

House File 2319 - Introduced

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BY RIZER

A BILL FOR

1 An Act providing for the reporting and remittance of use taxes
2 on the Iowa individual income tax return and including
3 retroactive applicability provisions.

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

1 Section 1. Section 422.21, Code 2016, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 8. *a.* In order to raise awareness of
4 liabilities for use taxes levied on purchases made outside the
5 state for use in the state, and to increase compliance with
6 such provisions of law, the department shall provide space
7 on the individual income tax form for tax years beginning on
8 or after January 1, 2016, wherein the taxpayer may report
9 and remit use tax owed by the taxpayer under chapter 423,
10 subchapter III, for the period of time covered by the income
11 tax return.

12 *b.* The department, when conducting an audit or examination
13 of a taxpayer's return, shall not audit or examine the use tax
14 portion of the return.

15 *c.* The department shall include the following information
16 with the individual income tax form instructions for tax years
17 beginning on or after January 1, 2016:

18 (1) An explanation of the obligation to pay use tax on
19 purchases made outside the state, including purchases from mail
20 order, the internet, or other sellers that do not collect sales
21 or use tax.

22 (2) A method to help a taxpayer determine the amount of use
23 tax the taxpayer owes. The method may include a table that
24 provides the average amounts of use tax payable by taxpayers in
25 various income ranges.

26 Sec. 2. Section 423.34, Code 2016, is amended to read as
27 follows:

28 **423.34 Liability of user.**

29 1. Any person who uses any property or services enumerated
30 in [section 423.2](#) upon which the use tax has not been paid,
31 either to the county treasurer or to a retailer or direct to
32 the department as required by [this subchapter](#), shall be liable
33 for the payment of tax, ~~and~~.

34 2. Any person liable under subsection 1 shall on or before
35 the last day of the month next succeeding each quarterly period

1 pay the use tax upon all property or services used by the
2 person during the preceding quarterly period in the manner and
3 accompanied by such returns as the director shall prescribe.
4 All of the provisions of [sections 423.32](#) and [423.33](#) with
5 reference to the returns and payments shall be applicable to
6 the returns and payments required by [this section subsection](#).

7 3. a. Notwithstanding subsection 2, use tax amounts
8 reported and remitted with an income tax return pursuant to
9 section 422.21, subsection 8, shall be applied to the earliest
10 use tax owed by the taxpayer for the period of time covered
11 by the applicable income tax return, and such payment and
12 reporting shall be considered timely. Penalties or interest
13 shall not be imposed with respect to such amounts, and interest
14 shall not accrue on refunds authorized from such amounts.

15 b. This subsection shall not apply to the following:

16 (1) A person who holds a direct pay tax permit authorized
17 under section 423.36 for any period of time covered by the
18 applicable income tax return.

19 (2) Any use tax amounts reported and remitted with an income
20 tax return if the department gives notice to the taxpayer on or
21 before the date the applicable income tax return is filed or
22 use tax is paid, whichever is later, that the department has
23 determined the taxpayer's use tax liability pursuant to section
24 423.37 for any portion of the period of time covered by the
25 applicable income tax return, or that the department will audit
26 or examine the taxpayer's use tax liability or use tax returns
27 for any portion of the period of time covered by the applicable
28 income tax return.

29 **Sec. 3. RETROACTIVE APPLICABILITY.** The following provision
30 or provisions of this Act apply retroactively to January 1,
31 2016, for tax years beginning on or after that date:

32 1. The section of this Act amending section 422.21.

33 **Sec. 4. RETROACTIVE APPLICABILITY.** The following provision
34 or provisions of this Act apply retroactively to January 1,
35 2016, for uses of property or services on or after that date:

1 1. The section of this Act amending section 423.34.

2 EXPLANATION

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

5 This bill directs the department of revenue (department)
6 to provide space on the individual income tax form to allow a
7 taxpayer to report and remit use tax liability for the period
8 of time covered by the income tax return. The bill provides
9 that the department, when conducting an audit or examination of
10 the taxpayer's income tax return, shall not audit or examine
11 the use tax portion of the return.

12 The bill also directs the department to include in the income
13 tax form instructions an explanation of the obligation to pay
14 use tax and a method to help determine the use tax liability,
15 which method may include a table providing the average amount
16 of use tax payable by range of income. The changes to the
17 income tax form and instructions apply retroactively to tax
18 years beginning in 2016.

19 The bill also amends the use tax liability provisions in Code
20 section 423.34, which under current law requires any person who
21 uses property or services for which the use tax has not been
22 paid to pay the use tax and file use tax returns within certain
23 time frames. Failure to do so can result in the imposition of
24 penalties and interest.

25 The bill provides that use tax reported and remitted on a
26 taxpayer's income tax return will be applied to the earliest
27 use tax owed for the applicable period of time covered by
28 the return, and will be considered timely reported and paid.
29 No penalty or interest will be imposed with respect to such
30 amounts, and interest will not accrue on refunds authorized
31 from such amounts.

32 These penalty and interest exceptions do not apply under two
33 circumstances. First, they do not apply to a taxpayer who has
34 a direct pay tax permit issued by the department for any period
35 of time covered by the applicable income tax return. A direct

1 pay tax permit authorizes a taxpayer to remit sales and use
2 tax owed directly to the department instead of the tax being
3 collected and paid by the seller.

4 Second, they do not apply to use tax amounts remitted with
5 an income tax return if the department previously determined
6 the taxpayer's use tax liability or notified the taxpayer that
7 it would audit or examine such use tax liability or use tax
8 returns for any period of time covered by the applicable income
9 tax return.

10 The amendments to the use tax liability provisions in Code
11 section 423.34 apply retroactively to January 1, 2016, for uses
12 of property and services on or after that date.