as follows:

22 33. a. The sales price of mementos and other items
23 relating to Iowa history and historic sites, the general
24 assembly, and the state capitol, sold by the legislative
25 ~~service-bureau~~ services agency and its legislative information
26 office on the premises of property under the control of the
27 legislative council, at the state capitol, and on other state
28 property.

29 b. The legislative services agency is not a retailer under
30 this chapter and the sale of items or provision of services by
31 the legislative services agency is not a retail sale under
32 this chapter and is exempt from the sales tax.

33 82. a. The sales price from the sale or rental of core
34 and making, mold making, equipment and sand handling machinery
35 and equipment, including replacement parts, directly and

1 primarily used in the mold making process by a foundry.

2 b. The sales price from the sale of fuel used in creating
3 heat, power, steam, or for generating electric current, or
4 from the sale of electricity, consumed by core making, mold
5 making, and sand handling machinery and equipment used
6 directly and primarily in the mold-making process by a
7 foundry.

8 c. The sales price from the furnishing of the design and
9 installation, including electrical and electronic
10 installation, of core making, mold making, and sand handling
11 machinery and equipment used directly and primarily in the
12 mold-making process by a foundry.

13 Sec. 27. Section 423.3, as enacted by 2003 Iowa Acts,
14 First Extraordinary Session, chapter 2, section 96, is amended
15 by adding the following new subsection:

16 NEW SUBSECTION. 43A. The sales price from the sale of
17 wine which is shipped from outside Iowa and which meets the
18 requirements for sales and use tax exemption pursuant to
19 section 123.187.

20 Sec. 28. Section 424.3, subsection 1, Code 2003, is
21 amended by adding the following new unnumbered paragraph:

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

26 Sec. 29. Section 441.21, subsection 2, Code Supplement
27 2003, is amended to read as follows:

28 2. In the event market value of the property being
29 assessed cannot be readily established in the foregoing
30 manner, then the assessor may determine the value of the
31 property using the other uniform and recognized appraisal
32 methods including its productive and earning capacity, if any,
33 industrial conditions, its cost, physical and functional
34 depreciation and obsolescence and replacement cost, and all
35 other factors which would assist in determining the fair and

1 reasonable market value of the property but the actual value
2 shall not be determined by use of only one such factor. The
3 following shall not be taken into consideration: Special
4 value or use value of the property to its present owner, and
5 the good will or value of a business which uses the property
6 as distinguished from the value of the property as property.
7 However, in assessing property that is rented or leased to
8 low-income individuals and families as authorized by section
9 42 of the Internal Revenue Code, as amended, and which section
10 limits the amount that the individual or family pays for the
11 rental or lease of units in the property, the assessor shall
12 use the productive and earning capacity from the actual rents
13 received as a method of appraisal and shall take into account
14 the extent to which that use and limitation reduces the market
15 value of the property. The assessor shall not consider any
16 tax credit equity or other subsidized financing as income
17 provided to the property in determining the assessed value.
18 The property owner shall notify the assessor when property is
19 withdrawn from section 42 eligibility under the Internal
20 Revenue Code. The property shall not be subject to section 42
21 assessment procedures for the assessment year for which
22 section 42 eligibility is withdrawn. This notification must
23 be provided to the assessor no later than March 1 of the
24 assessment year or the owner will be subject to a penalty of
25 five hundred dollars for that assessment year. The penalty
26 shall be collected at the same time and in the same manner as
27 regular property taxes. Upon adoption of uniform rules by the
28 revenue department or succeeding authority covering
29 assessments and valuations of such properties, said valuation
30 on such properties shall be determined in accordance therewith
31 for assessment purposes to assure uniformity, but such rules
32 shall not be inconsistent with or change the foregoing means
33 of determining the actual, market, taxable and assessed
34 values.
35 Sec. 30. Section 450.22, Code 2003, is amended to read as

1 follows:

2 450.22 ADMINISTRATION AVOIDED -- INHERITANCE TAX DUTIES
3 REQUIRED.

4 1. When the heirs or persons entitled to inherit the
5 property of an estate subject to tax under this chapter desire
6 to avoid the appointment of a personal representative as
7 provided in section 450.21, and in all instances where real
8 estate is involved and there are no regular probate
9 proceedings, they or one of them shall file under oath the
10 inventories required by section 633.361 and the required
11 reports, perform all the duties required by this chapter of
12 the personal representative, and file the inheritance tax
13 return.

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

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

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

31 b. Assets held in joint tenancy with right of survivorship
32 solely between the decedent and individuals listed in section
33 450.9 as individuals that are entirely exempt from Iowa
34 inheritance tax.

35 c. Assets passing by beneficiary designation, pursuant to

1 a trust intended to pass the decedent's property at death or
2 through any other nonprobate transfer solely to individuals
3 listed in section 450.9 as individuals that are entirely
4 exempt from Iowa inheritance tax.

5 This subsection does not apply to interests in an asset or
6 assets that pass to both an individual listed in section 450.9
7 and to that individual's spouse.

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

21 5. When this section applies, proceedings for the
22 collection of the tax when a personal representative is not
23 appointed shall conform as nearly as possible to proceedings
24 under this chapter in other cases.

25 Sec. 31. Section 450.37, subsection 2, paragraph a, Code
26 Supplement 2003, is amended to read as follows:

27 a. If an agreement has not been reached on the fair market
28 value of real property in the ordinary course of trade, the
29 director of revenue has ~~thirty~~ sixty days after the return is
30 filed to request an appraisal under section 450.27. If an
31 appraisal request is not made within the ~~thirty-day~~ sixty-day
32 period, the value listed on the return is the agreed value of
33 the real property.

34 Sec. 32. Section 450.53, subsections 1 and 2, Code
35 Supplement 2003, are amended to read as follows:

1 1. a. All personal representatives, except guardians and
2 conservators, and other persons charged with the management or
3 settlement of any estate or trust from which a tax is due
4 under this chapter, shall file an inheritance tax return,
5 within the time limits set by section 450.6, with a copy of
6 any federal estate tax return and other documents required by
7 the director which may reasonably tend to prove the amount of
8 tax due, and at the time of filing, shall pay to the
9 department of revenue the amount of the tax due from any
10 devisee, grantee, donee, heir, or beneficiary of the decedent,
11 except in cases where payment of the tax is deferred until the
12 determination of a prior estate. The owner of the future
13 interest shall file a supplemental inheritance tax return and
14 pay to the department of revenue the tax due within the time
15 limits set in this chapter. The inheritance tax returns shall
16 be in the form prescribed by the director.

17 b. Notwithstanding paragraph "a", an inheritance tax
18 return is not required to be filed if the estate does not have
19 a federal estate tax filing obligation and if all the estate
20 or trust assets pass solely to individuals listed in section
21 450.9 as individuals that are entirely exempt from Iowa
22 inheritance tax. This paragraph is not applicable if
23 interests in the asset passes to both an individual listed in
24 section 450.9 and to that individual's spouse.

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

33 b. If a false affidavit is filed, the affiant and the
34 personal representative shall be jointly and severally liable
35 for any tax, penalty, and interest that may have been due.

1 Any otherwise applicable statute of limitations on the
2 assessment and collection of the tax, penalty, and interest
3 shall not apply.

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

6 450.58 FINAL SETTLEMENT TO SHOW PAYMENT.

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

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

28 3. Any order contravening any provision of this section is
29 void.

30 Sec. 34. Section 450.94, subsection 2, Code Supplement
31 2003, is amended to read as follows:

32 2. Unless a return is not required to be filed
33 pursuant to section 450.22, subsection 3, or section 450.53,
34 subsection 1, paragraph "b", the taxpayer shall file an
35 inheritance tax return on forms to be prescribed by the

1 director of revenue on or before the last day of the ninth
2 month after the death of the decedent. When an inheritance
3 tax return is filed, the department shall examine it and
4 determine the correct amount of tax. If the amount paid is
5 less than the correct amount due, the department shall notify
6 the taxpayer of the total amount due together with any penalty
7 and interest which shall be a sum certain if paid on or before
8 the last day of the month in which the notice is dated, or on
9 or before the last day of the following month if the notice is
10 dated after the twentieth day of a month and before the first
11 day of the following month.

12 Sec. 35. Section 452A.3, Code 2003, is amended by adding
13 the following new subsection:

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

18 Sec. 36. Section 453A.6, Code 2003, is amended by adding
19 the following new subsection:

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

23 Sec. 37. Section 453A.11, Code 2003, is amended to read as
24 follows:

25 453A.11 CANCELLATION OF STAMPS.

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

1 cigarettes and is subject to the penalty provided in section
2 453A.31, subsection 1.

3 Sec. 38. Section 453A.15, subsection 1, Code 2003, is
4 amended to read as follows:

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

16 Sec. 39. Section 453A.28, Code 2003, is amended to read as
17 follows:

18 453A.28 ASSESSMENT OF TAX BY DEPARTMENT -- INTEREST --
19 PENALTY.

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

1 became due, whichever is later, the department shall examine
2 the report and determine the correct amount of tax. The
3 period for examination and determination of the correct amount
4 of tax is unlimited in the case of a false or fraudulent
5 report made with the intent to evade tax, or in the case of a
6 failure to file a report, or if a person purchases or is in
7 possession of unstamped cigarettes.

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

15 Sec. 40. Section 453A.31, subsection 1, paragraphs c, d,
16 and e, Code 2003, are amended to read as follows:

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

20 d. For a second violation within ~~two~~ three years of the
21 first violation, the penalty is four hundred dollars if a
22 person is in possession of more than forty but not more than
23 four hundred unstamped cigarettes; one thousand dollars if a
24 person is in possession of more than four hundred but not more
25 than two thousand unstamped cigarettes; and ~~two-thousand~~
26 thirty-five dollars per pack if a person is in possession of
27 more than two thousand unstamped cigarettes.

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

1 cigarettes.

2 Sec. 41. Section 453A.31, subsection 2, paragraphs b and
3 c, Code 2003, are amended to read as follows:

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

6 c. A thousand dollar penalty for a third or subsequent
7 violation within ~~two~~ three years of the first violation.

8 Sec. 42. Section 453A.32, subsections 1, 4, and 5, Code
9 2003, are amended to read as follows:

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

35 4. In the event final judgment is rendered in the

1 forfeiture proceedings aforesaid, maintaining the seizure, and
2 declaring and perfecting the forfeiture of said seized
3 property, the court shall order and decree the sale thereof of
4 the seized property, other than the counterfeit cigarettes, to
5 the highest bidder, by the sheriff at public auction in the
6 county of seizure after notice is given in the manner provided
7 in the case of the sale of personal property under execution,
8 and the proceeds of such sale, less expense of seizure and
9 court costs, shall be paid into the state treasury.

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

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

24 Sec. 43. Section 453A.36, Code 2003, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 9. a. It is unlawful for a person to
27 ship or import into this state or to offer for sale, sell,
28 distribute, transport, or possess counterfeit cigarettes,
29 knowing such cigarettes are counterfeit cigarettes or having
30 reasonable cause to believe that such cigarettes are
31 counterfeit cigarettes.

32 b. For purposes of this subsection and section 453A.32,
33 "counterfeit cigarettes" means cigarettes, packages of
34 cigarettes, cartons of cigarettes or other containers of
35 cigarettes with a label, trademark, service mark, trade name,

1 device, design, or word adopted or used by a cigarette
2 manufacturer to identify its product that is false or used
3 without authority of the cigarette manufacturer.

4 Sec. 44. NEW SECTION. 453A.39 TOBACCO PRODUCT AND
5 CIGARETTE SAMPLES -- RESTRICTIONS -- ADMINISTRATION.

6 1. A manufacturer, distributor, wholesaler, retailer, or
7 distributing agent, or agent thereof, shall not give away
8 cigarettes or tobacco products at any time in connection with
9 the manufacturer's, distributor's, wholesaler's, retailer's,
10 or distributing agent's business or for promotion of the
11 business or product, except as provided in subsection 2.

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

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

33 c. Proof of age shall be required if a reasonable person
34 could conclude on the basis of outward appearance that a
35 prospective recipient of a sample may be under eighteen years

1 of age.

2 Sec. 45. Section 453A.43, Code 2003, is amended by adding
3 the following new subsection:

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

7 Sec. 46. Section 453A.45, subsection 1, unnumbered
8 paragraph 2, Code 2003, is amended to read as follows:

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

31 Sec. 47. Section 453A.45, subsections 2, 3, and 4, Code
32 2003, are amended to read as follows:

33 2. Every person who sells tobacco products to persons
34 other than the ultimate consumer shall render with each sale
35 itemized invoices showing the seller's name and address, the

1 purchaser's name and address, the date of sale, and all prices
2 and discounts. The person shall preserve legible copies of
3 all ~~such~~ these invoices for ~~two~~ three years from the date of
4 sale.

5 3. Every retailer and subjobber shall procure itemized
6 invoices of all tobacco products purchased. The invoices
7 shall show the name and address of the seller and the date of
8 purchase. The retailer and subjobber shall preserve a legible
9 copy of each ~~such~~ invoice for ~~two~~ three years from the date of
10 purchase. Invoices shall be available for inspection by the
11 director or the director's authorized agents or employees at
12 the retailer's or subjobber's place of business.

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

23 Sec. 48. Section 453A.46, subsections 1 and 6, Code 2003,
24 are amended to read as follows:

25 1. On or before the twentieth day of each calendar month
26 every distributor with a place of business in this state shall
27 file a return with the director showing the quantity and
28 wholesale sales price of each tobacco product brought, or
29 caused to be brought, into this state for sale; and made,
30 manufactured, or fabricated in this state for sale in this
31 state, during the preceding calendar month. Every licensed
32 distributor outside this state shall in like manner file a
33 return showing the quantity and wholesale sales price of each
34 tobacco product shipped or transported to retailers in this
35 state to be sold by those retailers, during the preceding

1 calendar month. Returns shall be made upon forms furnished
2 and prescribed by the director and shall contain other
3 information as the director may require. Each return shall be
4 accompanied by a remittance for the full tax liability shown
5 on the return, less a discount as fixed by the director not to
6 exceed five percent of the tax. Within ~~two~~ three years after
7 the return is filed or within ~~two~~ three years after the return
8 became due, whichever is later, the department shall examine
9 it, determine the correct amount of tax, and assess the tax
10 against the taxpayer for any deficiency. The period for
11 examination and determination of the correct amount of tax is
12 unlimited in the case of a false or fraudulent return made
13 with the intent to evade tax, or in the case of a failure to
14 file a return.

15 The ~~two-year~~ three-year period of limitation may be
16 extended by a taxpayer by signing a waiver agreement form to
17 be provided by the department. The agreement must stipulate
18 the period of extension and the tax period to which the
19 extension applies. The agreement must also provide that a
20 claim for refund may be filed by the taxpayer at any time
21 during the period of extension.

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

1 against the taxpayer for any deficiency. The period for
2 examination and determination of the correct amount of tax is
3 unlimited in the case of a false or fraudulent return made
4 with the intent to evade tax, or in the case of a failure to
5 file a return.

6 Sec. 49. Section 453B.3, Code 2003, is amended by adding
7 the following new unnumbered paragraph:

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

11 Sec. 50. Section 633.479, unnumbered paragraph 2, Code
12 Supplement 2003, is amended to read as follows:

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

30 Sec. 51. Sections 2A.8 and 48A.24, Code Supplement 2003,
31 are repealed.

32 Sec. 52. REFUNDS. Refunds of taxes, interest, or
33 penalties which arise from claims resulting from the amendment
34 to section 422.42, subsection 6, in this Act, for the
35 noninclusion of trade discounts in computing gross receipts on

1 sales occurring between January 1, 1997, and the effective
2 date of the section amending section 422.42, subsection 6, in
3 this Act, shall be limited to twenty-five thousand dollars in
4 the aggregate and shall not be allowed unless refund claims
5 are filed prior to October 1, 2004, notwithstanding any other
6 provision of law. If the amount of claims totals more than
7 twenty-five thousand dollars in the aggregate, the department
8 of revenue shall prorate the twenty-five thousand dollars
9 among all claimants in relation to the amounts of the
10 claimants' valid claims.

11 **Sec. 53. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY**
12 **PROVISIONS.**

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

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

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

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SENATE FILE 2296

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H-8409

1 Amend Senate File 2296, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 9, by striking lines 6 through 19.

4 2. Page 10, by striking lines 16 through 29.

5 3. By striking page 27, line 32, through page 28,
6 line 20.

By SHOULTZ of Black Hawk

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H-8409 FILED APRIL 6, 2004
A-LOST B-WITHDRAWN

McKinley
McKibben
Bolkeom

SSR# 3167

Ways & Means

SENATE FILE _____

BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON MCKIBBEN)

By
SP/HF 2296

Passed Senate, Date _____

Passed House, 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. 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.

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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SENATE FILE 2296

AN ACT

RELATING TO THE POLICY ADMINISTRATION OF THE TAX AND RELATED LAWS BY THE DEPARTMENT OF REVENUE, INCLUDING ADMINISTRATION OF AND SUBSTANTIVE CHANGES TO THE STATE INDIVIDUAL INCOME, CORPORATE INCOME, SALES, USE, PROPERTY, INHERITANCE, MOTOR FUEL, SPECIAL FUEL, CIGARETTE, AND TOBACCO TAXES AND INCLUDING PENALTIES.

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

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

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

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

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

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

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

Sec. 4. Section 421.17, Code Supplement 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 28. To place on the department's official website the official electronic state of Iowa voter registration form and a link to the Iowa secretary of state's official website.

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

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

Sec. 6. Section 421.17A, subsection 3, Code Supplement 2003, is amended to read as follows:

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

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

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

Sec. 8. Section 421.17A, subsection 6, Code Supplement 2003, is amended to read as follows:

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

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

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

- (1) The name and social security number of the obligor.
- (2) A statement that the obligor is believed to have an account at the financial institution.
- (3) A statement that pursuant to the provisions of this section, the obligor's account is subject to seizure and the financial institution is authorized and required to forward moneys to the facility.
- (4) The maximum amount to be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of debt being collected by or owed to the state by the obligor.
- (5) The prescribed time frames the financial institution must meet in forwarding any amounts.

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

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

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

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

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

- (1) The name of the obligor.
- (2) The name of the financial institution.
- (3) A statement that the account in which the other party is known to have an interest is subject to seizure.
- (4) A statement that any challenge to the action must be in writing and must be received by the facility within ten days of the date of the notice to the party known to have an interest.
- (5) The address of the facility and the name of the obligor who also has an interest in the account.
- (6) A The telephone number, address, and contact name of the agent for the facility initiating the action.

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

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

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

c. The facility, upon receipt of a written challenge, shall review the facts of the case administrative levy with the challenging party within ten days of receipt of the challenge. If the challenging party is not available for the review on the scheduled date, the review shall take place without the challenging party being present. Information in favor of the challenging party shall be considered by the facility in the review. The facility may utilize additional information if such information is available. Only a mistake of fact, including, but not limited to, a mistake in the identity of the obligor or a mistake in the amount owed to or

being collected by the state shall be considered as a reason to dismiss or modify the action.

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

Sec. 10. Section 421.17A, subsection 8, Code Supplement 2003, is amended by adding the following new paragraphs:

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

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

Sec. 11. Section 421.17B, subsection 2, paragraph a, Code Supplement 2003, is amended to read as follows:

a. Notwithstanding other statutory provisions which provide for the execution, attachment, garnishment, or levy against accounts, the facility may utilize the process established in this section to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the facility or being collected by the facility provided all administrative remedies have been waived or exhausted by the obligor. Any exemptions or exceptions which specifically apply to enforcement of such obligations also apply to this section. Administrative wage assignment under this section is the equivalent of condemning funds under chapter 642. It is expressly provided that these remedies shall be cumulative and that no action taken by the director or the attorney general shall be construed to be an election on the part of the state

or any of its officers or representatives to pursue any other remedy provided by law.

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

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

Sec. 12. Section 421.17B, subsection 3, Code Supplement 2003, is amended to read as follows:

3. NOTICE OF INTENT TO THE OBLIGOR.

a. The facility may proceed under this section only if a ten-day twenty days' notice has been provided ~~to the obligor.~~ Notice ~~by the facility may be~~ by regular mail to the last known address of the obligor, notifying the obligor that the obligor is subject to this section. If the facility determines that collection of the debt may be in jeopardy, the facility may request that the employer deliver notice of the wage assignment simultaneous with the remainder of or in lieu of the obligor's compensation due from the employer.

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

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

- (1) The name and social security number of the obligor.
- (2) A statement that the obligor is believed to have employment with the stated employer.

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

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

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

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

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

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

Sec. 13. Section 421.17B, subsection 6, paragraph c, subparagraph (7), Code Supplement 2003, is amended to read as follows:

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

Sec. 14. Section 421.17B, subsection 8, paragraphs a, b, c, and f, Code Supplement 2003, are amended to read as follows:

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

b. The obligor challenging the administrative wage assignment shall submit a written challenge to the person

identified as the contact agent for the facility in the notice, within ten days of the date of the notice ~~to the obligor of initiation of the assignment.~~

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

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

Sec. 15. Section 421.17B, subsection 8, Code Supplement 2003, is amended by adding the following new paragraphs:

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

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

Sec. 16. Section 421.17B, subsection 9, unnumbered paragraph 2, Code Supplement 2003, is amended to read as follows:

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

Sec. 17. Section 422.10, subsection 3, unnumbered paragraph 2, Code Supplement 2003, is amended to read as follows:

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

Sec. 18. Section 422.33, subsection 5, paragraph d, unnumbered paragraph 2, Code Supplement 2003, is amended to read as follows:

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

Sec. 19. Section 422.42, subsection 6, Code 2003, is amended by adding the following new paragraph:

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

Sec. 20. Section 422A.1, unnumbered paragraph 8, Code Supplement 2003, is amended to read as follows:

The tax levied shall be in addition to any state sales tax imposed under section 422.43. Section 422.25, subsection 4, sections 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67, 422.68, 422.69, subsection 1, and sections 422.70 to 422.75, consistent with the provisions of this chapter, apply with respect to the taxes authorized under this chapter, in the

same manner and with the same effect as if the hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding this paragraph, the director shall provide for quarterly filing of returns as prescribed in section 422.51 and for other than quarterly filing of returns as prescribed in section 422.51, subsection 2. The director may require all persons, as defined in section 422.42, who are engaged in the business of deriving gross receipts subject to tax under this chapter, to register with the department. All taxes collected under this chapter by a retailer or any individual are deemed to be held in trust for the state of Iowa and the local jurisdictions imposing the taxes.

Sec. 21. Section 422B.9, subsection 3, paragraph a, Code Supplement 2003, is amended to read as follows:

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

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

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

Sec. 23. Section 423.1, subsection 47, as enacted by 2003 Iowa Acts, First Extraordinary Session, chapter 2, section 94, is amended by adding the following new paragraph:

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

Sec. 24. Section 423.2, subsection 6, unnumbered paragraph 2, as enacted by 2003 Iowa Acts, First Extraordinary Session, chapter 2, section 95, is amended to read as follows:

~~For the purposes of this subsection, the sales price of a lease or rental includes rents, royalties, and copyright and license fees.~~ For the purposes of this subsection, "financial institutions" means all national banks, federally chartered savings and loan associations, federally chartered savings banks, federally chartered credit unions, banks organized under chapter 524, savings and loan associations and savings banks organized under chapter 534, and credit unions organized under chapter 533.

Sec. 25. Section 423.2, as enacted by 2003 Iowa Acts, First Extraordinary Session, chapter 2, section 95, is amended by adding the following new subsection:

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

Sec. 26. Section 423.3, subsections 33 and 82, as enacted by 2003 Iowa Acts, First Extraordinary Session, chapter 2, section 96, are amended to read as follows:

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

b. The legislative services agency is not a retailer under this chapter and the sale of items or provision of services by

the legislative services agency is not a retail sale under this chapter and is exempt from the sales tax.

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

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

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

Sec. 27. Section 423.3, as enacted by 2003 Iowa Acts, First Extraordinary Session, chapter 2, section 96, is amended by adding the following new subsection:

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

Sec. 28. Section 424.3, subsection 1, Code 2003, is amended by adding the following new unnumbered paragraph:

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

Sec. 29. Section 441.21, subsection 2, Code Supplement 2003, is amended to read as follows:

2. In the event market value of the property being assessed cannot be readily established in the foregoing manner, then the assessor may determine the value of the property using the other uniform and recognized appraisal

methods including its productive and earning capacity, if any, industrial conditions, its cost, physical and functional depreciation and obsolescence and replacement cost, and all other factors which would assist in determining the fair and reasonable market value of the property but the actual value shall not be determined by use of only one such factor. The following shall not be taken into consideration: Special value or use value of the property to its present owner, and the good will or value of a business which uses the property as distinguished from the value of the property as property. However, in assessing property that is rented or leased to low-income individuals and families as authorized by section 42 of the Internal Revenue Code, as amended, and which section limits the amount that the individual or family pays for the rental or lease of units in the property, the assessor shall use the productive and earning capacity from the actual rents received as a method of appraisal and shall take into account the extent to which that use and limitation reduces the market value of the property. The assessor shall not consider any tax credit equity or other subsidized financing as income provided to the property in determining the assessed value. The property owner shall notify the assessor when property is withdrawn from section 42 eligibility under the Internal Revenue Code. The property shall not be subject to section 42 assessment procedures for the assessment year for which section 42 eligibility is withdrawn. This notification must be provided to the assessor no later than March 1 of the assessment year or the owner will be subject to a penalty of five hundred dollars for that assessment year. The penalty shall be collected at the same time and in the same manner as regular property taxes. Upon adoption of uniform rules by the revenue department or succeeding authority covering assessments and valuations of such properties, said valuation on such properties shall be determined in accordance therewith for assessment purposes to assure uniformity, but such rules shall not be inconsistent with or change the foregoing means

of determining the actual, market, taxable and assessed values.

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

450.22 ADMINISTRATION AVOIDED -- INHERITANCE TAX DUTIES REQUIRED.

1. When the heirs or persons entitled to inherit the property of an estate subject to tax under this chapter desire to avoid the appointment of a personal representative as provided in section 450.21, and in all instances where real estate is involved and there are no regular probate proceedings, they or one of them shall file under oath the inventories required by section 633.361 and the required reports, perform all the duties required by this chapter of the personal representative, and file the inheritance tax return.

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

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

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

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

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

This subsection does not apply to interests in an asset or assets that pass to both an individual listed in section 450.9 and to that individual's spouse.

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

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

Sec. 31. Section 450.37, subsection 2, paragraph a, Code Supplement 2003, is amended to read as follows:

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

Sec. 32. Section 450.53, subsections 1 and 2, Code Supplement 2003, are amended to read as follows:

1. a. All personal representatives, except guardians and conservators, and other persons charged with the management or settlement of any estate or trust from which a tax is due under this chapter, shall file an inheritance tax return, within the time limits set by section 450.6, with a copy of any federal estate tax return and other documents required by the director which may reasonably tend to prove the amount of tax due, and at the time of filing, shall pay to the department of revenue the amount of the tax due from any devisee, grantee, donee, heir, or beneficiary of the decedent, except in cases where payment of the tax is deferred until the determination of a prior estate. The owner of the future interest shall file a supplemental inheritance tax return and pay to the department of revenue the tax due within the time limits set in this chapter. The inheritance tax returns shall be in the form prescribed by the director.

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

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

b. If a false affidavit is filed, the affiant and the personal representative shall be jointly and severally liable for any tax, penalty, and interest that may have been due. Any otherwise applicable statute of limitations on the

assessment and collection of the tax, penalty, and interest shall not apply.

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

450.58 FINAL SETTLEMENT TO SHOW PAYMENT.

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

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

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

Sec. 34. Section 450.94, subsection 2, Code Supplement 2003, is amended to read as follows:

2. The Unless a return is not required to be filed pursuant to section 450.22, subsection 3, or section 450.53, subsection 1, paragraph "b", the taxpayer shall file an inheritance tax return on forms to be prescribed by the director of revenue on or before the last day of the ninth month after the death of the decedent. When an inheritance

tax return is filed, the department shall examine it and determine the correct amount of tax. If the amount paid is less than the correct amount due, the department shall notify the taxpayer of the total amount due together with any penalty and interest which shall be a sum certain if paid on or before the last day of the month in which the notice is dated, or on or before the last day of the following month if the notice is dated after the twentieth day of a month and before the first day of the following month.

Sec. 35. Section 452A.3, Code 2003, is amended by adding the following new subsection:

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

Sec. 36. Section 453A.6, Code 2003, is amended by adding the following new subsection:

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

Sec. 37. Section 453A.11, Code 2003, is amended to read as follows:

453A.11 CANCELLATION OF STAMPS.

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

Sec. 38. Section 453A.15, subsection 1, Code 2003, is amended to read as follows:

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

Sec. 39. Section 453A.28, Code 2003, is amended to read as follows:

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

If after any audit, examination of records, or other investigation the department finds that any person has sold cigarettes without stamps affixed or that any person responsible for paying the tax has not done so as required by this division, the department shall fix and determine the amount of tax due, and shall assess the tax against the person, together with a penalty as provided in section 421.27. The taxpayer shall pay interest on the tax or additional tax at the rate determined under section 421.7 counting each fraction of a month as an entire month, computed from the date the tax was due. If any person fails to furnish evidence satisfactory to the director showing purchases of sufficient stamps to stamp unstamped cigarettes purchased by the person, the presumption shall be that the cigarettes were sold without the proper stamps affixed. Within two three years after the report is filed or within two three years after the report became due, whichever is later, the department shall examine the report and determine the correct amount of tax. The period for examination and determination of the correct amount

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

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

Sec. 40. Section 453A.31, subsection 1, paragraphs c, d, and e, Code 2003, are amended to read as follows:

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

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

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

Sec. 41. Section 453A.31, subsection 2, paragraphs b and c, Code 2003, are amended to read as follows:

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

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

Sec. 42. Section 453A.32, subsections .1, 4, and 5, Code 2003, are amended to read as follows:

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

4. In the event final judgment is rendered in the forfeiture proceedings aforesaid, maintaining the seizure, and declaring and perfecting the forfeiture of said seized property, the court shall order and decree the sale thereof of the seized property, other than the counterfeit cigarettes, to

the highest bidder, by the sheriff at public auction in the county of seizure after notice is given in the manner provided in the case of the sale of personal property under execution, and the proceeds of such sale, less expense of seizure and court costs, shall be paid into the state treasury.

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

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

Sec. 43. Section 453A.36, Code 2003, is amended by adding the following new subsection:

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

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

Sec. 44. NEW SECTION. 453A.39 TOBACCO PRODUCT AND CIGARETTE SAMPLES -- RESTRICTIONS -- ADMINISTRATION.

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

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

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

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

Sec. 45. Section 453A.43, Code 2003, is amended by adding the following new subsection:

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

Sec. 46. Section 453A.45, subsection 1, unnumbered paragraph 2, Code 2003, is amended to read as follows:

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

Sec. 47. Section 453A.45, subsections 2, 3, and 4, Code 2003, are amended to read as follows:

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

3. Every retailer and subjobber shall procure itemized invoices of all tobacco products purchased. The invoices shall show the name and address of the seller and the date of

purchase. The retailer and subjobber shall preserve a legible copy of each such invoice for two three years from the date of purchase. Invoices shall be available for inspection by the director or the director's authorized agents or employees at the retailer's or subjobber's place of business.

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

Sec. 48. Section 453A.46, subsections 1 and 6, Code 2003, are amended to read as follows:

1. On or before the twentieth day of each calendar month every distributor with a place of business in this state shall file a return with the director showing the quantity and wholesale sales price of each tobacco product brought, or caused to be brought, into this state for sale; and made, manufactured, or fabricated in this state for sale in this state, during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the director and shall contain other information as the director may require. Each return shall be accompanied by a remittance for the full tax liability shown on the return, less a discount as fixed by the director not to exceed five percent of the tax. Within two three years after the return is filed or within two three years after the return became due, whichever is later, the department shall examine

it, determine the correct amount of tax, and assess the tax against the taxpayer for any deficiency. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax, or in the case of a failure to file a return.

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

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

Sec. 49. Section 453B.3, Code 2003, is amended by adding the following new unnumbered paragraph:

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

Sec. 50. Section 633.479, unnumbered paragraph 2, Code Supplement 2003, is amended to read as follows:

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

Sec. 51. Sections 2A.8 and 48A.24, Code Supplement 2003, are repealed.

Sec. 52. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the amendment to section 422.42, subsection 6, in this Act, for the noninclusion of trade discounts in computing gross receipts on sales occurring between January 1, 1997, and the effective date of the section amending section 422.42, subsection 6, in this Act, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 2004, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 53. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS.

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

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

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

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2296, Eightieth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2004

THOMAS J. VILSACK
Governor