

CHAPTER 1110

ADMINISTRATION AND OVERSIGHT OF TAXES, TAX CREDITS AND INCENTIVES, FRANCHISE FEES, AND ANNEXATION OR SEVERANCE BY CITIES

S.F. 2328

AN ACT relating to the technical administration of the tax and related laws by the department of revenue, including the administration of income taxes, sales and use taxes, franchise fees, notification of annexation or severance by cities, and cigarette and tobacco taxes, and including retroactive applicability provisions.

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

DIVISION I INCOME TAXES

Section 1. Section 2.48, subsection 3, paragraph a, subparagraph (2), Code 2011, is amended to read as follows:

(2) The tax credits for increasing research activities available under sections 15.335, ~~15A.9~~, 422.10, and 422.33.

Sec. 2. Section 15.119, subsection 2, paragraph c, Code Supplement 2011, is amended by striking the paragraph.

Sec. 3. Section 15.293A, subsection 2, paragraph b, subparagraph (6), Code Supplement 2011, is amended to read as follows:

(6) A tax credit shall not be claimed by a transferee under this section until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~ Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~

Sec. 4. Section 15.329, subsection 3, Code Supplement 2011, is amended by striking the subsection.

Sec. 5. Section 15.393, subsection 2, paragraph a, subparagraph (3), Code Supplement 2011, is amended to read as follows:

(3) After verifying the eligibility for a tax credit under this paragraph "a", the economic development authority shall issue a film, television, and video project promotion program tax credit certificate to be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of credit, other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred. Tax credit certificates issued under this paragraph "a" may be transferred to any person or entity. Within ninety days of transfer, the transferee shall submit the transferred tax credit certificate to the 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 department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit 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 economic development authority shall not be transferable. A tax credit shall not be claimed by a transferee under this paragraph “a” until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~ Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~

Sec. 6. Section 15.393, subsection 2, paragraph b, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) After verifying the eligibility for a tax credit under this paragraph “b”, the economic development authority shall issue a film, television, and video project promotion program tax credit certificate to be attached to the person’s tax return. The tax credit certificate shall contain the taxpayer’s name, address, tax identification number, the date of project completion, the amount of credit, other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred. Tax credit certificates issued under this paragraph “b” may be transferred to any person or entity. Within ninety days of transfer, the transferee shall submit the transferred tax credit certificate to the 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 department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit 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 economic development authority shall not be transferable. A tax credit shall not be claimed by a transferee under this paragraph “b” until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~ Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~

Sec. 7. Section 422.7, subsection 9, Code Supplement 2011, is amended to read as follows:

9. Subtract the amount of the alcohol ~~fuel~~ and cellulosic biofuel fuels credit allowable for the tax year under section 40 of the Internal Revenue Code to the extent that the credit increased federal adjusted gross income.

Sec. 8. Section 422.13, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. The individual has net income of more than nine thousand dollars ~~or more~~ for the tax year from sources taxable under this division.

Sec. 9. Section 422.28, Code 2011, is amended to read as follows:

422.28 Revision of tax.

A taxpayer may appeal to the director for revision of the tax, interest, or penalties assessed

at any time within sixty days from the date of the notice of the assessment of tax, additional tax, interest, or penalties. The director shall grant a hearing and if, upon the hearing, the director determines that the tax, interest, or penalties are excessive or incorrect, the director shall revise them according to the law and the facts and adjust the computation of the tax, interest, or penalties accordingly. The director shall notify the taxpayer by mail of the result of the hearing and shall refund to the taxpayer the amount, if any, paid in excess of the tax, interest, or penalties found by the director to be due, with interest ~~after sixty days~~ accruing from the date of first day of the second calendar month following the date of payment by the taxpayer at the rate in effect under section 421.7 for each month or a fraction of a month.

Sec. 10. Section 422.33, subsection 5, paragraph f, Code Supplement 2011, is amended by striking the paragraph.

Sec. 11. Section 422.33, subsection 12, paragraph b, Code Supplement 2011, is amended to read as follows:

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

Sec. 12. Section 422.35, subsection 7, Code Supplement 2011, is amended to read as follows:

7. Subtract the amount of the alcohol ~~fuel~~ and cellulosic biofuel fuels credit allowable for the tax year under section 40 of the Internal Revenue Code to the extent that the credit increased federal taxable income.

Sec. 13. Section 422.36, subsection 4, Code 2011, is amended to read as follows:

4. Foreign and domestic corporations shall file a copy of their federal income tax return for the current tax year with the return required by this section.

Sec. 14. Section 422.73, subsection 2, Code Supplement 2011, is amended by striking the subsection.

Sec. 15. Section 422.89, subsection 3, paragraph a, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

An amount equal to ~~ninety one~~ one hundred percent of the tax for the taxable year computed by placing on an annualized basis the taxable income:

Sec. 16. REPEAL. Section 15A.9, Code Supplement 2011, is repealed.

Sec. 17. RETROACTIVE APPLICABILITY. The following provision or provisions of this division of this Act apply retroactively to January 1, 2012, for tax years beginning on or after that date:

1. The section of this Act amending section 422.89.

DIVISION II SALES TAXES

Sec. 18. Section 423.3, subsection 40, Code Supplement 2011, is amended to read as follows:

40. The sales price from the sale of automotive fluids to a retailer to be used either in providing a service which includes the installation or application of the fluids in or on a motor vehicle, which service is subject to section 423.2, subsection 6, or to be installed in or applied to a motor vehicle which the retailer intends to sell, which sale is subject to section ~~423.26~~ 321.105A. For purposes of this subsection, automotive fluids are all those which are refined, manufactured, or otherwise processed and packaged for sale prior to their installation in or application to a motor vehicle. They include but are not limited to motor oil and other lubricants, hydraulic fluids, brake fluid, transmission fluid, sealants, undercoatings, antifreeze, and gasoline additives.

Sec. 19. Section 423.3, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 96. The sale price of fees charged for the release of medical records as described in section 622.10.

Sec. 20. Section 423.36, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. The department shall grant and issue to each applicant a permit for each place of business in this state where sales or use tax is collected. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated or at a place of relocation within the state same county if the ownership remains the same.

Sec. 21. Section 423.57, Code 2011, is amended to read as follows:

423.57 Statutes applicable.

The director shall administer this subchapter as it relates to the taxes imposed in this chapter in the same manner and subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in sections 423.14, 423.15, 423.16, 423.17, 423.19, 423.20, 423.21, 423.22, 423.23, 423.24, 423.25, ~~423.28~~, 423.29, 423.31, 423.32, 423.33, 423.34, 423.34A, 423.35, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42, section 423.43, subsection 1, and sections 423.45, 423.46, and 423.47.

Sec. 22. Section 622.10, subsection 6, paragraph c, Code Supplement 2011, is amended to read as follows:

c. Fees charged pursuant to this subsection are ~~not subject to a sales or use tax~~ exempt from the sales tax pursuant to section 423.3, subsection 96. A provider providing the records or images may require payment in advance if an itemized statement demanding such is provided to the requesting party within fifteen days of the request. Upon a timely request for payment in advance, the time for providing the records or images shall be extended until the greater of thirty days from the date of the original request or ten days from the receipt of payment.

Sec. 23. REPEAL. Section 423.28, Code 2011, is repealed.

DIVISION III
MISCELLANEOUS

Sec. 24. Section 364.2, subsection 4, paragraph f, Code 2011, is amended to read as follows:

f. (1) A franchise fee assessed by a city may be based upon a percentage of gross revenues generated from sales of the franchisee within the city not to exceed five percent, without regard to the city's cost of inspecting, supervising, and otherwise regulating the franchise. Franchise fees collected pursuant to an ordinance in effect on May 26, 2009, shall be deposited in the city's general fund and such fees collected in excess of the amounts necessary to inspect, supervise, and otherwise regulate the franchise may be used by the city for any other purpose authorized by law. Franchise fees collected pursuant to an ordinance that is adopted or amended on or after May 26, 2009, to increase the percentage rate at which franchise fees are assessed shall be credited to the franchise fee account within the city's general fund and used pursuant to section 384.3A. If a city franchise fee is assessed to customers of a franchise, the fee shall not be assessed to the city as a customer. Before a city adopts or amends a franchise fee rate ordinance or franchise ordinance to increase the percentage rate at which franchise fees are assessed, a revenue purpose statement shall be prepared specifying the purpose or purposes for which the revenue collected from the increased rate will be expended. If property tax relief is listed as a purpose, the revenue purpose statement shall also include information regarding the amount of the property tax relief to be provided with revenue collected from the increased rate. The revenue purpose statement shall be published as provided in section 362.3.

(2) If a city adopts, amends, or repeals an ordinance imposing a franchise fee, the city shall promptly notify the director of revenue of such action.

Sec. 25. Section 368.24, Code 2011, is amended to read as follows:

368.24 Notification to public utilities and to the department of revenue.

Notwithstanding any other provision of law to the contrary, any city that annexes territory or any city from which territory is severed shall provide written notification consisting of a legal description and map of the annexed or severed territory, each street address within the annexed or severed area, where possible, a statement containing the effective date of the annexation or severance and a copy of the order, resolution, or ordinance proclaiming the annexation or severance to all public utilities operating in the annexed or severed area and to the department of revenue. If the notification of the an annexation is provided to a public utility less than sixty days prior to the effective date of the annexation, the public utility shall have sixty days from the date of notification to adjust its tax and accounting records to reflect the annexation for any tax purpose.

DIVISION IV
CIGARETTE AND TOBACCO TAXES

Sec. 26. Section 453A.1, subsections 4 and 14, Code 2011, are amended to read as follows:

4. “Cigarette vending machine” means any self-service device offered for public use which, upon insertion of a coin, coins, paper currency, or by other means payment or insertion of loose tobacco product, dispenses, or assembles and dispenses, cigarettes or tobacco products without the necessity of replenishing the device between each vending operation.

14. “Individual packages of cigarettes” shall mean and include every package of cigarettes or quantity of cigarettes assembled and ordinarily sold at retail.

Sec. 27. Section 453A.6, subsection 7, Code 2011, is amended to read as follows:

7. Cigarettes shall be sold or dispensed only in packages or quantities of twenty or more cigarettes.

8. Any permit holder owning, renting, leasing, or otherwise operating a cigarette vending machine into which loose tobacco products are inserted and from which assembled cigarettes are dispensed shall do all the following:

a. Pay directly to the department, in lieu of the tax under subsection 1, a tax equal to three and six hundredths cents on each cigarette dispensed from such machine.

b. Allow to be inserted into such machine only loose tobacco products whose manufacturer and brand family are then currently listed on the directory maintained by the director under chapter 453D.

c. On or after January 1, 2014, allow to be dispensed from such machine only cigarettes which are in compliance with the requirements of chapter 101B.

d. Maintain in good working order on such machine a secure meter that counts the number of cigarettes dispensed by the machine, which meter cannot be accessed except for the sole purpose of taking meter readings, and cannot be reset or otherwise altered by the permit holder.

Sec. 28. 2005 Iowa Acts, chapter 77, section 1, unnumbered paragraph 4, is amended to read as follows:

The committee shall annually report to the general assembly by January 1 of each year through January 1, 2013 2016.

Approved May 2, 2012