

Senate File 140 - Introduced

SENATE FILE _____
BY BARTZ

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

A BILL FOR

1 An Act providing a sales tax exemption from the sale or
2 furnishing of metered water service and providing an effective
3 date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1782XS 83
6 ak/mg:sc/8

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1 1 Section 1. Section 15.331A, subsections 1 and 2, Code
1 2 2009, are amended to read as follows:
1 3 1. The eligible business shall be entitled to a refund of
1 4 the sales and use taxes paid under chapter 423 for gas,
1 5 electricity, ~~water~~, or sewer utility services, goods, wares,
1 6 or merchandise, or on services rendered, furnished, or
1 7 performed to or for a contractor or subcontractor and used in
1 8 the fulfillment of a written contract relating to the
1 9 construction or equipping of a facility of the eligible
1 10 business. Taxes attributable to intangible property and
1 11 furniture and furnishings shall not be refunded. However, an
1 12 eligible business shall be entitled to a refund for taxes
1 13 attributable to racks, shelving, and conveyer equipment to be
1 14 used in a warehouse or distribution center subject to section
1 15 15.331C.
1 16 2. To receive the refund, a claim shall be filed by the
1 17 eligible business with the department of revenue as follows:
1 18 a. The contractor or subcontractor shall state under oath,
1 19 on forms provided by the department, the amount of the sales
1 20 of goods, wares, or merchandise or services rendered,
1 21 furnished, or performed including ~~water~~, sewer, gas, and
1 22 electric utility services upon which sales or use tax has been
1 23 paid prior to the project completion, and shall file the forms
1 24 with the eligible business before final settlement is made.
1 25 b. The eligible business shall, not more than one year
1 26 after project completion, make application to the department
1 27 for any refund of the amount of the sales and use taxes paid
1 28 pursuant to chapter 423 upon any goods, wares, or merchandise,
1 29 or services rendered, furnished, or performed, including
1 30 ~~water~~, sewer, gas, and electric utility services. The
1 31 application shall be made in the manner and upon forms to be
1 32 provided by the department, and the department shall audit the
1 33 claim and, if approved, issue a warrant to the eligible
1 34 business in the amount of the sales or use tax which has been
1 35 paid to the state of Iowa under a contract. A claim filed by
2 1 the eligible business in accordance with this section shall
2 2 not be denied by reason of a limitation provision set forth in
2 3 chapter 421 or 423.
2 4 Sec. 2. Section 15.331C, Code 2009, is amended to read as
2 5 follows:
2 6 15.331C CORPORATE TAX CREDIT FOR CERTAIN SALES TAXES PAID
2 7 BY THIRD-PARTY DEVELOPER.
2 8 1. An eligible business may claim a corporate tax credit
2 9 in an amount equal to the sales and use taxes paid by a
2 10 third-party developer under chapter 423 for gas, electricity,
2 11 ~~water~~, or sewer utility services, goods, wares, or
2 12 merchandise, or on services rendered, furnished, or performed
2 13 to or for a contractor or subcontractor and used in the
2 14 fulfillment of a written contract relating to the construction
2 15 or equipping of a facility of the eligible business. Taxes
2 16 attributable to intangible property and furniture and
2 17 furnishings shall not be included, but taxes attributable to

2 18 racks, shelving, and conveyor equipment to be used in a
2 19 warehouse or distribution center shall be included. Any
2 20 credit in excess of the tax liability for the tax year may be
2 21 credited to the tax liability for the following seven years or
2 22 until depleted, whichever occurs earlier. An eligible
2 23 business may elect to receive a refund of all or a portion of
2 24 an unused tax credit.

2 25 2. A third-party developer shall state under oath, on
2 26 forms provided by the department of economic development, the
2 27 amount of taxes paid as described in subsection 1 and shall
2 28 submit such forms to the department. The taxes paid shall be
2 29 itemized to allow identification of the taxes attributable to
2 30 racks, shelving, and conveyor equipment to be used in a
2 31 warehouse or distribution center. After receiving the form
2 32 from the third-party developer, the department shall issue a
2 33 tax credit certificate to the eligible business equal to the
2 34 sales and use taxes paid by a third-party developer under
2 35 chapter 423 for gas, electricity, ~~water~~, or sewer utility
3 1 services, goods, wares, or merchandise, or on services
3 2 rendered, furnished, or performed to or for a contractor or
3 3 subcontractor and used in the fulfillment of a written
3 4 contract relating to the construction or equipping of a
3 5 facility. The department shall also issue a tax credit
3 6 certificate to the eligible business equal to the taxes paid
3 7 and attributable to racks, shelving, and conveyor equipment to
3 8 be used in a warehouse or distribution center. The aggregate
3 9 combined total amount of tax refunds under section 15.331A for
3 10 taxes attributable to racks, shelving, and conveyor equipment
3 11 to be used in a warehouse or distribution center and of tax
3 12 credit certificates issued by the department for the taxes
3 13 paid and attributable to racks, shelving, and conveyor
3 14 equipment to be used in a warehouse or distribution center
3 15 shall not exceed five hundred thousand dollars in a fiscal
3 16 year. If an applicant for a tax credit certificate does not
3 17 receive a certificate for the taxes paid and attributable to
3 18 racks, shelving, and conveyor equipment to be used in a
3 19 warehouse or distribution center, the application shall be
3 20 considered in succeeding fiscal years. The eligible business
3 21 shall not claim a tax credit under this section unless a tax
3 22 credit certificate issued by the department of economic
3 23 development is attached to the taxpayer's tax return for the
3 24 tax year for which the tax credit is claimed. A tax credit
3 25 certificate shall contain the eligible business's name,
3 26 address, tax identification number, the amount of the tax
3 27 credit, and other information required by the department of
3 28 revenue.

3 29 Sec. 3. Section 15A.9, subsections 6 and 7, Code 2009, are
3 30 amended to read as follows:

3 31 6. SALES, SERVICES, AND USE TAX REFUND. Taxes paid
3 32 pursuant to chapter 423 on the sales price or rental price of
3 33 property purchased or rented by the primary business or a
3 34 supporting business for use by the primary business or a
3 35 supporting business within the zone or on gas, electricity,
4 1 ~~water~~, and sewer utility services prior to project completion
4 2 shall be refunded to the primary business or supporting
4 3 business if the item was purchased or the service was
4 4 performed or received prior to project completion. Claims
4 5 under this section shall be submitted on forms provided by the
4 6 department of revenue not later than six months after project
4 7 completion. The refund in this subsection shall not apply to
4 8 furniture or furnishings, or intangible property.

4 9 7. SALES, SERVICES, AND USE TAX REFUND == CONTRACTOR OR
4 10 SUBCONTRACTOR.

4 11 a. The primary business or a supporting business shall be
4 12 entitled to a refund of the sales and use taxes paid under
4 13 chapter 423 for gas, electricity, ~~water~~, or sewer utility
4 14 services, goods, wares, or merchandise, or on services
4 15 rendered, furnished, or performed to or for a contractor or
4 16 subcontractor and used in the fulfillment of a written
4 17 contract relating to the construction or equipping of a
4 18 facility within the zone of the primary business or a
4 19 supporting business. Taxes attributable to intangible
4 20 property and furniture and furnishings shall not be refunded.

4 21 b. To receive the refund, a claim shall be filed by the
4 22 primary business or a supporting business with the department
4 23 of revenue as follows:

4 24 (1) The contractor or subcontractor shall state under
4 25 oath, on forms provided by the department, the amount of the
4 26 sales of goods, wares, or merchandise or services rendered,
4 27 furnished, or performed including ~~water~~, sewer, gas, and
4 28 electric utility services for use in the zone upon which sales

4 29 or use tax has been paid prior to the project completion, and
4 30 shall file the forms with the primary business or supporting
4 31 business before final settlement is made.

4 32 (2) The primary business or a supporting business shall,
4 33 not more than six months after project completion, make
4 34 application to the department for any refund of the amount of
4 35 the sales and use taxes paid pursuant to chapter 423 upon any
5 1 goods, wares, or merchandise, or services rendered, furnished,
5 2 or performed, including ~~water~~, sewer, gas, and electric
5 3 utility services. The application shall be made in the manner
5 4 and upon forms to be provided by the department, and the
5 5 department shall audit the claim and, if approved, issue a
5 6 warrant to the primary business or supporting business in the
5 7 amount of the sales or use tax which has been paid to the
5 8 state of Iowa under a contract. A claim filed by the primary
5 9 business or a supporting business in accordance with this
5 10 subsection shall not be denied by reason of a limitation
5 11 provision set forth in chapter 421, 422, or 423.

5 12 c. A contractor or subcontractor who willfully makes a
5 13 false report of tax paid under the provisions of this
5 14 subsection is guilty of a simple misdemeanor and in addition
5 15 is liable for the payment of the tax and any applicable
5 16 penalty and interest.

5 17 Sec. 4. Section 423.2, subsection 2, Code 2009, is amended
5 18 to read as follows:

5 19 2. A tax of six percent is imposed upon the sales price of
5 20 the sale or furnishing of gas, electricity, ~~water~~, heat, pay
5 21 television service, and communication service, including the
5 22 sales price from such sales by any municipal corporation or
5 23 joint water utility furnishing gas, electricity, ~~water~~, heat,
5 24 pay television service, and communication service to the
5 25 public in its proprietary capacity, except as otherwise
5 26 provided in this subchapter, when sold at retail in the state
5 27 to consumers or users.

5 28 Sec. 5. Section 423.3, subsection 32, paragraph a, Code
5 29 2009, is amended to read as follows:

5 30 a. The tax specifically imposed under section 423.2 on the
5 31 sales price from sales or furnishing of gas, electricity,
5 32 ~~water~~, heat, pay television service, or communication service
5 33 to the public by a municipal corporation in its proprietary
5 34 capacity.

5 35 Sec. 6. Section 423.3, Code 2009, is amended by adding the
6 1 following new subsection:

6 2 NEW SUBSECTION. 32A. The sales price from sales or
6 3 furnishing of metered water service to the public.

6 4 Sec. 7. Section 423.36, subsection 8, paragraph b,
6 5 subparagraph (1), Code 2009, is amended to read as follows:

6 6 (1) Taxes imposed on the sales, furnishing, or service of
6 7 gas, electricity, ~~water~~, heat, pay television service, and
6 8 communication service.

6 9 Sec. 8. Section 423.40, subsection 2, Code 2009, is
6 10 amended to read as follows:

6 11 2. a. Any person who knowingly sells tangible personal
6 12 property, tickets or admissions to places of amusement and
6 13 athletic events, or gas, ~~water~~, electricity, or communication
6 14 service at retail, or engages in the furnishing of services
6 15 enumerated in section 423.2, in this state without procuring a
6 16 permit to collect tax, as provided in section 423.36, or who
6 17 violates section 423.24 and the officers of any corporation
6 18 who so act are guilty of a serious misdemeanor.

6 19 b. A person who knowingly sells tangible personal
6 20 property, tickets or admissions to places of amusement and
6 21 athletic events, or gas, ~~water~~, electricity, or communication
6 22 service at retail, or engages in the furnishing of services
6 23 enumerated in section 423.2, in this state after the person's
6 24 sales tax permit has been revoked and before it has been
6 25 restored as provided in section 423.36, subsection 5, and the
6 26 officers of any corporation who so act are guilty of an
6 27 aggravated misdemeanor.

6 28 Sec. 9. EFFECTIVE DATE. This Act takes effect January 1,
6 29 2010. Entities described in sections 15.331A, 15.331C, and
6 30 15A.9, subsection 7, that qualify for a sales tax refund due
6 31 to the sale or furnishing of water prior to January 1, 2010,
6 32 shall be entitled to recover the full refund due.

6 33 EXPLANATION

6 34 This bill provides a sales tax exemption for the sale or
6 35 furnishing of metered water service to the public. The
7 1 exemption discontinues refunds for sales tax paid for water
7 2 for corporations and businesses under Code chapters 15 and 15A
7 3 but allows the entities to recover the full sales tax refund
7 4 due after the bill becomes effective if sales tax was paid

7 5 prior to the bill's effective date. The bill eliminates the
7 6 need for a permit to collect tax for selling water and the
7 7 penalty for not having the permit. The bill takes effect
7 8 January 1, 2010.
7 9 LSB 1782XS 83
7 10 ak/mg:sc/8