

House File 91 - Introduced

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SALMON, and KOESTER

A BILL FOR

1 An Act relating to the exclusion from the computation of net
2 income of the net capital gain from the sale of a business
3 or of certain business property 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 2013, 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, 2013, 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 of
34 net income for the net capital gain from the sale of a business
35 or from the sale of real property used in a business if the

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

3 This bill expands the exclusion to include the sale of
4 business equipment and reduces the required holding and
5 participation periods to three years.

6 The bill applies retroactively to January 1, 2013, for
7 assets acquired and for tax years beginning on or after that
8 date.