

fiscal year beginning July 1, 2006, the Iowa empowerment board shall phase out the professional development activities that began in the previous fiscal year through community empowerment area boards. The designated amounts shall be used for support of professional development and training activities for persons working in early care, health, and education by the Iowa empowerment board in collaboration with representation from Iowa state university of science and technology cooperative extension service in agriculture and home economics, area education agencies, community colleges, child care resource and referral services, and community empowerment area boards. Expenditures shall be limited to professional development and training activities agreed upon by the parties participating in the collaboration.

Approved June 1, 2006

CHAPTER 1158

TAXES, TAX POLICY, AND ADMINISTRATION

H.F. 2794

AN ACT relating to the policy and technical administration of the tax and related laws by the department of revenue, including administration of and tax exemptions under the income, sales, use, local option sales, and property taxes, updating the streamlined sales and use tax, and including effective and retroactive applicability date provisions.

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

DIVISION I

TAX ADMINISTRATION AND POLICY

Section 1. Section 15E.193B, subsection 8, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The amount of the tax credits determined pursuant to subsection 6, paragraph "a", for each project shall be approved by the department of economic development. The department shall utilize the financial information required to be provided under subsection 5, paragraph "e", to determine the tax credits allowed for each project. In determining the amount of tax credits to be allowed for a project, the department shall not include the portion of the project cost financed through federal, state, and local government tax credits, grants, and forgivable loans. Upon approving the amount of the tax credit, the department of economic development shall issue a tax credit certificate to the eligible housing business except when low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development in which case the tax credit certificate may be issued to a partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company in the amounts designated by the eligible partnership, S corporation, or limited liability company. An eligible housing business or the designated partner if the business is a partnership, designated shareholder if the business is an S corporation, or designated member if the business is a limited liability company, or transferee shall not claim the tax credit unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's return for the tax year for which the tax credit is claimed. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the tax credit, and other information required by the

department of revenue. The tax credit certificate shall be transferable if the housing development is located in a brownfield site as defined in section 15.291, if the housing development is located in a blighted area as defined in section 403.17, or if low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development. Not more than three million dollars worth of tax credits for housing developments that are located in a brownfield site as defined in section 15.291 or housing developments located in a blighted area as defined in section 403.17 shall be transferred in one calendar year. The three million dollar annual limit does not apply to tax credits awarded to an eligible housing business having low-income housing tax credits authorized under section 42 of the Internal Revenue Code to assist in the financing of the housing development. The department may approve an application for tax credit certificates for transfer from an eligible housing business located in a brownfield site as defined in section 15.291 or in a blighted area as defined in section 403.17 that would result in the issuance of more than three million dollars of tax credit certificates for transfer provided the department, through negotiation with the eligible business, allocates those tax credit certificates for transfer over more than one calendar year. The department shall not ~~issue~~ approve more than one million five hundred thousand dollars in tax credit certificates for transfer to any one eligible housing business located in a brownfield site as defined in section 15.291 or in a blighted area as defined in section 403.17 in a calendar year. If three million dollars in tax credit certificates for transfer have not been issued at the end of a calendar year, the remaining tax credit certificates for transfer may be issued in advance to an eligible housing business scheduled to receive a tax credit certificate for transfer in a later calendar year. Any time the department ~~issues~~ approves a tax credit certificate for transfer which has not been allocated at the end of a calendar year, the department may prorate the remaining certificates to more than one eligible applicant. If the entire three million dollars of tax credit certificates for transfer is not issued in a given calendar year, the remaining amount may be carried over to a succeeding calendar year. Tax credit certificates issued under this chapter may be transferred to any person or entity. The department of economic development shall notify the department of revenue of the tax credit certificates which have been approved for transfer. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the department of ~~economic development~~ revenue along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department of ~~economic development~~ revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required to receive the original certificate and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the department of economic development shall not be transferable. A tax credit shall not be claimed by a transferee under subsection 6, paragraph "a", until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

Sec. 2. Section 68A.102, subsection 21, Code Supplement 2005, is amended to read as follows:

21. "State income tax liability" means the state individual income tax imposed under section 422.5 ~~reduced by the sum of the deductions from the computed tax as provided under section 422.12, less the amounts of nonrefundable credits allowed under chapter 422, division II.~~

Sec. 3. Section 257.21, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The instructional support income surtax shall be imposed on the state individual income tax for the calendar year during which the school's budget year begins, or for a taxpayer's fiscal year ending during the second half of that calendar year and after the date the board adopts a resolution to participate in the program or the first half of the succeeding calendar year, and

shall be imposed on all individuals residing in the school district on the last day of the applicable tax year. As used in this section, "state individual income tax" means the taxes computed under section 422.5, less the amounts of nonrefundable credits allowed in ~~sections 422.11A, 422.11B, 422.12, and 422.12B~~ under chapter 422, division II.

Sec. 4. Section 331.605B, Code 2005, is amended to read as follows:

331.605B FEES COLLECTED — AUDIT.

1. The recorder shall make available any information required by the county or state auditor concerning the fees collected under section 331.605A for the purposes of determining the amount of fees collected and the uses for which such fees are expended.

2. A recorder shall collect only statutorily authorized fees for land records management. A recorder shall not collect a fee for viewing, accessing, or printing documents in the county land record information system unless specifically authorized by statute. However, a recorder may collect actual third-party fees associated with accepting and processing statutorily authorized fees including credit card fees, treasury management fees, and other transaction fees required to enable electronic payment. For the purposes of this subsection, the term "third-party" does not include the county land record information system, the Iowa state association of counties, or any of the association's affiliates.

Sec. 5. Section 368.11, subsection 3, paragraph m, Code Supplement 2005, is amended to read as follows:

m. In the discretion of a city council, a provision for a transition for the imposition of city taxes against property within an annexation area. The provision shall allow for an exemption from taxation of the following percentages of assessed valuation according to the following schedule:

- (1) For the first and second years, seventy-five percent.
- (2) For the third and fourth years, sixty percent.
- (3) For the fifth and sixth years, forty-five percent.
- (4) For the seventh and eighth years, thirty percent.
- (5) For the ninth and tenth years, fifteen percent.

An alternative schedule may be adopted by the city council. However, an alternative schedule shall not allow a greater exemption than that provided in this paragraph. The exemption shall be applied in the levy and collection of taxes. The provision may also allow for the partial provision of city services during the time in which the exemption from taxation is in effect. If the city council provides for a transition for the imposition of city taxes against property in an annexation area, all property owners included in the annexation area must receive the transition upon completion of the annexation.

Sec. 6. Section 404A.4, subsection 5, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

Tax credit certificates issued under this chapter may be transferred to any person or entity. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the ~~state historic preservation office~~ department of revenue along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the ~~office~~ department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required under subsection 2 and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the ~~state historic preservation~~ office shall not be transferable. A tax credit shall not be claimed by a transferee under this chapter until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

Sec. 7. Section 421.17, subsection 14, Code Supplement 2005, is amended by striking the subsection.

Sec. 8. Section 422.5, subsection 1, paragraph j, subparagraph (2), unnumbered paragraph 2, Code 2005, is amended to read as follows:

This subparagraph shall not affect the amount of the taxpayer's checkoff to the Iowa election campaign fund under section 68A.601, the checkoff for the fish and game fund in section 456A.16 checkoffs under this division, the credits from tax provided in sections 422.10, 422.11A, and 422.12 under this division, and the allocation of these credits between spouses if the taxpayers filed separate returns or separately on combined returns.

Sec. 9. Section 422.5, subsection 1, paragraph k, subparagraph (2), subparagraph subdivision (b), Code 2005, is amended to read as follows:

(b) Twenty-six thousand dollars for a single person or an ~~unmarried~~ a head of household.

Sec. 10. Section 422.5, subsection 2, Code 2005, is amended to read as follows:

2. However, the tax shall not be imposed on a resident or nonresident whose net income, as defined in section 422.7, is thirteen thousand five hundred dollars or less in the case of married persons filing jointly or filing separately on a combined return, ~~unmarried~~ heads of household, and surviving spouses or nine thousand dollars or less in the case of all other persons; but in the event that the payment of tax under this division would reduce the net income to less than thirteen thousand five hundred dollars or nine thousand dollars as applicable, then the tax shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of thirteen thousand five hundred dollars or nine thousand dollars as applicable. The preceding sentence does not apply to estates or trusts. For the purpose of this subsection, the entire net income, including any part of the net income not allocated to Iowa, shall be taken into account. For purposes of this subsection, net income includes all amounts of pensions or other retirement income received from any source which is not taxable under this division as a result of the government pension exclusions in section 422.7, or any other state law. If the combined net income of a husband and wife exceeds thirteen thousand five hundred dollars, neither of them shall receive the benefit of this subsection, and it is immaterial whether they file a joint return or separate returns. However, if a husband and wife file separate returns and have a combined net income of thirteen thousand five hundred dollars or less, neither spouse shall receive the benefit of this paragraph, if one spouse has a net operating loss and elects to carry back or carry forward the loss as provided in section 422.9, subsection 3. A person who is claimed as a dependent by another person as defined in section 422.12 shall not receive the benefit of this subsection if the person claiming the dependent has net income exceeding thirteen thousand five hundred dollars or nine thousand dollars as applicable or the person claiming the dependent and the person's spouse have combined net income exceeding thirteen thousand five hundred dollars or nine thousand dollars as applicable.

In addition, if the married persons', filing jointly or filing separately on a combined return, ~~unmarried~~ head of household's, or surviving spouse's net income exceeds thirteen thousand five hundred dollars, the regular tax imposed under this division shall be the lesser of the maximum state individual income tax rate times the portion of the net income in excess of thirteen thousand five hundred dollars or the regular tax liability computed without regard to this sentence. Taxpayers electing to file separately shall compute the alternate tax described in this paragraph using the total net income of the husband and wife. The alternate tax described in this paragraph does not apply if one spouse elects to carry back or carry forward the loss as provided in section 422.9, subsection 3.

Sec. 11. Section 422.6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The tax imposed by section 422.5 less the amounts of nonrefundable credits allowed under sections 15.333, 15.335, 422.10, 422.11, 422.11A, and 422.11B, and the personal exemption

credit allowed under section 422.12 this division 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 Revenue Code, neither the trust nor the beneficiary is subject to Iowa income tax on income accruing to the trust.

Sec. 12. Section 422.7, subsection 21, paragraph a, subparagraph (1), unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

Net capital gain from the sale of real property used in a business, in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years, or from the sale of a business, as defined in section 423.1, ~~in which the taxpayer was employed or in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years.~~ The sale of a business means the sale of all or substantially all of the tangible personal property or service of the business.

Sec. 13. Section 422.9, subsection 1, Code Supplement 2005, is amended to read as follows:

1. An optional standard deduction, after deduction of federal income tax, equal to one thousand two hundred thirty dollars for a married person who files separately or a single person or equal to three thousand thirty dollars for a husband and wife who file a joint return, a surviving spouse, or ~~an unmarried a~~ head of household. The optional standard deduction shall not exceed the amount remaining after deduction of the federal income tax. The amount of federal income tax deducted shall be computed as provided in subsection 2, paragraph "b".

Sec. 14. Section 422.10, subsection 4, Code Supplement 2005, is amended to read as follows:

4. Any credit in excess of the tax liability imposed by section 422.5 less the amounts of non-refundable credits allowed under sections 422.11A, 422.12, and 422.12B this division for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

Sec. 15. Section 422.10, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An individual may claim an additional research activities credit authorized pursuant to section 15.335 if the eligible business is a partnership, S corporation, limited liability company, or estate or trust which elects to have the income taxed directly to the individual. The amount of the credit shall be as provided in section 15.335.

Sec. 16. Section 422.11, Code 2005, is amended to read as follows:

422.11 FRANCHISE TAX CREDIT.

The taxes imposed under this division, less the credits allowed under ~~section~~ sections 422.12 and 422.12B, shall be reduced by a franchise tax credit. A taxpayer who is a shareholder in a financial institution, as defined in section 581 of the Internal Revenue Code, which has in effect for the tax year an election under subchapter S of the Internal Revenue Code, or is a member of a financial institution organized as a limited liability company under chapter 524 that is taxed as a partnership for federal income tax purposes, shall compute the amount of the tax credit by recomputing the amount of tax under this division by reducing the taxable income of the taxpayer by the taxpayer's pro rata share of the items of income and expense of the financial institution and subtracting the credits allowed under ~~section~~ sections 422.12 and 422.12B. This recomputed tax shall be subtracted from the amount of tax computed under

this division after the deduction for credits allowed under ~~section~~ sections 422.12 and 422.12B. The resulting amount, which shall not exceed the taxpayer's pro rata share of the franchise tax paid by the financial institution, is the amount of the franchise tax credit allowed.

Sec. 17. Section 422.11B, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The minimum tax credit for a tax year is the excess, if any, of the ~~adjusted~~ net minimum tax imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this section for those prior tax years.

Sec. 18. Section 422.11B, subsection 2, unnumbered paragraph 3, Code 2005, is amended to read as follows:

~~The adjusted net minimum tax for a tax year is the net minimum tax for the tax year reduced by the amount which would be the net minimum tax if the only item of tax preference taken into account was that described in paragraph (6) of section 57(a) of the Internal Revenue Code.~~

Sec. 19. Section 422.11F, Code 2005, is amended to read as follows:

422.11F INVESTMENT TAX CREDITS.

1. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an investment tax credit authorized pursuant to section 15E.43 for an investment in a qualifying business or a community-based seed capital fund.

2. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by investment tax credits authorized pursuant to sections 15.333 and 15E.193B, subsection 6.

Sec. 20. NEW SECTION. 422.11M IOWA FUND OF FUNDS TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

Sec. 21. Section 422.12, subsection 3, Code 2005, is amended to read as follows:

~~3. For the purpose of this section, the determination of whether an individual is married shall be made as of the close of the individual's tax year unless the individual's spouse dies during the individual's tax year, in which case the determination shall be made as of the date of the spouse's death in accordance with section 7703 of the Internal Revenue Code. An individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance shall not be considered married.~~

Sec. 22. Section 422.12A, subsection 2, Code 2005, is amended to read as follows:

2. The director of revenue shall draft the income tax form to allow the designation of contributions to the keep Iowa beautiful fund on the tax return. The department of revenue, on or before January 31, shall transfer the total amount designated on the tax return forms due in the preceding calendar year to the keep Iowa beautiful fund. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of ~~revenue~~ administrative services and accounts identified as owing under section ~~421.17 8A.504~~ and the political contribution allowed under section 68A.601 shall be satisfied.

Sec. 23. Section 422.12C, subsection 1, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The taxes imposed under this division, less the amounts of nonrefundable credits allowed under ~~sections 422.11A, 422.11B, 422.12, and 422.12B~~ this division, shall be reduced by a child and dependent care credit equal to the following percentages of the federal child and dependent care credit provided in section 21 of the Internal Revenue Code:

Sec. 24. Section 422.12C, subsection 2, paragraph a, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

~~In lieu of the child and dependent care credit authorized in subsection 1, a taxpayer may claim~~ The taxes imposed under this division, less the amounts of nonrefundable credits allowed under this division, may be reduced by an early childhood development tax credit equal to twenty-five percent of the first one thousand dollars which the taxpayer has paid to others for each dependent, as defined in the Internal Revenue Code, ages three through five for early childhood development expenses. In determining the amount of early childhood development expenses for the tax year beginning in the 2006 calendar year only, such expenses paid during November and December of the previous tax year shall be considered paid in the tax year for which the tax credit is claimed. This credit is available to a taxpayer whose net income is less than forty-five thousand dollars. If the early childhood development tax credit is claimed for a tax year, the taxpayer and the taxpayer's spouse shall not claim the child and dependent care credit under subsection 1. As used in this subsection, "early childhood development expenses" means services provided to the dependent by a preschool, as defined in section 237A.1, materials, and other activities as follows:

Sec. 25. Section 422.12C, subsection 2, paragraph b, Code Supplement 2005, is amended by striking the paragraph.

Sec. 26. Section 422.12F, subsection 2, Code 2005, is amended to read as follows:

2. The director of revenue shall draft the income tax form to allow the designation of contributions to the volunteer fire fighter preparedness fund on the tax return. The department of revenue, on or before January 31, shall certify the total amount designated on the tax return forms due in the preceding calendar year and shall report the amount to the treasurer of state. The treasurer of state shall credit the amount to the volunteer fire fighter preparedness fund. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of revenue administrative services and accounts identified as owing under section ~~421.17~~ 8A.504 and the political contribution allowed under section 68A.601 shall be satisfied.

Sec. 27. NEW SECTION. 422.12G INCOME TAX CHECKOFF FOR IOWA ELECTION CAMPAIGN FUND.

A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate a contribution to the Iowa election campaign fund authorized pursuant to section 68A.601.

Sec. 28. NEW SECTION. 422.12H INCOME TAX CHECKOFF FOR FISH AND GAME PROTECTION FUND.

A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate a contribution to the state fish and game protection fund authorized pursuant to section 456A.16.

Sec. 29. Section 422.33, subsection 5, Code Supplement 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. f. A corporation which is a primary business or a supporting business in a quality jobs enterprise zone may claim the research activities credit authorized pursuant to section 15A.9, subsection 8, in lieu of the credit computed in paragraph "a" or "b".

NEW PARAGRAPH. g. A corporation which is an eligible business may claim an additional research activities credit authorized pursuant to section 15.335.

Sec. 30. Section 422.33, subsection 7, paragraph a, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

The minimum tax credit for a tax year is the excess, if any, of the ~~adjusted~~ net minimum tax

imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this subsection for those prior tax years.

Sec. 31. Section 422.33, subsection 7, paragraph b, unnumbered paragraph 3, Code Supplement 2005, is amended to read as follows:

~~The adjusted net minimum tax for a tax year is the net minimum tax for the tax year reduced by the amount which would be the net minimum tax if the only item of tax preference taken into account was that described in paragraph (6) of section 57(a) of the Internal Revenue Code.~~

Sec. 32. Section 422.33, subsection 12, Code Supplement 2005, is amended to read as follows:

12. a. The taxes imposed under this division shall be reduced by an investment tax credit authorized pursuant to section 15E.43 for an investment in a qualifying business or a community-based seed capital fund.

b. The taxes imposed under this division shall be reduced by investment tax credits authorized pursuant to sections 15.333, 15A.9, subsection 4, and 15E.193B, subsection 6.

Sec. 33. Section 422.33, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 20. The taxes imposed under this division shall be reduced by a corporate tax credit authorized pursuant to section 15.331C for certain sales taxes paid by a third-party developer.

NEW SUBSECTION. 21. The taxes imposed under this division shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

Sec. 34. Section 422.60, subsection 2, paragraphs a and b, Code Supplement 2005, are amended to read as follows:

a. Add items of tax preference included in federal alternative minimum taxable income under section 57, except subsections (a)(1) and (a)(5), of the Internal Revenue Code, make the adjustments included in federal alternative minimum taxable income under section 56, except subsections (a)(4), (c)(1), (d), ~~(f)~~, and (g), of the Internal Revenue Code, and add losses as required by section 58 of the Internal Revenue Code.

b. Make the adjustments provided in section 56(c)(1) of the Internal Revenue Code, except that in making the calculation under ~~sections 56(f)(1) and section 56(g)(1)~~ of the Internal Revenue Code the state alternative minimum taxable income, computed without regard to the adjustments made by this paragraph, the exemption provided for in paragraph "d", and the state alternative tax net operating loss described in paragraph "e", shall be substituted for the items described in ~~sections 56(f)(1)(B) and section 56(g)(1)(B)~~ of the Internal Revenue Code.

Sec. 35. Section 422.60, subsection 3, paragraph a, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

The minimum tax credit for a tax year is the excess, if any, of the adjusted net minimum tax imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this subsection for those prior tax years.

Sec. 36. Section 422.60, subsection 3, paragraph b, unnumbered paragraph 3, Code Supplement 2005, is amended to read as follows:

~~The adjusted net minimum tax for a tax year is the net minimum tax for the tax year reduced by the amount which would be the net minimum tax if the only item of tax preference taken into account was that described in paragraph (6) of section 57(a) of the Internal Revenue Code.~~

Sec. 37. Section 422.60, subsection 5, Code Supplement 2005, is amended to read as follows:

5. a. The taxes imposed under this division shall be reduced by an investment tax credit au-

thorized pursuant to section 15E.43 for an investment in a qualifying business or a community-based seed capital fund.

b. The taxes imposed under this division shall be reduced by investment tax credits authorized pursuant to sections 15.333 and 15E.193B, subsection 6.

Sec. 38. Section 422.60, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 11. The taxes imposed under this division shall be reduced by a corporate tax credit authorized pursuant to section 15.331C for certain sales taxes paid by a third-party developer.

NEW SUBSECTION. 12. The taxes imposed under this division shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

Sec. 39. Section 422D.2, Code 2005, is amended to read as follows:

422D.2 LOCAL INCOME SURTAX.

A county may impose by ordinance a local income surtax as provided in section 422D.1 at the rate set by the board of supervisors, of up to one percent, on the state individual income tax of each individual residing in the county at the end of the individual's applicable tax year. However, the cumulative total of the percents of income surtax imposed on any taxpayer in the county shall not exceed twenty percent. The reason for imposing the surtax and the amount needed shall be set out in the ordinance. The surtax rate shall be set to raise only the amount needed. For purposes of this section, "state individual income tax" means the tax computed under section 422.5, less the amounts of nonrefundable credits allowed in sections 422.11A, 422.11B, 422.12, and 422.12B under chapter 422, division II.

Sec. 40. Section 423.3, subsection 18, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Home and community-based services providers certified to offer Medicaid waiver services by the department of human services that are any of the following:

- (1) Ill and handicapped waiver service providers, described in 441 IAC 77.30.
- (2) Hospice providers, described in 441 IAC 77.32.
- (3) Elderly waiver service providers, described in 441 IAC 77.33.
- (4) AIDS/HIV waiver service providers, described in 441 IAC 77.34.
- (5) Federally qualified health centers, described in 441 IAC 77.35.
- (6) MR waiver service providers, described in 441 IAC 77.37.
- (7) Brain injury waiver service providers, described in 441 IAC 77.39.

Sec. 41. Section 423.3, subsection 39, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Notwithstanding paragraph "a", the sale, furnishing, or performance of a service that is of a recurring nature by the owner if, at the time of the sale, all of the following apply:

- (1) The seller is not engaged for profit in the business of the selling, furnishing, or performance of services taxed under section 423.2. For purposes of this subparagraph, the fact of the recurring nature of selling, furnishing, or performance of services does not constitute by itself engaging for profit in the business of selling, furnishing, or performance of services.
- (2) The owner of the business is the only person performing the service.
- (3) The owner of the business is a full-time student.
- (4) The total gross receipts from the sales, furnishing, or performance of services during the calendar year does not exceed five thousand dollars.

Sec. 42. Section 423.3, subsection 50, Code Supplement 2005, is amended to read as follows:

50. The sales price of sales of electricity, steam, or any taxable service when purchased and

used in the processing of tangible personal property intended to be sold ultimately at retail or of any fuel which is consumed in creating power, heat, or steam for processing or for generating electric current.

Sec. 43. Section 423.3, subsection 86, Code Supplement 2005, is amended to read as follows:

86. The sales price from services performed on a vessel if all of the following apply:

- a. The vessel is a licensed vessel under the laws of the United States coast guard.
 - ~~b. The vessel is not moored or tied to a physical location in this state.~~
 - ~~c. b.~~ The service is used to repair or restore a defect in the vessel.
 - ~~d. c.~~ The vessel is engaged in interstate commerce and will continue in interstate commerce once the repairs or restoration is completed.
 - ~~e. d.~~ The vessel is in navigable water that borders ~~the eastern~~ a boundary of this state.
- For purposes of this exemption, "vessel" includes a ship, barge, or other waterborne vessel.

Sec. 44. Section 423.3, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 89. a. The sales price from the sale of coins, currency, or bullion.

b. For purposes of this subsection:

(1) "Bullion" means bars, ingots, or commemorative medallions of gold, silver, platinum, palladium, or a combination of these where the value of the metal depends on its content and not the form.

(2) "Coins" or "currency" means a coin or currency made of gold, silver, or other metal or paper which is or has been used as legal tender.

Sec. 45. Section 423.6, subsection 10, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This exemption applies to corporations that have been in existence for not longer than twenty-four months.

Sec. 46. Section 423.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 25. Exempted from the purchase price of a replacement motor vehicle owned by a motor vehicle dealer licensed under chapter 322 which is being registered by that dealer and is not otherwise exempt from tax is the fair market value of a replaced motor vehicle if all of the following conditions are met:

- a. The motor vehicle being registered is being placed in service as a replacement motor vehicle for a motor vehicle registered by the motor vehicle dealer.
- b. The motor vehicle being registered is taken from the motor vehicle dealer's inventory.
- c. Use tax on the motor vehicle being replaced was paid by the motor vehicle dealer when that motor vehicle was registered.
- d. The replaced motor vehicle is returned to the motor vehicle dealer's inventory for sale.
- e. The application for registration and title of the motor vehicle being registered is filed with the county treasurer within two weeks of the date the replaced motor vehicle is returned to the motor vehicle dealer's inventory.
- f. The motor vehicle being registered is placed in the same or substantially similar service as the replaced motor vehicle.

Sec. 47. Section 423.8, Code 2005, is amended to read as follows:

423.8 LEGISLATIVE FINDING AND INTENT.

The general assembly finds that Iowa should enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. It is the intent of the general assembly that entering into this agreement will lead to simplification and modernization of the sales and use tax law and not to the imposition of new taxes or an increase or de-

crease in the existing number of exemptions, unless such a result is unavoidable under the terms of the agreement. Entering into this agreement should not cause businesses to sustain additional administrative burden.

It is the intent of the general assembly to provide Iowa sellers, impacted by the agreement, with the assistance necessary to alleviate administrative burdens that result in participation in the agreement. The director and the Iowa streamlined sales tax advisory council shall provide recommendations to address the new administrative burden identified in the Iowa streamlined sales tax advisory council 2005 report submitted to the Iowa general assembly. The recommendations must be submitted to the general assembly by January 1, 2007, and shall include the expenses associated and all relevant data including but not limited to the number of intrastate sellers impacted by the agreement.

Sec. 48. Section 423.9, Code 2005, is amended to read as follows:

423.9 AUTHORITY TO ENTER AGREEMENT AND TO REPRESENT THE STATE.

1. The director is authorized and directed to enter into the streamlined sales and use tax agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

2. The director is further authorized to take other actions reasonably required to implement the provisions set forth in this chapter. Other actions authorized by this section include, but are not limited to, the adoption of rules and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

~~The director or the director's designee is authorized to be a member of the governing board established pursuant to the agreement and to represent Iowa before that body.~~

3. Four representatives are authorized to be members of the governing board established pursuant to the agreement and to represent Iowa before that body as one vote. The representatives shall be appointed as follows:

a. One representative shall be a member of the house of representatives who is appointed by the speaker of the house of representatives or the delegate's designee who shall also be a member of the house of representatives.

b. One representative shall be a member of the senate who is appointed by the majority leader of the senate or the delegate's designee who shall also be a member of the senate.

c. Two representatives from the executive branch shall be appointed by the governor, one of whom shall be the director, or each delegate's designee who shall also be employed by the executive branch.

Sec. 49. NEW SECTION. 423.9A IOWA STREAMLINED SALES TAX ADVISORY COUNCIL.

1. An Iowa streamlined sales tax advisory council is created. The advisory council shall review, study, and submit recommendations to the Iowa streamlined sales and use tax representatives appointed pursuant to section 423.9, subsection 3, regarding the streamlined sales and use tax agreement formalized by the project's member states on November 12, 2002, agreement amendments, proposed language conforming Iowa's sales and use tax to the national agreement, and the following issues:

a. Uniform definitions proposed in the current agreement and future proposals.

b. Effects upon taxability of items newly defined in Iowa.

c. Impacts upon business as a result of the agreement.

d. Technology implementation issues.

e. Any other issues that are brought before the streamlined sales and use tax member state¹ or the streamlined sales and use tax governing board.

2. The department shall provide administrative support to the Iowa streamlined sales tax advisory council. The advisory council shall be representative of Iowa's business community and economy when reviewing and recommending solutions to streamlined sales and use tax issues. The advisory council shall provide the general assembly and the governor with final

¹ The word "states" probably intended

recommendations made to the Iowa streamlined sales and use tax representatives upon the conclusion of each calendar year.

3. The director, in consultation with the Iowa taxpayers association, Iowa retail federation, and the Iowa association of business and industry, shall appoint members to the Iowa streamlined sales tax advisory council, which shall consist of the following members:

- a. One member from the department.
- b. Three members representing small Iowa businesses, at least one of whom must be a retailer, and at least one of whom shall be a supplier.
- c. Three members representing medium Iowa businesses, at least one of whom shall be a retailer, and at least one of whom shall be a supplier.
- d. Three members representing large Iowa businesses, at least one of whom shall be a retailer, and at least one of whom shall be a supplier.
- e. One member representing taxpayers as a whole.
- f. One member representing the retail community as a whole.
- g. Any other member representative of business the director deems appropriate.

Sec. 50. Section 423.33, subsection 3, Code Supplement 2005, is amended to read as follows:

3. **EVENT SPONSOR'S LIABILITY FOR SALES TAX.** A person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event shall obtain from every retailer selling tangible personal property or taxable services at the event proof that the retailer possesses a valid sales tax permit or secure from the retailer a statement, taken in good faith, that property or services offered for sale are not subject to sales tax. Failure to do so renders a sponsor of the event liable for payment of any sales tax, interest, and penalty due and owing from any retailer selling property or services at the event. Sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 apply to the sponsors. For purposes of this subsection, a person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event does not include an organization which sponsors an event less than three times a year determined to qualify as an event involving casual sales pursuant to section 423.3, subsection 39, or the state fair or a fair as defined in section 174.1.

Sec. 51. Section 423.37, subsection 2, Code 2005, is amended to read as follows:

2. If a return required by this subchapter is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the same is required by notice from the department, the department shall determine the amount of tax due from information as the department may be able to obtain and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by the person, stock on hand, or other factors. The determination may be made using any generally recognized valid and reliable sampling technique, whether or not the person being audited has complete records, as mutually agreed upon by the department and the taxpayer. The department shall give notice of the determination to the person liable for the tax. The determination shall fix the tax unless the person against whom it is assessed shall, within sixty days after the giving of notice of the determination, apply to the director for a hearing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. At the hearing, evidence may be offered to support the determination or to prove that it is incorrect. After the hearing the director shall give notice of the decision to the person liable for the tax.

Sec. 52. Section 423B.1, subsection 3, Code 2005, is amended to read as follows:

3. A local option tax shall be imposed only after an election at which a majority of those voting on the question favors imposition and shall then be imposed until repealed as provided in subsection 6, paragraph "a". If the tax is a local vehicle tax imposed by a county, it shall apply to all incorporated and unincorporated areas of the county. If the tax is a local sales and servic-

es tax imposed by a county, it shall only apply to those incorporated areas and the unincorporated area of that county in which a majority of those voting in the area on the tax favors its imposition. For purposes of the local sales and services tax, all cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favors its imposition. In the case of a local sales and services tax submitted to the registered voters of two or more contiguous counties as provided in subsection 4, paragraph "c", all cities contiguous to each other shall be treated as part of one incorporated area, even if the corporate boundaries of one or more of the cities include areas of more than one county, and the tax shall be imposed in each of those contiguous cities only if a majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition. For purposes of the local sales and services tax, a city is not contiguous to another city if the only road access between the two cities is through another state.

Sec. 53. Section 423B.1, subsection 4, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Upon receipt of petitions or motions calling for the submission of the question of the imposition of a local sales and services tax as described in paragraph "a" or "b", the boards of supervisors of two or more contiguous counties in which the question is to be submitted may enter into a joint agreement providing that for purposes of this chapter, a city whose corporate boundaries include areas of more than one county shall be treated as part of the county in which a majority of the residents of the city reside. In such event, the county commissioners of elections from each such county shall cooperate in the selection of a single date upon which the election shall be held, and for all purposes of this chapter relating to the imposition, repeal, change of use, or collection of the tax, such a city shall be deemed to be part of the county in which a majority of the residents of the city reside. A copy of the joint agreement shall be provided promptly to the director of revenue.

Sec. 54. Section 423B.1, subsection 6, paragraph a, Code 2005, is amended to read as follows:

a. If a majority of those voting on the question of imposition of a local option tax favors imposition of a local option tax, the governing body of that county shall impose the tax at the rate specified for an unlimited period. However, in the case of a local sales and services tax, the county shall not impose the tax in any incorporated area or the unincorporated area if the majority of those voting on the tax in that area did not favor its imposition. For purposes of the local sales and services tax, all cities contiguous to each other shall be treated as part of one incorporated area and the tax shall be imposed in each of those contiguous cities only if the majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition. In the case of a local sales and services tax submitted to the registered voters of two or more contiguous counties as provided in subsection 4, paragraph "c", all cities contiguous to each other shall be treated as part of one incorporated area, even if the corporate boundaries of one or more of the cities include areas of more than one county, and the tax shall be imposed in each of those contiguous cities only if a majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition.

PARAGRAPH DIVIDED. The local option tax may be repealed or the rate increased or decreased or the use thereof changed after an election at which a majority of those voting on the question of repeal or rate or use change favored the repeal or rate or use change. The date on which the repeal, rate, or use change is to take effect shall not be earlier than ninety days following the election. The election at which the question of repeal or rate or use change is offered shall be called and held in the same manner and under the same conditions as provided in subsections 4 and 5 for the election on the imposition of the local option tax. However, in the case of a local sales and services tax where the tax has not been imposed countywide, the question of repeal or imposition or rate or use change shall be voted on only by the registered

voters of the areas of the county where the tax has been imposed or has not been imposed, as appropriate. However, the governing body of the incorporated area or unincorporated area where the local sales and services tax is imposed may, upon its own motion, request the county commissioner of elections to hold an election in the incorporated or unincorporated area, as appropriate, on the question of the change in use of local sales and services tax revenues. The election may be held at any time but not sooner than sixty days following publication of the ballot proposition. If a majority of those voting in the incorporated or unincorporated area on the change in use favors the change, the governing body of that area shall change the use to which the revenues shall be used. The ballot proposition shall list the present use of the revenues, the proposed use, and the date after which revenues received will be used for the new use.

When submitting the question of the imposition of a local sales and services tax, the county board of supervisors may direct that the question contain a provision for the repeal, without election, of the local sales and services tax on a specific date, which date shall be as provided in section 423B.6, subsection 1.

Sec. 55. Section 423B.5, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the sales price taxed by the state under chapter 423, subchapter II. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the sale of equipment by the state department of transportation, and except the tax shall not be imposed on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy is subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state sales taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favors its imposition. In the case of a local sales and services tax submitted to the registered voters of two or more contiguous counties as provided in section 423B.1, subsection 4, paragraph "c", all cities contiguous to each other shall be treated as part of one incorporated area, even if the corporate boundaries of one or more of the cities include areas of more than one county, and the tax shall be imposed in each of those contiguous cities only if a majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition.

Sec. 56. Section 425.11, subsection 4, Code Supplement 2005, is amended to read as follows:

4. The word "owner" shall mean the person who holds the fee simple title to the homestead, and in addition shall mean the person occupying as a surviving spouse or the person occupying under a contract of purchase which contract has been recorded in the office of the county recorder of the county in which the property is located; or the person occupying the homestead under devise or by operation of the inheritance laws where the whole interest passes or where the divided interest is shared only by persons related or formerly related to each other by blood, marriage or adoption; or the person occupying the homestead is a shareholder of a family farm corporation that owns the property; or the person occupying the homestead under

a deed which conveys a divided interest where the divided interest is shared only by persons related or formerly related to each other by blood, marriage or adoption; or where the person occupying the homestead holds a life estate with the reversion interest held by a nonprofit corporation organized under chapter 504, provided that the holder of the life estate is liable for and pays property tax on the homestead; or where the person occupying the homestead holds an interest in a horizontal property regime under chapter 499B, regardless of whether the underlying land committed to the horizontal property regime is in fee or as a leasehold interest, provided that the holder of the interest in the horizontal property regime is liable for and pays property tax on the homestead; or where the person occupying the homestead is a member of a community land trust as defined in 42 U.S.C. § 12773, regardless of whether the underlying land is in fee or as a leasehold interest, provided that the member of the community land trust is occupying the homestead and is liable for and pays property tax on the homestead. For the purpose of this chapter the word "owner" shall be construed to mean a bona fide owner and not one for the purpose only of availing the person of the benefits of this chapter. In order to qualify for the homestead tax credit, evidence of ownership shall be on file in the office of the clerk of the district court or recorded in the office of the county recorder at the time the owner files with the assessor a verified statement of the homestead claimed by the owner as provided in section 425.2.

Sec. 57. Section 427.1, subsection 2, Code Supplement 2005, is amended to read as follows:

2. MUNICIPAL AND MILITARY PROPERTY. The property of a county, township, city, school corporation, levee district, drainage district, or the Iowa national guard, when devoted to public use and not held for pecuniary profit, except property of a municipally owned electric utility held under joint ownership and property of an electric power facility financed under chapter 28F or 476A that shall be subject to taxation under chapter 437A and facilities of a municipal utility that are used for the provision of local exchange services pursuant to chapter 476, but only to the extent such facilities are used to provide such services, which shall be subject to taxation under chapter 433, except that section 433.11 shall not apply. The exemption for property owned by a city or county also applies to property which is operated by a city or county as a library, art gallery or museum, conservatory, botanical garden or display, observatory or science museum, or as a location for holding athletic contests, sports or entertainment events, expositions, meetings or conventions, or leased from the city or county for any such purposes, or leased from the city or county by the Iowa national guard or by a federal agency for the benefit of the Iowa national guard when devoted for public use and not for pecuniary profit. Food and beverages may be served at the events or locations without affecting the exemptions, provided the city has approved the serving of food and beverages on the property if the property is owned by the city or the county has approved the serving of food and beverages on the property if the property is owned by the county. The exemption for property owned by a city or county also applies to property which is located at an airport and leased to a fixed base operator providing aeronautical services to the public.

Sec. 58. Section 427.1, subsection 21A, Code Supplement 2005, is amended to read as follows:²

21A. DWELLING UNIT PROPERTY OWNED BY NONPROFIT ORGANIZATIONS. Dwelling unit property owned and managed by a nonprofit organization if the nonprofit organization owns and manages more than forty dwelling units that are located in a city with a population of more than one hundred ten thousand which has a public housing authority that does not own or manage housing stock for the purpose of low-rent housing. For the 2005 and 2006 assessment years, an application is not required to be filed to receive the exemption. For the 2007 and subsequent assessment years, an application for exemption must be filed with the assessing authority not later than February 1 of the assessment year for which the exemption is sought. Upon the filing and allowance of the claim, the claim shall be allowed on the property for successive years without further filing as long as the property continues to qualify for the exemption.

² See chapter 1182, §66 herein

Sec. 59. Section 427A.1, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 5A. Notwithstanding the other provisions of this section, property that is equipment used for the washing, waxing, drying, or vacuuming of motor vehicles and point-of-sale equipment necessary for the purchase of car wash services shall not be assessed and taxed as real property.

Sec. 60. Section 432.12C, Code 2005, is amended to read as follows:
432.12C INVESTMENT TAX CREDITS.

1. The tax imposed under this chapter shall be reduced by an investment tax credit authorized pursuant to section 15E.43 for an investment in a qualifying business or a community-based seed capital fund.

2. The taxes imposed under this division shall be reduced by investment tax credits authorized pursuant to sections 15.333A and 15E.193B, subsection 6.

Sec. 61. NEW SECTION. 432.12H TAX CREDIT FOR CERTAIN SALES TAXES PAID BY THIRD-PARTY DEVELOPERS.

The taxes imposed under this chapter shall be reduced by a tax credit authorized pursuant to section 15.331C for certain sales taxes paid by a third-party developer.

Sec. 62. NEW SECTION. 432.12I IOWA FUND OF FUNDS TAX CREDIT.

The taxes imposed under this chapter shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

Sec. 63. Section 441.38, subsection 2, Code Supplement 2005, is amended to read as follows:

2. Notice If the appeal to district court is taken from the action of the local board of review, notice of appeal shall be served as an original notice on the chairperson, presiding officer, or clerk of the board of review within twenty days after its adjournment or May 31, whichever is later, and after the filing of notice under subsection 1 with the clerk of district court. If the appeal to district court is taken from the action of the property assessment appeal board, notice of appeal shall be served as an original notice on the secretary of the property assessment appeal board, if applicable after the filing of notice under subsection 1 with the clerk of district court.

Sec. 64. Section 468.55, Code 2005, is amended to read as follows:
468.55 ASSESSMENTS — MATURITY AND COLLECTION.

If a landowner selects an option provided in section 468.57, all drainage or levee tax assessments become due and payable with the first half of ordinary taxes, and shall be collected in the same manner with the same interest for delinquency and the same manner of enforcing collection by tax sales. As an alternative, ~~the certifying authority may request that~~ landowner may pay the annual installment ~~be payable~~ in two equal payments, one-half with the September payment of ordinary taxes and one-half payable with the March payment of ordinary taxes. All drainage or levee tax assessments not optioned for installment payments by the landowner shall become due and payable within thirty days after the levy of assessments.

Sec. 65. Section 533.24, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 8. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15.333.

NEW SUBSECTION. 9. The moneys and credits tax imposed under this section shall be reduced by a tax credit authorized pursuant to section 15.331C for certain sales taxes paid by a third-party developer.

NEW SUBSECTION. 10. The moneys and credits tax imposed under this section shall be

reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

Sec. 66. 2005 Iowa Acts, chapter 140, section 72, is amended to read as follows:

SEC. 72. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the amendment to section 423.3, subsection 5, in this division of this Act, for the sale of agricultural drain tile materials occurring between January 1, 1998, and the effective date of the section amending section 423.3, subsection 5, in this division of this Act, shall be limited to ~~twenty-five~~ fifty thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 2005, notwithstanding any other provision of law. If the amount of claims totals more than ~~twenty-five~~ fifty thousand dollars in the aggregate, the department of revenue shall prorate the ~~twenty-five~~ fifty thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 67. 2005 Iowa Acts, chapter 179, section 100, is amended to read as follows:

SEC. 100. COUNTY REAL ESTATE ELECTRONIC GOVERNMENT ADVISORY COMMITTEE.

1. A county real estate electronic government advisory committee is created. ~~Staffing services for the advisory committee shall be provided by the auditor of state.~~ The advisory committee membership shall consist of the following:

- a. Two members selected by the Iowa state association of county auditors.
- b. Two members selected by the Iowa state county treasurers association.
- c. Two members selected by the Iowa county recorders association.
- d. Two members selected by the Iowa state association of assessors.
- e. One member selected by each of the following organizations:
 - (1) Iowa state association of counties.
 - (2) Iowa land title association.
 - (3) Iowa bankers association.
 - (4) Iowa credit union league.
 - (5) Iowa state bar association.
 - (6) Iowa association of realtors.

2. The county real estate electronic government advisory committee shall facilitate discussion to integrate the county land record information system ~~created pursuant to section 331.605C~~ with the electronic government internet applications of county treasurers, county recorders, county auditors, and county assessors. The advisory committee shall file an updated integration plan with the governor and the general assembly on or before November 1, ~~2005~~ 2006.

Sec. 68. 2005 Iowa Acts, chapter 179, section 101, subsection 3, is repealed.

Sec. 69. EFFECTIVE AND APPLICABILITY DATES.

1. The sections of this division of this Act amending section 422.12C, subsection 2, apply retroactively to January 1, 2006, for tax years beginning on or after that date.

2. The section of this division of this Act amending section 425.11, being deemed of immediate importance, takes effect upon enactment and applies to taxes due and payable in fiscal years beginning on or after July 1, 2006.

3. The section of this division of this Act enacting section 427A.1, subsection 5A, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2006, for assessment years beginning on or after that date.

4. The section of this division of this Act amending 2005 Iowa Acts, chapter 140, section 72, being deemed of immediate importance, takes effect upon enactment and applies retroactively to June 30, 2005.

DIVISION II
STREAMLINED SALES AND USE TAX UPDATES

Sec. 70. Section 423.2, subsection 8, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

8. a. A tax of five percent is imposed on the sales price from sales of bundled transactions. For the purposes of this subsection, a “bundled transaction” is the retail sale of two or more distinct and identifiable products, except real property and services to real property, which are sold for one nonitemized price. A “bundled transaction” does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

b. “Distinct and identifiable products” does not include any of the following:

(1) Packaging or other materials that accompany the retail sale of the products and are incidental or immaterial to the retail sale of the products.

(2) A product provided free of charge with the required purchase of another product. A product is “provided free of charge” if the sales price of the product purchased does not vary depending on the inclusion of the product which is provided free of charge.

(3) Items included in the definition of “sales price” pursuant to section 423.1.

c. “One nonitemized price” does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form.

Sec. 71. Section 423.18, Code Supplement 2005, is amended by striking the section and inserting in lieu thereof the following:

423.18 MULTIPLE POINTS OF USE.

1. Notwithstanding the provisions of section 423.15, a business purchaser that is not a holder of a direct pay permit that knows at the time of purchase of a digital good, computer software, or a service that the digital good, computer software, or service will be concurrently available for use in more than one jurisdiction shall deliver to the seller in conjunction with its purchase an exemption certificate claiming multiple points of use or meet the requirements of subsection 2 or 3. For the purpose of this section only, “computer software” includes but is not limited to computer software delivered electronically, by load and leave, or in tangible form. “Computer software” does not include computer software received in person by a business purchaser at a business location of the seller.

a. Upon receipt of an exemption certificate claiming multiple points of use, the seller is relieved of all obligation to collect, pay, or remit the applicable tax, and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.

b. A purchaser delivering an exemption certificate claiming multiple points of use may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser’s business books and records as they exist at the time the transaction is reported for sales or use tax purposes.

c. A purchaser delivering an exemption certificate claiming multiple points of use shall report and pay the appropriate tax to each jurisdiction where concurrent use occurs. The tax due shall be calculated as if the apportioned amount of the digital good, computer software, or service had been delivered to each jurisdiction to which the sale is apportioned pursuant to paragraph “b”.

d. The exemption certificate claiming multiple points of use shall remain in effect for all future sales by the seller to the purchaser, except as to the subsequent sale’s specific apportionment that is governed by the principles of paragraphs “b” and “c”, until the exemption certificate is revoked in writing.

2. Notwithstanding subsection 1, when the seller knows that the product will be concurrently available for use in more than one jurisdiction, but the purchaser does not provide an exemption certificate claiming multiple points of use as required in subsection 1, the seller may work with the purchaser to produce the correct apportionment. The purchaser and seller may use

any reasonable, but consistent and uniform, method of apportionment that is supported by the seller's and purchaser's business books and records as they exist at the time the transaction is reported for sales or use tax purposes. If the purchaser certifies the accuracy of the apportionment and the seller accepts the certification, the seller shall collect and remit the tax pursuant to subsection 1, paragraph "c". In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the information certified by the purchaser.

3. When the seller knows that the product will be concurrently available for use in more than one jurisdiction and the purchaser does not have a direct pay permit and does not provide the seller with an exemption certificate claiming a multiple points of use exemption as required in subsection 1, or certification pursuant to subsection 2, the seller shall collect and remit the tax based on the provisions of section 423.15.

4. A holder of a direct pay permit shall not be required to deliver an exemption certificate claiming multiple points of use to the seller. A direct pay permit holder shall follow the provisions of subsection 1, paragraphs "b" and "c", in apportioning the tax due on a digital good, computer software, or a service that will be concurrently available for use in more than one jurisdiction.

5. Nothing in this section shall limit a person's obligation for sales or use tax to this state in which the qualifying purchases are concurrently available for use, or limit a person's ability under local, state, federal, or constitutional law, to claim a credit for sales or use taxes legally due and paid to other jurisdictions.

Sec. 72. Section 423.20, subsection 1, paragraph j, Code 2005, is amended to read as follows:

j. "Postpaid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A "postpaid calling service" includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service.

Sec. 73. Section 423.20, subsection 1, Code 2005, is amended by adding the following new paragraph after paragraph k, and relettering the remaining paragraphs:

NEW PARAGRAPH. 1. "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance and that is sold in predetermined units or dollars of which the amount declines with use in a known amount.

Sec. 74. Section 423.20, subsection 2, paragraph c, subparagraphs (1) and (3), Code 2005, are amended to read as follows:

(1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service, ~~or prepaid calling service, or prepaid wireless calling service~~ is sourced to the customer's place of primary use as required by the federal Mobile Telecommunications Sourcing Act.

(3) A sale of prepaid calling service or a sale of prepaid wireless calling service is sourced in accordance with section 423.15. However, in the case of a sale of ~~mobile telecommunications services that is a prepaid telecommunications~~ a prepaid wireless calling service, the rule provided in section 423.15, subsection 1, paragraph "e", shall include as an option the location associated with the mobile telephone number.

Sec. 75. Section 423.45, subsection 4, paragraph b, Code 2005, is amended to read as follows:

b. The sales tax liability for all sales of tangible personal property and all sales of services

is upon the seller and the purchaser unless the seller takes ~~in good faith~~ from the purchaser a valid exemption certificate stating under penalty of perjury that the purchase is for a nontaxable purpose and is not a retail sale as defined in section 423.1, or the seller is not obligated to collect tax due, or unless the seller takes a fuel exemption certificate pursuant to subsection 5. If the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate ~~which is taken in good faith by the seller~~, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department and sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 shall apply to the purchaser.

Sec. 76. Section 423.45, subsection 4, paragraph d, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

d. The protection afforded a seller by paragraph "b" does not apply to a seller who fraudulently fails to collect tax or to a seller who solicits purchasers to participate in the unlawful claim of an exemption.

Sec. 77. Section 423.51, subsection 2, Code 2005, is amended to read as follows:

2. Sellers that follow the requirements of this section are relieved from any tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption and that the purchaser is liable for the nonpayment of tax. This relief from liability does not apply to a seller who ~~fraudulently does any of the following~~:

a. ~~Fraudulently fails to collect the tax or solicits tax.~~

b. ~~Solicits purchasers to participate in the unlawful claim of an exemption.~~

c. ~~Accepts an exemption certificate when the purchaser claims an entity-based exemption when the following conditions are met:~~

~~(1) The subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller.~~

~~(2) The state provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in the state.~~

~~d. Accepts an exemption certificate claiming multiple points of use for tangible personal property other than computer software for which an exemption claiming multiple points of use is acceptable under section 423.18.~~

Sec. 78. Section 423.51, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 3. a. A seller otherwise obligated to collect tax from a purchaser is relieved of that obligation if the seller obtains a fully completed exemption certificate or secures the relevant data elements of a fully completed exemption certificate within ninety days after the date of sale.

b. If the seller has not obtained an exemption certificate or all relevant data elements as provided in paragraph "a", the seller may, within one hundred twenty days after a request for substantiation by the department, either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption certificate from the purchaser, taken in good faith.

c. Nothing in this subsection shall affect the ability of the state to require purchasers to update exemption certificate information or to reapply with the state to claim certain exemptions.

d. Notwithstanding paragraphs "a", "b", and "c", a seller is relieved of its obligation to collect tax from a purchaser if the seller obtains a blanket exemption certificate from the purchaser, and the seller and purchaser have a recurring business relationship. For the purposes of this paragraph, a recurring business relationship exists when a period of no more than twelve months elapses between sales transactions. The department may not request from the seller renewal of blanket certificates or updates of exemption certificate information or data elements when there is a recurring business relationship between the purchaser and seller.

NEW SUBSECTION. 4. All relief that this section provides to sellers is also provided to certified service providers under this chapter.

Sec. 79. Section 423.52, Code 2005, is amended to read as follows:

423.52 RELIEF FROM LIABILITY FOR SELLERS AND CERTIFIED SERVICE PROVIDERS.

1. Sellers and certified service providers using databases derived from zip codes or state or vendor provided address-based databases are relieved from liability to this state or its local taxing jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by this state on tax rates, boundaries, or taxing jurisdiction assignments. If this state provides an address-based system for assigning taxing jurisdictions ~~whether or not pursuant to the federal Mobile Telecommunications Sourcing Act~~, the director is not required to provide liability relief for errors resulting from reliance on the information provided by this state if the director has given adequate notice, as determined by the governing board, to affected parties of the decision to end this relief.

2. a. Model 2 sellers and certified service providers are relieved of liability to Iowa for any failure to charge and collect the correct amount of sales or use tax if this failure results from the model 2 seller's or the certified service provider's reliance upon this state's certification to the governing board that Iowa has accepted the governing board's certification of a piece of software as a certified automated system. The relief provided by this paragraph to a model 2 seller or certified service provider does not extend to a seller or provider who has incorrectly classified an item or transaction into the product-based exemptions portion of a certified automated system. However, any model 2 seller or certified service provider who has relied upon an individual listing of items or transactions within a product definition approved by the governing board or Iowa may claim the relief allowed by this paragraph.

b. If the department determines that an item or transaction is incorrectly classified as to its taxability, the department shall notify the model 2 seller or certified service provider of the incorrect classification. The model 2 seller or certified service provider shall have ten days to revise the classification after receipt of notice of the determination. Upon expiration of the ten days, the model 2 seller or certified service provider shall be liable for the failure to collect the correct amount of sales or use taxes due and owing to the member state.

Sec. 80. EFFECTIVE DATES.

1. Except as provided in subsection 2, this division of this Act takes effect January 1, 2008.
2. The sections of this division of this Act amending section 423.45, subsection 4, and section 423.52, being deemed of immediate importance, take effect upon enactment.

Approved June 1, 2006