

House File 2129 - Introduced

HOUSE FILE 2129
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 502)

A BILL FOR

1 An Act relating to the exclusion from the computation of net
2 income for the individual income tax of net capital gains
3 from the sale of a business and including retroactive
4 applicability provisions.

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

1 Section 1. Section 422.7, subsection 21, paragraph a, Code
2 2014, is amended to read as follows:

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

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

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

26 ~~(2)~~ (3) For purposes of this paragraph, unless the context
27 otherwise requires:

28 (a) "Business" means the same as defined in section 423.1.

29 (b) ~~"lineal"~~ "Lineal descendant" means children of the
30 taxpayer, including legally adopted children and biological
31 children, stepchildren, grandchildren, great-grandchildren, and
32 any other lineal descendants of the taxpayer.

33 (c) "Materially participated" means the same as defined in
34 section 469(h) of the Internal Revenue Code.

35 (d) "Sale of a business" means the sale of all or

1 substantially all of the tangible personal property or service
2 of the business, or the sale of all or substantially all of the
3 stock or equity interest in the business, whether the business
4 is held as a sole proprietorship, corporation, partnership,
5 joint venture, trust, limited liability company, or another
6 business entity.

7 Sec. 2. RETROACTIVE APPLICABILITY. This Act applies
8 retroactively to January 1, 2014, for tax years beginning on
9 or after that date.

10 EXPLANATION

11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill relates to the taxation of net capital gains from
14 the sale of a business.

15 This state provides an exclusion from the computation of net
16 income for the individual income tax of any net capital gains
17 realized from the sale of a business if the taxpayer held the
18 business for at least 10 years and materially participated in
19 the business for at least 10 years.

20 Under current law, "sale of a business" is defined as the
21 sale of all or substantially all of the tangible personal
22 property or service of the business. The bill modifies the
23 definition to include the sale of all or substantially all of a
24 stock or equity interest in the business, whether the business
25 is held as a sole proprietorship, corporation, partnership,
26 joint venture, trust, limited liability company, or another
27 business entity.

28 The bill applies retroactively to January 1, 2014, for tax
29 years beginning on or after that date.