

House File 318 - Introduced

HOUSE FILE 318

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A BILL FOR

1 An Act excluding from the computation of net income the net
2 capital gain from the sale of certain business property and
3 including retroactive applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 422.7, subsection 21, paragraph a, Code
2 2011, is amended to read as follows:

3 a. (1) Net capital gain from the sale of real property or
4 equipment used in a business, in which the taxpayer materially
5 participated for ~~ten~~ three years, as defined in section 469(h)
6 of the Internal Revenue Code, and which has been held for a
7 minimum of ~~ten~~ three years, or from the sale of a business,
8 as defined in section 423.1, in which the taxpayer materially
9 participated for ~~ten~~ three years, as defined in section 469(h)
10 of the Internal Revenue Code, and which has been held for a
11 minimum of ~~ten~~ three years. The sale of a business means the
12 sale of all or substantially all of the tangible personal
13 property or service of the business.

14 (a) However, where the business is sold to individuals who
15 are all lineal descendants of the taxpayer, the taxpayer does
16 not have to have materially participated in the business in
17 order for the net capital gain from the sale to be excluded
18 from taxation.

19 (b) However, in lieu of the net capital gain deduction
20 in this paragraph and paragraphs "b", "c", and "d", where the
21 business is sold to individuals who are all lineal descendants
22 of the taxpayer, the amount of capital gain from each capital
23 asset may be subtracted in determining net income.

24 (2) For purposes of this paragraph "a", "*lineal descendant*"
25 means children of the taxpayer, including legally adopted
26 children and biological children, stepchildren, grandchildren,
27 great-grandchildren, and any other lineal descendants of the
28 taxpayer.

29 Sec. 2. RETROACTIVE APPLICABILITY. This Act applies
30 retroactively to January 1, 2011, for assets acquired, and for
31 tax years beginning, on or after that date.

32 EXPLANATION

33 Current law provides an exclusion from the computation
34 of net income for the net capital gain from the sale of
35 real property used in a business if the taxpayer materially

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1 participated in the business for 10 years and if the property
2 is held for 10 years or more.

3 This bill applies the exclusion to the sale of business
4 equipment as well as real property and reduces the required
5 holding and participation periods for such property to three
6 years.

7 The bill applies retroactively to January 1, 2011, for
8 assets acquired and for tax years beginning on or after that
9 date.