

the claim for refund or credit of the overpayment shall be filed with the department within the three years after the return for the taxable year of the net operating loss or net capital loss became due. Notwithstanding the period of limitation specified, the taxpayer shall have six months from the day of final disposition of any income tax matter between the taxpayer and the internal revenue service with respect to the particular tax year or years to claim an income tax refund or credit, provided the taxpayer has notified the department of revenue in writing no later than six months after the expiration of the three-year limitations period of the existence of such income tax matter.

Sec. 3. This Act is effective January 1, 1979 for tax years ending on or after January 1, 1979.

Approved March 17, 1978

CHAPTER 1141

CORPORATE NET INCOME TAX

S. F. 2056

AN ACT providing for the business and nonbusiness distinction in allocating and apportioning corporate net income for tax purposes and making the Act retroactive.

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

Section 1. Section four hundred twenty-two point thirty-two (422.32), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred nineteen (119), section nine (9), is amended by adding the following new subsections:

NEW SUBSECTION. "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

NEW SUBSECTION. "Nonbusiness income" means all income other than business income.

NEW SUBSECTION. "Commercial domicile" means the principal place from which the trade of business of the taxpayer is directed or managed.

NEW SUBSECTION. "Taxable in another state". For purposes

of allocation and apportionment of income under this division, a taxpayer is taxable in another state if:

a. In that state he or she is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

b. That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

NEW SUBSECTION. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

Sec. 2. Section four hundred twenty-two point thirty-three (422.33), subsection one (1), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-two (122), section one (1), is amended by striking paragraph a and inserting in lieu thereof the following:

a. Nonbusiness interest, dividends, rents and royalties, less related expenses, shall be allocated within and without the state in the following manner:

(1) Nonbusiness interest, dividends, and royalties from patents and copyrights shall be allocable to this state if the taxpayer's commercial domicile is in this state.

(2) Nonbusiness rents and royalties received from real property located in this state are allocable to this state.

(3) Nonbusiness rents and royalties received from tangible personal property are allocable to this state to the extent that the property is utilized in this state; or in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property is utilized. The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown, or unascertainable by the taxpayer tangible personal property is utilized in the state in which the property was located at the time the rental

or royalty payor obtained possession.

Sec. 3. Section four hundred twenty-two point thirty-three (422.33), subsection one (1), paragraph b, Code 1977, is amended to read as follows:

b. Net nonbusiness income of the above class having been separately allocated and deducted as above provided, ~~the remainder-of~~ the remaining net business income of the taxpayer shall be allocated and apportioned as follows:

Business interest, dividends, rents, and royalties shall be reasonably apportioned within and without the state under rules adopted by the director pursuant to chapter seventeen A (17A) of the Code.

Where income is derived from business other than the manufacture or sale of tangible personal property, such income shall be specifically allocated or equitably apportioned within and without the state under rules of the director.

Where income is derived from the manufacture or sale of tangible personal property, the part thereof attributable to business within the state shall be in that proportion which the gross sales made within the state bear to the total gross sales.

The gross sales of the corporation within the state shall be taken to be the gross sales from goods delivered or shipped to a purchaser within the state regardless of the f.o.b. point or other conditions of the sale, excluding deliveries for transportation out of the state.

For the purpose of this section, the word "sale" shall include exchange, and the word "manufacture" shall include the extraction and recovery of natural resources and all processes of fabricating and curing. The words "tangible personal property" shall be taken to mean corporeal personal property, such as machinery, tools, implements, goods, wares, and merchandise, and shall not be taken to mean money deposits in banks, shares of stock, bonds, notes, credits, or evidence of an interest in property and evidences of debt.

Sec. 4. The provisions of sections one (1), two (2), and three (3) of this Act are retroactive to January 1, 1977, for tax years beginning on or after January 1, 1977 and to this extent the provisions of sections one (1), two (2), and three (3) of this Act are retroactive.

Sec. 5. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Dallas County News, a newspaper published

in Adel, Iowa, and in the Cherokee Daily Times, a newspaper published in Cherokee, Iowa.

Approved April 27, 1978

I hereby certify that the foregoing Act, Senate File 2056, was published in the Dallas County News, Adel, Iowa on May 3, 1978, and in the Cherokee Daily Times, Cherokee, Iowa on May 3, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1142

SALES TAX EXEMPTIONS

S. F. 2173

AN ACT providing for exemption certificates for exempt purchases under the sales tax law, relating to casual sales and assigning responsibility for the tax on nonexempt purchases subject to penalties provided by law.

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

Section 1. Section four hundred twenty-two point forty-two (422.42), Code 1977, is amended by striking subsection twelve (12) and inserting in lieu thereof the following:

12. "Casual sales" means:

a. Sales of a nonrecurring nature of tangible personal property by the owner, if the seller, at the time of the sale, is not engaged for profit in the business of selling tangible personal property or services taxed under section four hundred twenty-two point forty-three (422.43) of the Code.

b. The sale of all or substantially all of the tangible personal property held or used by a retailer in the course of the retailer's trade or business for which the retailer is required to hold a sales tax permit when the retailer sells or otherwise transfers the trade or business to another person who shall engage in a similar trade or business.

Sec. 2. Section four hundred twenty-two point forty-seven (422.47), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The department shall issue exemption certificates in such form as the director may require to assist retailers in properly accounting for non-taxable sales of tangible personal property or services to buyers for purposes of resale or for processing.

The sales tax liability for all sales of tangible personal property and all sales of services shall be upon the seller