

CHAPTER 1078**INTERNAL REVENUE CODE REFERENCES AND INCOME TAX PROVISIONS***S.F. 2357*

AN ACT updating the Iowa Code references to the Internal Revenue Code, exempting certain preneed funeral trust income from taxation, revising the carryback and carryover periods for certain net operating losses, providing refunds, and providing an effective date and retroactive applicability dates.

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

Section 1. Section 15.335, unnumbered paragraph 1, Code Supplement 1997, is amended to read as follows:

An eligible business may claim a corporate tax credit for increasing research activities in this state during the period the eligible business is participating in the program. The credit equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. The credit allowed in this section is in addition to the credit authorized in section 422.33, subsection 5. If the eligible business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1997~~ 1998.

Sec. 2. Section 15A.9, subsection 8, unnumbered paragraph 2, Code Supplement 1997, is amended to read as follows:

For the purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1997~~ 1998. The credit authorized in this subsection is in lieu of the credit authorized in section 422.33, subsection 5.

Sec. 3. Section 422.3, subsection 4, Code Supplement 1997, is amended to read as follows:

4. "Internal Revenue Code" means 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, ~~1997~~ 1998, whichever is applicable.

Sec. 4. Section 422.6, unnumbered paragraph 1, Code Supplement 1997, is amended to read as follows:

The tax imposed by section 422.5 less the credits allowed under sections 422.10, 422.11A, and 422.11B, and the personal exemption credit allowed under section 422.12 apply to and are a charge against estates and trusts with respect to their taxable income, and the rates are the same as those applicable to individuals. The fiduciary shall make the return of income for the estate or trust for which the fiduciary acts, whether the income is taxable to the estate or trust or to the beneficiaries. However, for tax years ending after August 5, 1997, if the trust is a qualified preneed funeral trust as set forth in section 685 of the Internal Revenue Code and the trustee has elected the special tax treatment under section 685 of the Internal Rev-

enue Code, neither the trust nor the beneficiary is subject to Iowa income tax on income accruing to the trust.

Sec. 5. Section 422.9, subsection 3, paragraphs a, b, and c, Code Supplement 1997, are amended to read as follows:

a. The Iowa net operating loss shall be carried back three taxable years for an individual taxpayer with a casualty or theft property loss or for a net operating loss in a presidentially declared disaster area incurred by a taxpayer engaged in a small business or in the trade or business of farming. For all other Iowa net operating losses, the net operating loss shall be carried back two taxable years or to the taxable year in which the individual taxpayer first earned income in Iowa whichever year is the later.

b. The Iowa net operating loss remaining after being carried back as required in paragraph "a" of this subsection or if not required to be carried back shall be carried forward ~~fifteen~~ twenty taxable years.

c. If the election under section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward ~~fifteen~~ twenty taxable years.

Sec. 6. Section 422.10, unnumbered paragraph 1, Code Supplement 1997, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state. For individuals, the credit equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. For purposes of this section, an individual may claim a research credit for qualifying research expenditures incurred by a partnership, subchapter S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, estate, or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1997~~ 1998.

Sec. 7. Section 422.33, subsection 5, unnumbered paragraph 1, Code Supplement 1997, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state equal to six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to the total qualified research expenditures. For purposes of this subsection, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1997~~ 1998.

Sec. 8. Section 422.35, subsection 11, paragraphs a, b, and c, Code Supplement 1997, are amended to read as follows:

a. The Iowa net operating loss shall be carried back three taxable years for a net operating loss incurred in a presidentially declared disaster area by a taxpayer engaged in a small business or in the trade or business of farming. For all other Iowa net operating losses, the net operating loss shall be carried back two taxable years or to the taxable year in which the corporation first commenced doing business in this state, whichever is later.

b. The Iowa net operating loss remaining after being carried back as required in paragraph "a" of this subsection or if not required to be carried back shall be carried forward ~~fifteen~~ twenty taxable years.

c. If the election under section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward ~~fifteen~~ twenty taxable years.

Sec. 9. Section 422.73, Code 1997, is amended by adding the following new subsection: NEW SUBSECTION. 3. Notwithstanding subsection 2, a claim for credit or refund of the income tax paid is considered timely if the claim is filed with the department on or before June 30, 1999, if the taxpayer's federal income tax was refunded due to a provision in the federal Taxpayer Relief Act of 1997, Pub. L. No. 105-34, which affected the federal adjusted gross incomes of individuals or estates and trusts, or affected the taxable incomes of corporate taxpayers.

Sec. 10. Sections 1, 2, 3, 6, and 7 of this Act apply retroactively to January 1, 1997, for tax years beginning on or after that date.

Sec. 11. Section 4 of this Act applies retroactively to tax years ending after August 5, 1997.

Sec. 12. Sections 5 and 8 of this Act apply retroactively to net operating losses and casualty losses arising in taxable years beginning after August 5, 1997.

Sec. 13. Section 9 of this Act applies retroactively to January 1, 1977, for tax years beginning on or after that date.

Sec. 14. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 10, 1998

CHAPTER 1079

SPECIAL MOTOR VEHICLE REGISTRATION PLATES

S.F. 2023

AN ACT relating to the issuance of United States armed forces retired special plates, to the issuance of ex-prisoner of war motor vehicle registration plates to surviving spouses and to the issuance of emergency medical services motor vehicle registration plates and establishing fees.

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

Section 1. Section 321.34, subsection 8A, unnumbered paragraph 2, Code Supplement 1997, is amended to read as follows:

The surviving spouse of a person who was issued special plates under this subsection may continue to use or apply for and use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the annual registration fee. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

Sec. 2. Section 321.34, subsection 19, Code Supplement 1997, is amended to read as follows:

19. UNITED STATES ARMED FORCES RETIRED SPECIAL PLATES. An owner referred to in subsection 12 who is a retired member of the United States armed forces, may, upon written application to the department and upon presentation of satisfactory proof of membership, order special registration plates with a United States armed forces retired processed