

4. Section 7, subsection 2 of this Act contains a restatement of existing law as interpreted by the Iowa supreme court in *State v. Allen*, and to that extent shall be deemed a continuation of prior law.

Approved March 2, 1982

CHAPTER 1022
REMITTING STATE TAXES
S.F. 2080

AN ACT relating to the time for the depositing or remitting of, or filing a return on state income tax withheld, sales and services tax collected, or use tax collected or owed, providing penalties, and making certain provisions effective April 1, 1982 after publication and other provisions effective January 1, 1983.

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

Section 1. Section 422.16, subsection 2, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

2. A withholding agent required to deduct and withhold tax under subsections 1 and 12, except those required to deposit on a semi-monthly basis, shall deposit for each calendar quarterly period, on or before the last day of the month following the close of the quarterly period, on a quarterly deposit form as prescribed by the director and shall pay to the department, in the form of remittances made payable to "Treasurer, State of Iowa", the tax required to be withheld, or the tax actually withheld, whichever is greater, under subsections 1 and 12. However, a withholding agent who withholds more than fifty dollars in any one month, except those required to deposit on a semi-monthly basis, shall deposit with the department the amount withheld, with a monthly deposit form as prescribed by the director. The monthly deposit form is due on or before the fifteenth day of the month following the month of withholding, except that a deposit is not required for the amount withheld in the third month of the quarter but the total amount of withholding for the quarter shall be computed and the amount by which the deposits for that quarter fail to equal the total quarterly liability is due with the filing of the quarterly deposit form. The quarterly deposit form is due within the month following the end of the quarter. A withholding agent who withholds more than eight thousand dollars in a semi-monthly period shall deposit with the department the amount withheld, with a semi-monthly deposit form as prescribed by the director. The first semi-

monthly deposit form for the period from the first of the month through the fifteenth of the month is due on the twenty-fifth day of the month in which the withholding occurs. The second semi-monthly deposit form for the period from the sixteenth of the month through the end of the month is due on the tenth day of the month following the month in which the withholding occurs.

Every withholding agent on or before the end of the second month following the close of the calendar year in which the withholding occurs shall make an annual reporting of taxes withheld and other information prescribed by the director and send to the department copies of wage and tax statements with the return.

If the director has reason to believe that the collection of the tax provided for in subsections 1 and 12 is in jeopardy, the director may require the employer or withholding agent to make the report and pay the tax at any time, in accordance with section 422.30. The director may authorize incorporated banks, trust companies, or other depositories authorized by law which are depositories or financial agents of the United States or of this state, to receive any tax imposed under this chapter, in the manner, at the times, and under the conditions the director prescribes. The director shall also prescribe the manner, times, and conditions under which the receipt of the tax by those depositories is to be treated as payment of the tax to the department.

Sec. 2. Section 422.16, subsection 10, paragraph b, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 5, is amended to read as follows:

b. Any employer or withholding agent required under this chapter to withhold taxes on wages or other taxable Iowa income subject to this chapter who fails to file a semi-monthly, monthly deposit form, or quarterly return deposit form for the withholding of tax with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, is subject to a penalty determined by adding to the amount required to be shown as tax due on the semi-monthly, monthly deposit form, or quarterly return deposit form five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If any person or withholding agent fails to remit the tax due with the filing of the semi-monthly, monthly deposit form, or quarterly return deposit form on or before the due date, or fails to pay any amount of any tax required to be shown on the semi-monthly, monthly deposit form, or quarterly return deposit form, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. When penalties are applicable for failure to file a semi-monthly, monthly deposit form, or quarterly return deposit form and failure to pay the tax due or required on the semi-monthly, monthly deposit form, or quarterly return deposit form, the penalty provision for failure to file is in lieu of the penalty provision for failure to pay the tax due or required on the semi-monthly, monthly deposit form, or quarterly return deposit form. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 1 of this Act Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 1, for each month counting each fraction of a month as an entire month, computed from the date the semi-monthly, monthly deposit form, or quarterly return deposit form was required to be filed. The penalty and interest become a part of the tax due from the withholding agent.

Sec. 3. Section 422.51, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Notwithstanding the time for filing a return under subsection 1, a

retailer who must deposit the tax collected semi-monthly under section 422.52, subsection 1 in section 4 of this Act shall on or before the fifteenth day of the month following the end of the quarter make, file, and sign a return for the calendar quarter.

Sec. 4. Section 422.52, subsection 1, Code 1981, is amended to read as follows:

1. The tax levied hereunder shall be under this division is due and payable in quarterly installments on or before the last day of the month next succeeding following each quarterly period provided, however, every except as otherwise provided in this subsection. Every retailer who collects more than four thousand dollars in retail sales tax in a semi-monthly period shall deposit with the department or in a depository authorized by law and designated by the director, the amount collected or an amount equal to not less than one-sixth of the tax collected and paid to the department during the preceding quarter, with a deposit form for the semi-monthly period as prescribed by the director. The first semi-monthly deposit form is for the period from the first of the month through the fifteenth of the month and is due on or before the twenty-fifth day of the month. The second semi-monthly deposit form is for the period from the sixteenth through the end of the month and is due on or before the tenth day of the month following the month of collection. A deposit is not required for the last semi-monthly period of the calendar quarter. The total quarterly amount, less the amount deposited for the five previous semi-monthly periods, is due with the quarterly report on the fifteenth day of the month following the month of collection. A retailer who collects more than five hundred dollars in retail sales taxes in any one month and not more than four thousand dollars in retail sales taxes in a semi-monthly period shall deposit with the department or in a depository bank authorized by law and designated by the director, said sum the amount collected or an amount equal to not less than one-third of the tax collected and paid to the department during the preceding quarter, made out on with a deposit form for the month in such form and manner as may be prescribed by the director, said. The deposit form being is due on or before the twentieth day of the month next succeeding following the month of collection, except no deposit will be a deposit is not required for the third month of the calendar quarter and the total quarterly amount, less the amounts deposited for the first two months of the quarter, will be is due with the quarterly report on the last day of the month next succeeding following the month of collection. Provided further, however, every Every retailer who collects more than fifty dollars and not more than five hundred dollars in retail sales tax in any one month shall deposit with the department or in a depository bank authorized by law and designated by the director, said sum the amount collected, or an amount equal to not less than thirty percent one-third of the tax collected and paid to the department during the last preceding quarter, made out on with a deposit form for the month in such form and manner as may be prescribed by the director, said. The deposit form being is due on or before the twentieth day of the month next succeeding following the month of collection, except no deposit will be a deposit is not required for the third month of the calendar quarter and the total quarterly amount, less the amounts deposited for the first two months of the quarter, will be is due with the quarterly report on the last day of the month next succeeding following the month of collection. Said The monthly remittance procedure shall be is optional for any sales tax permit holder whose average monthly collection of tax amounts to more than twenty-five dollars and less than fifty dollars. If the exact amounts of the taxes due or an amount equal to not less than thirty percent one-third or one-sixth, as applicable, of the tax collected and paid to the department during the last preceding quarter on the monthly deposit form are not ascertainable by the retailer, or would work undue hardship in the computation of the taxes due by the retailer, the director may provide by rules alternative procedures for estimating the amounts (but not the dates) so due by the retailers. The form so forms prescribed by the director shall be referred to as "retailers semi-monthly tax deposit" or "retailers monthly tax deposit". Deposit forms shall be signed by the retailer or his the retailer's duly authorized agent,

and ~~must shall~~ be duly certified by ~~him the retailer or agent~~ to be correct. The director may authorize ~~incorporated banks and trust companies or other depositories authorized by law~~ which are depositories or financial agents of the United States, or of this state, to receive any tax imposed under this chapter, in ~~such the manner, at such the times and under such the conditions as the director may prescribe prescribes~~. The director shall prescribe the manner, times, and conditions under which the receipt of ~~such the tax by such banks and trust companies those depositories~~ is to be treated as payment of ~~such the tax~~ to the department.

Sec. 5. Section 422.58, subsection 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 10, is amended to read as follows:

1. If ~~any~~ a person fails to file a permit holder's ~~semi-monthly or monthly tax deposit form~~ or a return with the department of revenue on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the ~~semi-monthly or monthly tax deposit form~~ or return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If ~~any~~ a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the ~~semi-monthly or monthly tax deposit form~~ or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that the failure was due to reasonable cause. In case of willful failure to file a return, willful filing of a false return or willful filing of a false or fraudulent return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a ~~semi-monthly or monthly tax deposit form~~ or return and failure to pay at least ninety percent of the tax due or required on the ~~semi-monthly or monthly tax deposit form~~ or return, the penalty ~~provision~~ for failure to file is in lieu of the penalty ~~provision~~ for failure to pay at least ninety percent of the tax due or required on the ~~semi-monthly or monthly tax deposit form~~ or return. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under ~~section 1 of this Act Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 1~~, for each month counting each fraction of a month as an entire month, computed from the date the ~~semi-monthly or monthly tax deposit form~~ or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this division. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this division.

Sec. 6. Section 423.13, Code 1981, is amended to read as follows:

423.13 PAYMENT TO DEPARTMENT. Each permit holder required or authorized, pursuant to section 423.9 or 423.10, to collect or pay the tax ~~herein~~ imposed, shall be required to pay remit to the department the amount of ~~such tax~~, on or before the last day of the month next succeeding following each calendar quarterly period. However, a retailer who collects or owes more than fifteen hundred dollars in use taxes in a month shall deposit with the department of in a depository authorized by law and designated by the director, the amount collected or owed, with a deposit form for the month as prescribed by the director. The deposit form is due on or before the twentieth day of the month following the month of collection, except a deposit is not required for the third month of the calendar quarter and the total quarterly amount, less the amounts deposited for the first two months of the quarter, is due with the quarterly report on the last day of the month following the month of collection. At such that

time, ~~each such~~ the retailer shall file with the department a return for the preceding quarterly period in ~~such~~ the form as may be prescribed by the director showing the sales price of ~~any or all~~ the tangible personal property sold by the retailer during ~~such~~ the preceding quarterly period, the use of which is subject to the tax imposed by this chapter, and ~~such~~ other information as the director ~~may deem~~ deems necessary for the proper administration of this chapter. The return shall be accompanied by a remittance of the amount of ~~such~~ tax, for the period covered by the return. If necessary in order to insure payment to the state of the amount of ~~such~~ tax, the director may in any or all cases require returns and payments of ~~such amount~~ to be made for other than quarterly periods. The director may, upon request and a proper showing of the necessity ~~therefor~~, grant an extension of time not to exceed thirty days for making any return and payment. Returns shall be signed by the retailer or ~~his~~ the retailer's duly authorized agent, and ~~must shall~~ be certified by ~~him~~ the retailer or agent to be correct.

Sec. 7. Section 423.18, subsection 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 11, is amended to read as follows:

1. If a person fails to file a monthly deposit form or a return with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the monthly deposit form or return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the monthly deposit form or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the monthly deposit form or return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that the failure was due to reasonable cause. In case of willful failure to file a monthly deposit form or return, willfully filing a false monthly deposit form or return, or willfully filing a false or fraudulent monthly deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the monthly deposit form or return fifty percent of the amount of the tax. When penalties are applicable for failure to file a monthly deposit form or return and failure to pay at least ninety percent of the tax due or required on the monthly deposit form or return, the penalty ~~provision~~ for failure to file is in lieu of the penalty ~~provision~~ for failure to pay at least ninety percent of the tax due or required on the monthly deposit form or return. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under ~~section 1 of this Act~~ Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 1, for each month counting each fraction of a month as an entire month, computed from the date the monthly deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be ~~enforced~~ collected in the same manner as the tax imposed by this chapter.

Sec. 8. This Act, except sections 3, 4, and 5, being deemed of immediate importance, takes effect April 1, 1982 from and after its publication in The Rolfe Arrow, a newspaper published in Rolfe, Iowa, and in the Osceola Sentinel, a newspaper published in Osceola, Iowa.

Sec. 9. Sections 3, 4, and 5 of this Act take effect January 1, 1983.

Approved March 3, 1982

I hereby certify that the foregoing Act, Senate File 2080 was published in the Osceola Sentinel, Osceola, Iowa on March 11, 1982 and in The Rolfe Arrow, Rolfe, Iowa on March 18, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1023

STATE INCOME, CORPORATE, FRANCHISE, AND INHERITANCE TAXES

H.F. 2171

AN ACT relating to taxation by updating references to the Internal Revenue Code in the state income, franchise, and inheritance tax laws, providing certain changes from and certain coordinating amendments to the Internal Revenue Code, providing for the assessment of computers and machinery used in manufacturing, increasing the personal property tax credit, imposing a minimum tax, increasing the state corporate tax rates, amending certain inheritance tax provisions, making an appropriation, specifying that no provision of the state income tax law requires the state commerce commission to allow or require a particular method of accounting by public utilities, and making certain provisions of the Act retroactive and making the Act effective upon publication.

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

Section 1. Section 422.4, subsection 17, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 132, section 2, is amended to read as follows:

17. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, as amended to and including January 1, ~~1981~~ 1982.

Sec. 2. Section 422.5, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to all taxes imposed under this division, there is imposed upon every resident and nonresident, including resident and non-resident estates and trusts, of this state a state minimum tax for tax preference items equal to twenty-five percent of the state's apportioned share of the federal minimum tax. The state's apportioned share of the federal minimum tax is one hundred percent in the case of a resident and in the case of a nonresident a percent equal to the ratio of the federal minimum tax on preferences attributable to Iowa to the federal minimum tax on all preferences. The director shall prescribe rules for the determination of the amount of the federal minimum tax on preference items attributable to Iowa which shall be based as much as equitably possible on the allocation provisions of section 422.8, subsections 2 and 3. For purposes of this paragraph, "federal minimum tax" means the federal minimum tax for tax preferences computed under sections 55 through 58 of the Internal Revenue Code of 1954 for the tax year.