SENATE FILE 2372
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3154)

(As Amended and Passed by the Senate March 22, 2022)

_____ and [= New Language by the Senate

* = Language Stricken by the Senate

A BILL FOR

An Act relating to state taxation and administration by modifying sales and use taxes, individual and corporate income taxes, the franchise tax, and the insurance premiums tax, and including effective date, applicability, and retroactive applicability provisions.

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

DIVISION I

SALES AND USE TAX ON SERVICES AND EXEMPTIONS

Section 1. Section 423.2, subsection 6, paragraph bu, Code 2022, is amended to read as follows:

bu. ~~Software as a service~~ Cloud computing.

Sec. 2. Section 423.2, subsection 6, Code 2022, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *bv.* Web hosting.

NEW PARAGRAPH. *bw.* Digital automated services.

NEW PARAGRAPH. *bx.* Scooter rentals.

Sec. 3. Section 423.2, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 13. The department shall adopt rules pursuant to chapter 17A to administer subsection 6, paragraphs "*bu*", "*bv*", and "*bw*".

Sec. 4. Section 423.3, subsection 8, paragraph d, subparagraph (1), Code 2022, is amended by adding the following new subparagraph division:

NEW SUBPARAGRAPH DIVISION. (e) A specified digital product.

Sec. 5. Section 423.3, subsection 47, paragraph a, subparagraph (4), Code 2022, is amended by striking the subparagraph.

Sec. 6. Section 423.3, subsection 68, paragraph c, subparagraph (1), subparagraph division (a), Code 2022, is amended to read as follows:

(a) "*Clothing*" includes but is not limited to the following: aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; ~~diapers (children and adults, including disposable diapers);~~ earmuffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals;

scarves; shoes and shoelaces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel.

Sec. 7. Section 423.3, subsection 104, paragraph a, Code 2022, is amended to read as follows:

a. The sales price of specified digital products and of prewritten computer software sold, and of enumerated services described in section 423.2, subsection 1, paragraph *"a"*, subparagraph (5), or section 423.2, subsection 6, paragraphs *"bq"*, *"br"*, *"bs"*, ~~and~~ *"bu"*, *"bv"*, and *"bw"* furnished, to a commercial enterprise for use exclusively by the commercial enterprise. The use of prewritten computer software, a specified digital product, or service fails to qualify as a use exclusively by the commercial enterprise if its use for noncommercial purposes is more than de minimis.

Sec. 8. Section 423.3, subsection 104, paragraph b, subparagraph (1), Code 2022, is amended to read as follows:

(1) *"Commercial enterprise"* means the same as defined in section 423.3, subsection 47, paragraph *"d"*, subparagraph (1), ~~but also includes professions and occupations~~ and includes public utilities as defined in section 476.1, subsection 3.

Sec. 9. Section 423.3, Code 2022, is amended by adding the following new subsections:

NEW SUBSECTION. 108. The sales price from the sale of feminine hygiene products. For purposes of this subsection, *"feminine hygiene products"* means tampons, panty liners, menstrual cups, sanitary napkins, and other similar tangible personal property designed for feminine hygiene in connection with the human menstrual cycle.

NEW SUBSECTION. 109. The sales price from the sale of a child or adult diaper, whether cloth or disposable.

Sec. 10. Section 423.4, subsection 1, paragraph a, Code 2022, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (10) A nonprofit facility licensed by the state built on or after January 1, 2022, that provides

residential addiction recovery and emergency shelter services for children. For purposes of this subparagraph, "*children*" means the same as "*child*" as defined in section 234.1.

NEW SUBPARAGRAPH. (11) A fair as defined in section 174.1.

Sec. 11. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 423.4, subsection 1, paragraph "a", subparagraph (11), in this division of this Act, occurring between January 1, 2021, and the effective date of this section of this Act shall be limited to twenty-five thousand dollars in the aggregate, and shall not be allowed unless refund claims are filed by October 1, 2022, notwithstanding any other law to the contrary. If the amount of the claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue shall prorate the twenty-five thousand dollars in the aggregate among all the claimants' in relation to the amounts of the claimants valid claims.

Sec. 12. EFFECTIVE DATE. Except as otherwise provided, this division of this Act takes effect January 1, 2023.

Sec. 13. EFFECTIVE DATE. The following takes effect January 1, 2024:

The section of this division of this Act amending section 423.3, subsection 47, paragraph "a", subparagraph (4).

Sec. 14. EFFECTIVE DATE. The following, being deemed of immediate importance, take effect upon enactment:

1. The section of this division of this Act enacting a provision allowing for refunds of taxes, interest, or penalties which arise from the enactment of section 423.4, subsection 1, paragraph "a", subparagraph (11).

2. The portion of the section of this division of this Act enacting section 423.4, subsection 1, paragraph "a", subparagraph (11).

Sec. 15. RETROACTIVE APPLICABILITY. The following apply retroactively to January 1, 2021:

1. The section of this division of this Act enacting a

provision allowing for refunds of taxes, interest, or penalties which arise from the enactment of section 423.4, subsection 1, paragraph "a", subparagraph (11).

2. The portion of the section of this division of this Act enacting section 423.4, subsection 1, paragraph "a", subparagraph (11).

DIVISION II

MANUFACTURED FOOD — SALES TAX EXEMPTION

Sec. 16. Section 423.3, subsection 49, Code 2022, is amended to read as follows:

49. *a.* The sales price from the sale of carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and other taxable services and the lease or rental of tangible personal property when used by a manufacturer ~~of food products~~ to primarily produce ~~marketable food products for human consumption~~ food or food ingredients, including but not limited to treatment of material to change its form, context, or condition, in order to produce the food ~~product~~ or food ingredients, maintenance of quality or integrity of the food ~~product~~ or food ingredients, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food ~~product~~ or food ingredients in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food ~~product~~ or food ingredients, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food ~~product~~ or food ingredients until shipment from the building of manufacture.

b. For purposes of this subsection, "*food or food ingredients*" means the same as "*food and food ingredients*" as defined in subsection 57, paragraph "*d*", and includes tangible personal property that could be sold for ingestion or chewing by humans but is sold for another use.

Sec. 17. REFUNDS. Refunds of taxes, interest, or penalties

which arise from the enactment of this division of this Act, for sales or services occurring between January 1, 2019, and the effective date of this division of this Act, shall be limited to one hundred thousand dollars in the aggregate for any calendar year in which claims are eligible for a refund and shall not be allowed unless refund claims are filed by October 1, 2022, notwithstanding any other law to the contrary. If the amount of claims totals more than one hundred thousand dollars in the aggregate for any calendar year in which claims are eligible for a refund, the department of revenue shall prorate the one hundred thousand dollars in the aggregate among all the claimants for that particular calendar year in relation to the amounts of the claimants' valid claims.

Sec. 18. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 19. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 2019.

DIVISION III

NATIONAL GUARD PAY

Sec. 20. Section 422.7, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 42B. Subtract, to the extent included, up to twenty thousand dollars of pay received by the taxpayer for service pursuant to 32 U.S.C. §502.

Sec. 21. APPLICABILITY. This division of this Act applies to tax years beginning on or after January 1, 2023.

DIVISION IV

NET OPERATING LOSS DEDUCTION

Sec. 22. Section 422.7, unnumbered paragraph 1, Code 2022, is amended to read as follows:

The term "*net income*" means ~~the adjusted gross income before the net operating loss deduction~~ taxable income as properly computed for federal income tax purposes under section 63 of the Internal Revenue Code before the net operating loss deduction, with the following adjustments:

Sec. 23. Section 422.7, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 6. *a.* For tax years beginning in the 2023 calendar year, subtract the amount of federal income taxes paid during the tax year to the extent payment is for a tax year beginning prior to January 1, 2023, and add any federal income tax refunds received during the tax year to the extent the federal income tax was deducted for a tax year beginning prior to January 1, 2023. Where married persons who have filed a joint federal income tax return file separately for state tax purposes, such total shall be divided between them according to the portion of the total paid by each. Federal income taxes paid for a tax year in which an Iowa return was not required to be filed shall not be subtracted.

b. Notwithstanding any other provision of law to the contrary, amounts subtracted or added pursuant to this subsection shall not be included in the calculation of net income for purposes of section 422.5, subsection 3 or 3B, or section 422.13.

c. This subsection is repealed January 1, 2028.

Sec. 24. Section 422.9, Code 2022, is amended by striking the section and inserting in lieu thereof the following:

422.9 Carryforward of Iowa net operating loss — deduction.

1. If, after applying all of the adjustments provided for in section 422.7 and the allocation provisions of section 422.8, and subject to the modifications provided in section 172(d) of the Internal Revenue Code, the taxable income results in a net operating loss, such Iowa net operating loss, if any, shall be carried forward and such carryforward amounts shall be available as a deduction under this subsection in future years.

2. The deduction allowed under subsection 1 shall be calculated by subtracting the sum of the following from net income:

a. The aggregate amount of net operating losses arising in taxable years beginning before January 1, 2023, carried to such

taxable year.

b. The lesser of the aggregate amount of net operating losses arising in taxable years beginning after December 31, 2022, carried to such taxable year, or eighty percent of the excess of taxable income, if any, computed without regard to the deductions under this section and, to the extent included in the Iowa net income calculation, sections 199A and 250 of the Internal Revenue Code, over the amount determined under paragraph *"a"*.

Sec. 25. Section 422.35, subsection 11, Code 2022, is amended by striking the subsection and inserting in lieu thereof the following:

11. *a.* If, after applying all of the adjustments provided for in this section and the allocation and apportionment provisions of section 422.33, the Iowa taxable income results in a net operating loss, such Iowa net operating loss shall be carried forward and such carryforward amounts shall be available as a deduction under this subsection in future years.

b. For the current year subtract the sum of the following, to the extent available, any net operating loss carryforward amount as follows:

(1) The aggregate amount of net operating losses arising in taxable years beginning before January 1, 2023, carried to such taxable year.

(2) The lesser of the aggregate amount of net operating losses arising in taxable years beginning after December 31, 2022, carried to such taxable year, or eighty percent of the excess of taxable income, if any, computed without regard to the deductions under this subsection to the extent included in the Iowa net income calculation, section 250 of the Internal Revenue Code, over the amount determined under subparagraph (1).

c. Any portion of a net operating loss which was sustained from that portion of the trade or business carried on outside the state of Iowa shall not be deducted.

d. The deductions described in this subsection are allowed subject to the requirement that a corporation affected by the allocation provisions of section 422.33 shall be permitted to deduct only that portion of the deductions for net operating loss that is fairly and equitably allocable to Iowa, under rules prescribed by the director.

Sec. 26. REPEAL. 2018 Iowa Acts, chapter 1161, sections 108, 109, 120, 128, and 129, are repealed.

Sec. 27. EFFECTIVE DATE. This division of this Act takes effect January 1, 2023.

Sec. 28. APPLICABILITY. This division of this Act applies to tax years beginning on or after January 1, 2023.

DIVISION V

FRANCHISE TAX

Sec. 29. Section 422.63, Code 2022, is amended to read as follows:

422.63 Amount of tax.

1. The franchise tax is imposed annually in an amount equal to ~~five~~ the percent specified in subsection 2 of the net income received or accrued during the taxable year. If the net income of the financial institution is derived from its business carried on entirely within the state, the tax shall be imposed on the entire net income, but if the business is carried on partly within and partly without the state, the portion of net income reasonably attributable to the business within the state shall be specifically allocated or equitably apportioned within and without the state under rules of the director.

2. *a.* For tax years beginning prior to January 1, 2023, five percent.

b. For tax years beginning on or after January 1, 2023, but before January 1, 2024, four and four-fifths percent.

c. For tax years beginning on or after January 1, 2024, but before January 1, 2025, four and three-fifths percent.

d. For tax years beginning on or after January 1, 2025, but before January 1, 2026, four and two-fifths percent.

e. For tax years beginning on or after January 1, 2026, but before January 1, 2027, four and one-fifth percent.

f. For tax years beginning on or after January 1, 2027, three and nine-tenths percent.

DIVISION VI

INSURANCE PREMIUMS TAX

Sec. 30. Section 432.1, subsection 2, Code 2022, is amended to read as follows:

2. The *"applicable percent"* for purposes of subsection 1 of this section and section 432.2 is the following:

a. For calendar years beginning before the 2003 calendar year, two percent.

b. For the 2003 calendar year, one and three-fourths percent.

c. For the 2004 calendar year, one and one-half percent.

d. For the 2005 calendar year, one and one-fourth percent.

e. For the 2006 ~~and subsequent~~ calendar ~~years~~ year through the 2022 calendar year, one percent.

f. For the 2023 calendar year, ninety-five hundredths of one percent.

g. For the 2024 and subsequent calendar years, nine-tenths of one percent.

Sec. 31. Section 432.1, subsection 4, Code 2022, is amended to read as follows:

4. The *"applicable percent"* for purposes of subsection 3 is the following:

a. For calendar years beginning before the 2004 calendar year, two percent.

b. For the 2004 calendar year, one and three-fourths percent.

c. For the 2005 calendar year, one and one-half percent.

d. For the 2006 calendar year, one and one-fourth percent.

e. For the 2007 ~~and subsequent~~ calendar ~~years~~ year through the 2022 calendar year, one percent.

f. For the 2023 calendar year, ninety-five hundredths of one

percent.

g. For the 2024 and subsequent calendar years, nine-tenths of one percent.