

House Study Bill 642 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON SANDS)

A BILL FOR

1 An Act relating to state taxation by temporarily updating the
2 Code references to the Internal Revenue Code, decoupling
3 from certain federal bonus depreciation provisions,
4 rescinding certain administrative rules and rule amendments
5 and modifying the sales tax exemptions related to the
6 purchase of items used in manufacturing and other
7 activities, and including effective date and retroactive
8 applicability provisions.

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

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DIVISION I

INTERNAL REVENUE CODE REFERENCES

Section 1. INTERNAL REVENUE CODE REFERENCES FOR

2015. Notwithstanding the definition of "Internal Revenue Code" in section 15.335, subsection 7, section 422.3, subsection 5, section 422.10, subsection 3, section 422.32, subsection 1, and section 422.33, subsection 5, Code 2016, the following shall apply for the period beginning January 1, 2015, and ending December 31, 2015, and for tax years beginning during the 2015 calendar year:

1. The definition of "Internal Revenue Code" for purposes of section 15.335, subsection 7, section 422.10, subsection 3, and section 422.33, subsection 5, Code 2016, and for purposes of references in the 2016 Iowa Code and 2016 Iowa Acts to the definition of "Internal Revenue Code" in those sections, shall mean the Internal Revenue Code in effect on January 1, 2016.

2. The definition of "Internal Revenue Code" for purposes of sections 422.3 and 422.32, Code 2016, and for purposes of references in the 2016 Iowa Code and 2016 Iowa Acts to the definition of "Internal Revenue Code" in those sections, shall mean the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 2016.

Sec. 2. DEDUCTION FOR STATE SALES AND USE TAX FOR

2015. Notwithstanding section 422.9, subsection 2, paragraph "i", Code 2016, the deduction for state sales and use taxes is allowable under section 422.9 for tax years beginning during the 2015 calendar year, but only if the taxpayer elected to deduct the state sales and use taxes in lieu of state income taxes under section 164 of the Internal Revenue Code. The deduction for state sales and use taxes is not allowed if the taxpayer has taken the deduction for state income taxes or claimed the standard deduction under section 63 of the Internal Revenue Code.

1 Sec. 3. BONUS DEPRECIATION FOR 2015.

2 1. Notwithstanding section 1 of this Act, or any other
3 provision of law to the contrary, the additional first-year
4 depreciation allowance authorized in section 168(k) of the
5 Internal Revenue Code, as enacted by Pub. L. No. 114-113, §143,
6 does not apply in computing net income for state tax purposes
7 for tax years ending on or after January 1, 2015, but before
8 January 1, 2016. If the taxpayer has taken the additional
9 first-year depreciation allowance for purposes of computing
10 federal adjusted gross income or federal taxable income, as
11 the case may be, then the taxpayer, when computing net income
12 for purposes of the individual income tax under section 422.7
13 or the corporation income tax or franchise tax under section
14 422.35, shall make the adjustments described in section 422.7,
15 subsection 39A, paragraphs "a" through "c", Code 2016, or
16 described in section 422.35, subsection 19A, paragraphs "a"
17 through "c", Code 2016, as applicable.

18 2. In addition to the requirements of section 422.5,
19 subsection 2, paragraph "b", subparagraph (1), Code 2016,
20 for purposes of the state alternative minimum taxable income
21 calculation in section 422.5, subsection 2, paragraph "b",
22 subparagraph (1), to the extent that any preference or
23 adjustment is determined by an individual's federal adjusted
24 gross income, the individual's federal adjusted gross income is
25 computed in accordance with subsection 1 of this section for
26 tax years beginning during the 2015 calendar year.

27 3. In addition to the requirements of section 422.9,
28 subsection 2, paragraph "h", Code 2016, for purposes of
29 calculating the deductions in section 422.9 that are authorized
30 under the Internal Revenue Code, and to the extent that
31 any such deduction is determined by an individual's federal
32 adjusted gross income, the individual's federal adjusted gross
33 income is computed in accordance with subsection 1 of this
34 section for tax years beginning during the 2015 calendar year.

35 Sec. 4. EFFECTIVE UPON ENACTMENT. This division of this

1 Act, being deemed of immediate importance, takes effect upon
2 enactment.

3 Sec. 5. RETROACTIVE APPLICABILITY. This division of this
4 Act applies retroactively to January 1, 2015.

5 DIVISION II

6 SALES AND USE TAXES

7 Sec. 6. RESCISSION OF AMENDMENTS TO ADMINISTRATIVE RULES.

8 1. The amendments to 701 Iowa administrative code, rule
9 15.3, subrule 3; rule 18.29, subrule 7; rules 18.58, 219.11,
10 and 219.12; rule 219.13, subrule 3; and rule 230.5, as
11 appearing in ARC 2349C, as published in the Iowa administrative
12 bulletin, volume XXXVIII, number 14, dated January 6, 2016, pp.
13 1359-1364, are rescinded.

14 2. As soon as practicable, the Iowa administrative code
15 editor shall restore the language of the Iowa administrative
16 code rules and subrules referenced in subsection 1 of this
17 section to the language that existed on January 5, 2016.

18 Sec. 7. RESCISSION OF ADMINISTRATIVE RULES.

19 1. 701 Iowa administrative code, rules 230.14 through
20 230.22, are rescinded.

21 2. As soon as practicable, the Iowa administrative code
22 editor shall remove the language of the Iowa administrative
23 code rules referenced in subsection 1 of this section from the
24 Iowa administrative code.

25 Sec. 8. Section 423.3, subsection 47, paragraph a,
26 unnumbered paragraph 1, Code 2016, is amended to read as
27 follows:

28 The sales price from the sale or rental of computers,
29 machinery, and equipment, ~~including replacement parts,~~
30 supplies, and materials used to construct or self-construct
31 computers, machinery, and equipment, replacement parts, and
32 supplies, if such items are any of the following:

33 Sec. 9. Section 423.3, subsection 47, paragraph d, Code
34 2016, is amended by adding the following new subparagraphs:

35 NEW SUBPARAGRAPH. (7) "*Replacement part*" means tangible

1 personal property other than computers, machinery, equipment,
2 or supplies, regardless of the cost or useful life of the
3 tangible personal property, that meets all of the following
4 conditions:

5 (a) The tangible personal property replaces a component of
6 a computer, machinery, or equipment, which component is capable
7 of being separated from the computer, machinery, or equipment.

8 (b) The tangible personal property performs the same or
9 similar function as the component it replaced.

10 (c) The tangible personal property restores the computer,
11 machinery, or equipment to an operational condition, or
12 upgrades or improves the efficiency of the computer, machinery,
13 or equipment.

14 NEW SUBPARAGRAPH. (8) "*Supplies*" means tangible personal
15 property, other than computers, machinery, equipment, or
16 replacement parts, that meets one of the following conditions:

17 (a) The tangible personal property is to be connected
18 to a computer, machinery, or equipment and requires regular
19 replacement because the property is consumed or deteriorates
20 during use, including but not limited to saw blades, drill
21 bits, filters, and other similar items with a short useful
22 life.

23 (b) The tangible personal property is used in conjunction
24 with a computer, machinery, or equipment and is specially
25 designed for use in manufacturing specific products and may
26 be used interchangeably and intermittently on a particular
27 computer, machine, or piece of equipment, including but not
28 limited to jigs, dies, tools, and other similar items.

29 (c) The tangible personal property comes into physical
30 contact with other tangible personal property used in
31 processing and is used to assist with or maintain conditions
32 necessary for processing, including but not limited to cutting
33 fluids, oils, coolants, lubricants, and other similar items
34 with a short useful life.

35 (d) The tangible personal property is directly and

1 primarily used in an activity described in paragraph "a",
2 subparagraphs (1) through (6), including but not limited to
3 prototype materials and testing materials.

4 Sec. 10. EFFECTIVE UPON ENACTMENT. The sections of this
5 division of this Act rescinding Iowa administrative code rules
6 and amendments to Iowa administrative code rules, being deemed
7 of immediate importance, take effect upon enactment.

8 EXPLANATION

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

11 This bill relates to state taxation.

12 DIVISION I — INTERNAL REVENUE CODE REFERENCES. The bill
13 provides that notwithstanding several Code provisions as
14 specified in the bill, the definitions of "Internal Revenue
15 Code" in those Code provisions and, by internal reference,
16 in other sections of the Iowa Code and Iowa Acts shall mean
17 the Internal Revenue Code in effect on, or as amended to and
18 including, January 1, 2016. This definition change applies
19 only to the period beginning January 1, 2015, and ending
20 December 31, 2015, and for tax years beginning during the 2015
21 calendar year.

22 The affected Code provisions include Code sections 422.3
23 and 422.32, general definition sections in the chapter of the
24 Code that governs corporate and individual income tax and the
25 franchise tax, and Code sections 15.335, 422.10, and 422.33,
26 which contain references to the Internal Revenue Code for the
27 state research activities credit for individuals, corporations,
28 and corporations in economic development areas.

29 Code section 422.9 provides individuals a deduction from
30 net income for state sales and use taxes if the individual
31 chose to deduct sales and use tax in lieu of state income taxes
32 or the standard deduction for federal income tax purposes.
33 This deduction was set to expire under both federal and Iowa
34 law for tax years beginning on or after January 1, 2015. The
35 federal Protecting Americans from Tax Hikes Act of 2015 made

1 the federal deduction permanent. The bill allows the Iowa
2 deduction for tax years beginning during the 2015 calendar
3 year.

4 The bill decouples, for Iowa income tax purposes for tax
5 years ending on or after January 1, 2015, but before January
6 1, 2016, from the federal additional first-year depreciation
7 allowance in section 168(k) of the Internal Revenue Code
8 (bonus depreciation) which was modified and extended through
9 2019 by the federal Protecting Americans from Tax Hikes Act
10 of 2015. Taxpayers who claim bonus depreciation for federal
11 tax purposes are, for the applicable tax year, required to add
12 such depreciation amounts back to Iowa net income, but are
13 then allowed under existing state law to deduct the amount of
14 depreciation that would otherwise be allowable under federal
15 law, without regard to the bonus depreciation allowance.

16 Under current law, taxpayers are in some instances required,
17 when calculating alternative minimum tax under Code section
18 422.5(2) and itemized deductions under Code section 422.9(2),
19 to recompute their federal adjusted gross income to take
20 into account the fact that Iowa has decoupled from bonus
21 depreciation. The bill provides that taxpayers must make those
22 same adjustments to federal adjusted gross income for tax year
23 2015 to account for the fact that Iowa has decoupled from bonus
24 depreciation as described above.

25 The division takes effect upon enactment and applies
26 retroactively to January 1, 2015.

27 DIVISION II — SALES AND USE TAXES. The bill rescinds
28 several administrative rules and amendments to administrative
29 rules of the department of revenue relating to the
30 manufacturing sales and use tax exemptions under Code sections
31 423.3(47) and 423.3(48) for the purchase of certain items used
32 in manufacturing, research and development, data processing
33 or storage, or recycling activities, and for the purchase of
34 certain design and installation services related to machinery
35 and equipment, and to the definitions of several applicable

1 terms, including but not limited to definitions for tax-exempt
2 "computers", "machinery", "equipment", "replacement parts",
3 and "materials used to construct or self-construct computers,
4 machinery, and equipment". These administrative rules and
5 amendments to administrative rules also concern the treatment
6 of these tax-exempt items as they relate to the taxation of
7 construction activities under Code sections 423.2(1)(b) and
8 423.2(1)(c) by amending the method for determining whether
9 the items are considered real property and taxed as building
10 materials when purchased in furtherance of a construction
11 contract, or considered tangible personal property eligible for
12 the manufacturing sales and use tax exemptions.

13 The effect of rescinding the amendments to these
14 administrative rules is to restore the language of the
15 affected rules to that as it existed prior to the date
16 the adopted amendments to the rules were published in the
17 Iowa administrative bulletin. The bill directs the Iowa
18 administrative code editor to restore the text of the affected
19 rules to the language that existed on January 5, 2016, which
20 was the day before the amendments were published in the
21 Iowa administrative bulletin. The bill also directs the
22 Iowa administrative code editor to remove language of the
23 rescinded rules from the Iowa administrative code. The Iowa
24 administrative code editor is required to complete these
25 actions as soon as practicable. The provisions rescinding
26 these administrative rules and amendments to administrative
27 rules and requiring certain administrative code editor actions
28 take effect upon enactment.

29 The bill amends the sales tax exemption in Code section
30 423.3(47) for the purchase or rental of certain items used in
31 manufacturing, research and development, data processing or
32 storage, or recycling activities.

33 Under current law, the exemption includes replacement
34 parts. The bill amends the exemption to include materials
35 used to construct or self-construct replacement parts. The

1 bill defines "replacement part" for purposes of the exemption
2 to mean tangible personal property other than computers,
3 machinery, equipment, or supplies, regardless of the cost or
4 useful life of the property, that replaces a component of a
5 computer, machinery, or equipment, performs the same or similar
6 function as that component, and restores or improves the
7 computer, machinery, or equipment.

8 The bill also amends the exemption to include supplies
9 and materials used to construct or self-construct supplies.
10 "Supplies" is defined in the bill as tangible personal property
11 that is not a computer, machinery, equipment, or replacement
12 part and that meets one of the following four conditions:

13 1. The tangible personal property is to be connected to
14 a computer, machinery, or equipment and requires regular
15 replacement because it is consumed or deteriorates during use.
16 The bill lists saw blades, drill bits, filters, and other
17 similar items with a short useful life as examples.

18 2. The tangible personal property is used in conjunction
19 with a computer, machinery, or equipment and is specially
20 designed for use in manufacturing specific products and may
21 be used interchangeably and intermittently on a particular
22 computer, machine, or piece of equipment. The bill lists jigs,
23 dies, tools, and other similar items as examples.

24 3. The tangible personal property comes into physical
25 contact with other tangible personal property used in
26 processing and is used to assist with or maintain conditions
27 necessary for processing. The bill lists cutting fluids, oils,
28 coolants, lubricants, and other similar items with a short
29 useful life as examples.

30 4. The tangible property is directly and primarily used
31 in an activity described in Code section 423.3(47)(a)(1)-(6).
32 The bill lists prototype materials and testing materials as
33 examples.

34 By operation of Code section 423.6, an item exempt from the
35 imposition of the sales tax is also exempt from the use tax

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1 imposed in Code section 423.5.