

House File 2440 - Introduced

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BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2129)

(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 if, in the case of the sale of real property used in a~~
8 business, the real property has been held for a minimum of ten
9 years or from the sale of a business, as defined in section
10 423.1, in which the taxpayer materially participated for ten
11 years, as defined in section 469(h) of the Internal Revenue
12 Code, and which has been held for a minimum of ten years. The
13 sale of a business means the sale of all or substantially all
14 of the tangible personal property or service of the business
15 if, in the case of the sale of a business, the taxpayer has
16 held stock or an equity interest in the business for a minimum
17 of ten years.

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

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

30 ~~(2)~~ (3) For purposes of this paragraph, unless the context
31 otherwise requires:

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

33 (b) ~~"lineal"~~ "Lineal descendant" means children of the
34 taxpayer, including legally adopted children and biological
35 children, stepchildren, grandchildren, great-grandchildren, and

1 any other lineal descendants of the taxpayer.

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

4 (d) "Sale of a business" means either of the following:

5 (i) The sale of all or substantially all of the tangible
6 personal property or service of the business.

7 (ii) The sale of all or substantially all of the taxpayer's
8 stock or equity interest in the business, whether the proceeds
9 from the sale are received by the taxpayer in one payment or
10 several payments, and whether the business is held as a sole
11 proprietorship, corporation, partnership, joint venture, trust,
12 limited liability company, or another business entity.

13 Sec. 2. RETROACTIVE APPLICABILITY. This Act applies
14 retroactively to January 1, 2014, for tax years beginning on
15 or after that date.

16 EXPLANATION

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

19 This bill relates to the taxation of net capital gains from
20 the sale of a business.

21 This state provides an exclusion from the computation of net
22 income for the individual income tax of any net capital gains
23 realized from the sale of a business if the taxpayer held the
24 business for at least 10 years and materially participated in
25 the business for at least 10 years.

26 The bill modifies the requirement that the taxpayer hold the
27 business for a minimum of 10 years to require that the taxpayer
28 hold stock or an equity interest in the business for a minimum
29 of 10 years.

30 Under current law, "sale of a business" is defined as the
31 sale of all or substantially all of the tangible personal
32 property or service of the business. The bill modifies the
33 definition to include the sale of all or substantially all of a
34 taxpayer's stock or equity interest in the business, whether
35 the proceeds from the sale are received in one payment or

1 several payments, and whether the business is held as a sole
2 proprietorship, corporation, partnership, joint venture, trust,
3 limited liability company, or another business entity.
4 The bill applies retroactively to January 1, 2014, for tax
5 years beginning on or after that date.