

## CHAPTER 1105

## NONRESIDENT INCOME TAX

H. F. 1283

AN ACT relating to income tax of nonresidents.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section four hundred twenty-two point eight (422.8),  
 2 subsection two (2), Code 1971, is amended to read as follows:

3 2. In the case of nonresident taxpayers, if any net income is re-  
 4 ceived from a business, trade, profession, or occupation carried on  
 5 partly within and partly without the state of Iowa, only ~~such~~ *the* por-  
 6 tion of said net income as is fairly and equitably attributable to that  
 7 part of the business, trade, profession, or occupation carried on within  
 8 the state of Iowa shall be allocated to Iowa; *and* income from any  
 9 property, trust, estate or other source within Iowa shall be allocated  
 10 to Iowa, except that annuities, interest on bank deposits and interest-  
 11 bearing obligations, and dividends shall be allocated to Iowa only to  
 12 the extent to which ~~the same~~ *they* are derived from a business, trade,  
 13 profession, or occupation carried on within the state of Iowa.

14 *However, income received by an individual who is a resident of*  
 15 *another state shall not be allocated to Iowa if the income is subject to*  
 16 *an income tax imposed by the state where the individual resides, and*  
 17 *if the state of residence allows a similar exclusion for income received*  
 18 *in that state by residents of Iowa.*

19 *The director shall designate the states which allow a similar exclu-*  
 20 *sion for income received by residents of Iowa, and may enter into*  
 21 *agreements with other states to provide that similar exclusions will*  
 22 *be allowed, and to provide suitable withholding requirements in each*  
 23 *state, in order to implement the exclusions.*

Approved April 21, 1972.

## CHAPTER 1106

## TAXATION OF REAL ESTATE TRANSFERS

S. F. 1101

AN ACT relating to the taxation of real estate transfers and the penalty for failure to comply.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section four hundred twenty-eight A point one  
 2 (428A.1), Code 1971, is amended as follows:

3 428A.1 **Amount of tax on transfers.** There is ~~hereby~~ imposed on  
 4 each deed, instrument, or writing by which any lands, tenements, or  
 5 other realty in this state shall be granted, assigned, transferred, or  
 6 otherwise conveyed, a tax determined in the following manner. When  
 7 there is no consideration ~~or when the consideration,~~ *exclusive of the*  
 8 ~~value of any lien or encumbrance remaining thereon at the time of~~

9 sale, is one thousand dollars or less, or when the deed instrument or  
 10 writing is executed and tendered for recording as an instrument cor-  
 11 rective of title, and so states, there shall be no tax. When the con-  
 12 sideration, exclusive of the value of any lien or encumbrance remain-  
 13 ing thereon at the time of sale, exceeds one thousand dollars, there  
 14 is consideration and the actual market value of the real property trans-  
 15 ferred is in excess of five hundred dollars the tax shall be one dollar  
 16 ten cents plus fifty-five cents for each five hundred dollars or frac-  
 17 tional part of five hundred dollars in excess of one thousand dollars  
 18 five hundred dollars. The term "consideration" as used in this chap-  
 19 ter, means the full amount of the actual sale price of the real property  
 20 involved, paid or to be paid, including the amount of an incumbrance  
 21 or lien on the property, whether assumed or not by the grantee. It  
 22 shall be presumed that the sale price so stated shall include the value  
 23 of all personal property transferred as part of the sale unless the dol-  
 24 lar value of said personal property is stated on the instrument of con-  
 25 veyance. When the dollar value of the personal property included in  
 26 the sale is so stated, it shall be deducted from the consideration shown  
 27 on the instrument for the purpose of determining the tax.

1 SEC. 2. Section four hundred twenty-eight A point two (428A.2),  
 2 Code 1971, is amended as follows:

3 428A.2 Exceptions. The tax imposed by this chapter shall not  
 4 apply to:

5 1. Any executory contract for the sale of land under which the  
 6 vendee is entitled to or does take possession thereof, or any assign-  
 7 ment or cancellation thereof.

8 2. Any instrument of mortgage, or any assignment, extension, par-  
 9 tial release, or satisfaction thereof.

10 3. Any will.

11 4. Any plat.

12 5. Any lease.

13 6. Any deed, instrument, or writing in which the United States or  
 14 any agency or instrumentality thereof or the state of Iowa or any  
 15 agency, instrumentality, or governmental or political subdivision  
 16 thereof is the grantor, assignor, transferor, or conveyor; and any  
 17 deed, instrument or writing in which any of such unit of government  
 18 is the grantee or assignee where there is no consideration or where  
 19 the consideration does not exceed one thousand dollars.

20 7. Deeds for cemetery lots.

21 8. Deeds which secure a debt or other obligation, except those in-  
 22 cluded in the sale of real property.

23 9. Deeds for the release of a security interest in property excepting  
 24 those pertaining to the sale of real estate.

25 10. Deeds which, without additional consideration, confirm, correct,  
 26 modify, or supplement a deed previously recorded.

27 11. Deeds between husband and wife, or parent and child, without  
 28 actual consideration.

29 12. Tax deeds.

30 13. Deeds of partition where the interest conveyed is without con-  
 31 sideration. However, if any of the parties take shares greater in  
 32 value than their undivided interest a tax is due on the greater values,  
 33 computed at the rate set out in section 428A.1.

34 *14. The making or delivering of instruments of transfer resulting*  
35 *from a corporate merger, consolidation, or reorganization under the*  
36 *laws of the United States or any state thereof, where such instrument*  
37 *states such fact on the face thereof.*

1 SEC. 3. Section four hundred twenty-eight A point three  
2 (428A.3), Code 1971, is amended as follows:

3 428A.3 **Who liable for tax.** Any person, *firm or corporation* who  
4 grants, assigns, transfers, or conveys any land, tenement, or realty by  
5 a deed, writing, or instrument subject to the tax imposed by this chap-  
6 ter shall be liable for such tax but no public official shall be liable for  
7 a tax with respect to any instrument executed by him in connection  
8 with his official duties.

1 SEC. 4. Section four hundred twenty-eight A point four (428A.4),  
2 Code 1971, is amended as follows:

3 428A.4 **Recording refused.** The county recorder shall refuse to  
4 record any deed, instrument, or writing, taxable under the provisions  
5 of section 428A.1 on which documentary stamps in the amount stated  
6 ~~thereon~~ *evidencing payment of the tax determined on the full amount*  
7 *of the consideration in the transaction* have not been affixed ~~or with-~~  
8 ~~out a statement on said deed, instrument, or writing that the same is~~  
9 ~~exempt.~~ *However, if the deed, instrument, or writing, is subject to*  
10 *an exception provided for in section 428A.2, the county recorder shall*  
11 *not refuse to record the document if there is filed with or endorsed on*  
12 *it a statement signed by either the grantor or grantee or his author-*  
13 *ized agent, that the instrument or writing is excepted from the tax*  
14 *under section 428A.2.* The validity of the effectiveness of an instru-  
15 ment as between the parties thereto, and as to any person who would  
16 otherwise be bound thereby, shall not be affected by the failure to  
17 comply herewith; nor if an instrument is accepted for recording or  
18 filing contrary to the provision hereof, shall the failure to comply  
19 herewith destroy or impair the record thereof as notice.

1 SEC. 5. Section four hundred twenty-eight A point eight (428A.8),  
2 Code 1971, is amended by striking the section and inserting in lieu  
3 thereof:

4 428A.8 **Distribution of proceeds.** On or before the tenth day of  
5 each month the county recorder shall determine and pay to the  
6 treasurer of state seventy-five percent of the receipts from the sale of  
7 documentary stamps during the preceding month and the treasurer of  
8 state shall deposit such receipts in the state treasury to the credit  
9 of the general fund.

10 The county recorder shall deposit the remaining twenty-five per-  
11 cent of the receipts to the credit of the county general fund.

12 The county recorder shall keep such records and make such reports  
13 with respect to the documentary stamps entrusted to his custody and  
14 with respect to the sale of such stamps as the director of revenue  
15 shall prescribe.

1 SEC. 6. Section four hundred twenty-eight A point ten (428A.10),  
2 Code 1971, is amended as follows:

3 428A.10 **Penalty.** Any person, *firm or corporation* liable for the  
4 tax imposed by this chapter who knowingly fails to comply with the

5 provisions of ~~section~~ *sections 428A.5 and 428A.6* relating to the attach-  
 6 ment or cancellation of documentary stamps, ~~unless such failure is~~  
 7 ~~shown to be due to reasonable cause shall be liable to a civil penalty~~  
 8 ~~of twenty-five dollars for each such failure shall be subject to a fine of~~  
 9 ~~not less than one hundred dollars nor more than five hundred dollars.~~  
 10 Any person who willfully attempts in any manner to evade or defeat  
 11 any such tax or the payment thereof, shall, in addition to other pen-  
 12 alties provided by law, be liable to a penalty of fifty percent of the  
 13 total amount of the underpayment of the tax.

Approved April 22, 1972.

## CHAPTER 1107

### FINANCING SCHOOL PROGRAMS

H. F. 1269

AN ACT amending the state school foundation program in chapter one hundred sixty-five (165), Acts of the Sixty-fourth General Assembly, First Session, by including in the definition of fall enrollment those resident pupils attending public schools in another district or state and out-of-state pupils attending public schools in the district, and including attendance at special education programs as well as classes; excluding from miscellaneous income reimbursement received for programs provided under section two hundred fifty-seven point twenty-six (257.26) of the Code; permitting a school district to increase its costs for the single school year beginning July 1, 1972, by the amount its federal aid increases over the previous year, and to exclude the increased amount from miscellaneous income; excluding from miscellaneous income beginning July 1, 1973, all federal aids and reimbursements; correcting the definition of district cost and defining total expenditures for the current year; clarifying the method of determining maximum district cost; correcting the method of determining additional school district property tax levy; redefining the procedure for the school budget review committee to authorize an increase in maximum millage when a nonpublic school closes; clarifying the duties of the school budget review committee in reviewing school budgets; and correcting the limitation on costs incurred under section two hundred fifty-seven point twenty-six (257.26) of the Code, for which reimbursement may be claimed.

*Be It Enacted by the General Assembly of the State of Iowa:*

- 1 SECTION 1. Chapter one hundred sixty-five (165), section four (4),  
 2 unnumbered paragraph one (1), Acts of the Sixty-fourth General  
 3 Assembly, First Session, is amended to read as follows:  
 4 SEC. 4. Fall enrollment. Fall enrollment shall be determined by  
 5 adding the resident pupils *and the out-of-state pupils* who are enrolled  
 6 on the second Friday of September of each year in public elementary  
 7 and secondary schools of the district, *in public elementary and sec-*  
 8 *ondary schools in another district or state for which tuition is paid*  
 9 *by the district*, and in special education *classes programs* for which  
 10 tuition is paid by the district whether the special education *class pro-*  
 11 *gram* is conducted by a county board of education or another school  
 12 district.
- 1 SEC. 2. Chapter one hundred sixty-five (165), section five (5),  
 2 Acts of the Sixty-fourth General Assembly, First Session, is amended  
 3 to read as follows: