

## CHAPTER 1128

### TAXATION AND TAX LAW ADMINISTRATION — MISCELLANEOUS CHANGES

H.F. 2468

**AN ACT** relating to the administration of the tax and related laws by the department of revenue, including the renewable energy tax credit, the solar energy system tax credit, appeal procedures for certain centrally assessed property, an extension of the utility replacement tax task force, requiring background checks for job applicants and persons performing work for the department of revenue, a sales and use tax exemption for certain items used in performance of a construction contract with designated exempt entities, a geothermal tax credit, the adoption tax credit, and including effective date and retroactive and other applicability provisions.

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

Section 1. **NEW SECTION. 421.48 Background checks.**

An applicant for employment with the department of revenue shall be subject to a national criminal history check through the federal bureau of investigation. A contractor, vendor, employee, or any other individual performing work for the department of revenue, shall be subject to a national criminal history check through the federal bureau of investigation at least once every ten years. The department of revenue shall request the national criminal history check and shall provide the individual's fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The individual shall authorize release of the results of the national criminal history check to the department of revenue. The department of revenue shall pay the actual cost of the fingerprinting and national criminal history check, if any. The results of a criminal history check conducted pursuant to [this section](#) shall not be considered a public record under [chapter 22](#).

Sec. 2. **NEW SECTION. 422.10A Geothermal tax credit.**

1. For purposes of [this section](#), unless the context otherwise requires:

a. "Qualified geothermal heat pump property" means any equipment that uses the ground or groundwater as a thermal energy source to heat the dwelling unit of the taxpayer or as a thermal energy sink to cool such dwelling unit, which equipment meets the requirements of the federal energy star program in effect at the time that the expenditure for such equipment is made.

b. "Qualified geothermal heat pump property expenditures" means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in Iowa and used as a residence by the taxpayer.

2. Except as provided in [subsection 6](#), the taxes imposed under [this division](#), less the credits allowed under [section 422.12](#), shall be reduced by a geothermal tax credit equal to ten percent of the qualified geothermal heat pump property expenditures made by the taxpayer during the tax year.

3. Qualified geothermal heat pump property expenditures shall be deemed to have been made on the date the installation is complete or, in the case of new construction or reconstruction, the date the original use of the structure by the taxpayer begins.

4. In the case of a taxpayer whose dwelling unit is part of a multiple housing cooperative organized under [chapter 499A](#) or a horizontal property regime under [chapter 499B](#), the taxpayer shall be treated as having made the taxpayer's proportionate share of any qualified geothermal heat pump property expenditures made by the cooperative or the regime.

5. Any credit in excess of the tax liability is not refundable but the excess for the tax year may be credited to the tax liability for the following ten years or until depleted, whichever is earlier.

6. The credit provided in [this section](#) shall not be available during any tax year in which the federal residential energy efficient property tax credit for geothermal heat pumps provided in section 25D(a)(5) of the Internal Revenue Code is available. Any amount of expenditures used to calculate the credit provided in section 25D(a)(5) of the Internal Revenue Code shall

not be considered qualified geothermal heat pump property expenditures for purposes of [this section](#).

Sec. 3. Section 422.11L, subsection 3, paragraph d, Code 2016, is amended to read as follows:

d. (1) A taxpayer must submit an application to the department for each separate and distinct solar installation. The application must be approved by the department in order to claim the tax credit. The application must be filed by May 1 following the year of the installation of the solar energy system.

(2) The department shall accept and approve applications on a first-come, first-served basis until the maximum amount of tax credits that may be claimed pursuant to [subsection 4](#) is reached. If for a tax year the aggregate amount of tax credits applied for exceeds the amount specified in [subsection 4](#), the department shall establish a wait list for tax credits. Valid applications filed by the taxpayer by May 1 following the year of the installation but not approved by the department shall be placed on a wait list in the order the applications were received and those applicants shall be given priority for having their applications approved in succeeding years. Placement on a wait list pursuant to this subparagraph shall not constitute a promise binding the state. The availability of a tax credit and approval of a tax credit application pursuant to [this section](#) in a future year is contingent upon the availability of tax credits in that particular year.

Sec. 4. Section 422.11L, Code 2016, is amended by adding the following new subsection:

NEW SUBSECTION. 6. For purposes of this section, “*Internal Revenue Code*” means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 2016.

Sec. 5. Section 422.12A, subsection 2, Code 2016, is amended to read as follows:

2. The taxes imposed under [this division](#), less the credits allowed under [section 422.12](#), shall be reduced by an adoption tax credit equal to the amount of qualified adoption expenses paid or incurred by the taxpayer during the tax year in connection with the adoption of a child by the taxpayer, not to exceed ~~two thousand five hundred~~ five thousand dollars per adoption.

Sec. 6. Section 423.3, subsection 80, Code 2016, is amended to read as follows:

80. a. For purposes of [this subsection](#), “*designated exempt entity*” means ~~an~~ any of the following:

(1) An entity which is designated in [section 423.4, subsection 1 or 6](#).

(2) An entity which is an instrumentality of a county or municipal government, including an agent of such entity, if the entity was created for the purpose of owning, including pursuant to a lease-purchase agreement, real property located within a reinvestment district established under [chapter 15J](#).

b. If Subject to the limitations in paragraph “c”, if a contractor, subcontractor, or builder is to use building materials, supplies, and equipment in the performance of a construction contract with a designated exempt entity, the person shall purchase such items of tangible personal property without liability for the tax if such property will be used in the performance of the construction contract and a purchasing agent authorization letter and an exemption certificate, issued by the designated exempt entity, are presented to the retailer.

c. (1) The With regard to a construction contract with a designated exempt entity described in paragraph “a”, subparagraph (1), the sales price of building materials, supplies, or equipment is exempt from tax by [this subsection](#) only to the extent the building materials, supplies, or equipment are completely consumed in the performance of the construction contract with the designated exempt entity.

(2) With regard to a construction contract with a designated exempt entity described in paragraph “a”, subparagraph (2), the sales price of building materials, supplies, or equipment is exempt from tax by [this subsection](#) only to the extent the building materials, supplies, or equipment are completely consumed in the performance of a construction contract to construct a project, as defined in [section 15J.2, subsection 10](#), which project has

been approved by the economic development authority board in accordance with [chapter 15J](#).

e. d. Where Subject to the limitations in paragraph “c”, where the owner, contractor, subcontractor, or builder is also a retailer holding a retail sales tax permit and transacting retail sales of building materials, supplies, and equipment, the tax shall not be due when materials are withdrawn from inventory for use in construction performed for a designated exempt entity if an exemption certificate is received from such entity.

d. e. Tax Subject to the limitations in paragraph “c”, tax shall not apply to tangible personal property purchased and consumed by a manufacturer as building materials, supplies, or equipment in the performance of a construction contract for a designated exempt entity, if a purchasing agent authorization letter and an exemption certificate are received from such entity and presented to a retailer.

Sec. 7. Section 429.2, subsection 2, paragraph c, Code 2016, is amended to read as follows:

c. The director of revenue shall consider all evidence and witnesses offered by the taxpayer and the department, including but not limited to evidence relating to the proper valuation of the property involved.

Sec. 8. Section 437A.15, subsection 7, paragraph b, Code 2016, is amended to read as follows:

b. The task force shall study the effects of the replacement taxes under [this chapter](#) and [chapter 437B](#) on local taxing authorities, local taxing districts, consumers, and taxpayers through January 1, ~~2016~~ 2019. If the task force recommends modifications to the replacement tax that will further the purposes of tax neutrality for local taxing authorities, local taxing districts, taxpayers, and consumers, consistent with the stated purposes of [this chapter](#), the department of management shall transmit those recommendations to the general assembly.

Sec. 9. Section 437B.11, subsection 7, Code 2016, is amended to read as follows:

7. The utility replacement tax task force created in [section 437A.15](#) shall study the effects of the replacement tax on local taxing authorities, local taxing districts, consumers, and taxpayers through January 1, ~~2016~~ 2019. If the task force recommends modifications to the replacement tax that will further the purposes of tax neutrality for local taxing authorities, local taxing districts, taxpayers, and consumers, consistent with the stated purposes of [this chapter](#), the department of management shall transmit those recommendations to the general assembly.

Sec. 10. Section 476C.1, subsection 6, paragraph d, Code 2016, is amended to read as follows:

d. Was initially placed into service on or after July 1, 2005, and before January 1, ~~2017~~ 2018.

Sec. 11. Section 476C.3, subsection 4, paragraph b, subparagraph (3), Code 2016, is amended to read as follows:

(3) (a) Of the maximum amount of energy production capacity equivalent of all other facilities found eligible under [this chapter](#), ten megawatts of nameplate generating capacity or energy production equivalent shall be reserved for solar energy conversion facilities with that meet all of the following requirements:

(i) The facility has a generating capacity of one and one-half megawatts or less.

(ii) The facility is owned, in whole or in part, directly or indirectly, or is contracted for, by utilities described in [section 476C.1, subsection 6](#), paragraph “b”, subparagraphs (4) and (5).

(iii) The facility is located in this state.

(iv) The facility meets the requirements of [section 476C.1, subsection 6](#), paragraphs “d” through “f”.

(b) A solar energy conversion facility that meets the requirements of and is found eligible under subparagraph division (a) shall be considered an “eligible renewable energy facility” for purposes of [this chapter](#), notwithstanding any contrary provisions of [section 476C.1, subsection 6](#).

Sec. 12. Section 476C.3, subsection 7, Code 2016, is amended to read as follows:

7. *a.* An owner meeting the requirements of [section 476C.1, subsection 6](#), paragraph “b”, shall not be an owner of more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than fifty-one percent in an eligible renewable energy facility shall not have an equity interest greater than ten percent in any other eligible renewable energy facility. This paragraph “a” shall not apply to facilities described in [section 476C.3, subsection 4](#), paragraph “b”, subparagraph (3).

*b.* An entity described in [section 476C.1, subsection 6](#), paragraph “b”, subparagraphs (4) or (5), shall not have an ownership interest in more than four facilities described in [section 476C.3, subsection 4](#), paragraph “b”, subparagraph (3).

Sec. 13. Section 476C.5, Code 2016, is amended to read as follows:

**476C.5 Certificate issuance period.**

A producer or purchaser of renewable energy shall receive renewable energy tax credit certificates for a ten-year period for each eligible renewable energy facility under [this chapter](#). The ten-year period for issuance of the tax credit certificates begins with the date the purchaser of renewable energy first purchases electricity, hydrogen fuel, methane gas or other biogas used to generate electricity, or heat for commercial purposes from the eligible renewable energy facility for which a tax credit is issued under [this chapter](#), or the date the producer of the renewable energy first uses the energy produced by the eligible renewable energy facility for on-site consumption. Renewable energy tax credit certificates shall not be issued for renewable energy purchased or produced for on-site consumption after December 31, ~~2026~~ 2027.

Sec. 14. SOLAR ENERGY SYSTEM TAX CREDIT APPLICATIONS. Notwithstanding the provision in [section 422.11L, subsection 3](#), paragraph “d”, which requires applications for the solar energy system tax credit to be filed by May 1 following the year of the installation, all of the following shall apply:

1. Applications for the solar energy system tax credit filed after May 1, 2015, for solar energy systems installed during the 2014 calendar year, shall be eligible for approval under [section 422.11L](#). Such applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2016.

2. Applications for the solar energy system tax credit filed after May 1, 2016, for solar energy systems installed during the 2015 calendar year, shall be eligible for approval under [section 422.11L](#). Such applications shall be accepted and approved on a first-come, first-served basis and shall first be eligible for approval for the tax year during which the application is received, but not before the tax year beginning January 1, 2017.

Sec. 15. EFFECTIVE UPON ENACTMENT. The section of this Act providing for the approval of solar energy tax credit applications filed after May 1 following the year of the installation for solar energy systems installed during the 2014 and 2015 calendar years, being deemed of immediate importance, takes effect upon enactment.

Sec. 16. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act enacting [section 421.48](#).
2. The section of this Act amending [section 423.3, subsection 80](#).
3. The section of this Act amending [section 429.2](#).
4. The section of this Act amending [section 437A.15](#).
5. The section of this Act amending [section 437B.11](#).
6. The section of this Act amending [section 476C.1](#).
7. The sections of this Act amending [section 476C.3](#).
8. The section of this Act amending [section 476C.5](#).

Sec. 17. EFFECTIVE DATE. The following provision or provisions of this Act take effect January 1, 2017:

1. The section of this Act enacting [section 422.10A](#).

2. The section of this Act amending section 422.12A.

Sec. 18. RETROACTIVE APPLICABILITY. The following provision or provisions of this Act apply retroactively to January 1, 2015, for construction contracts entered into on or after that date:

1. The section of this Act amending section 423.3, subsection 80.

Sec. 19. RETROACTIVE APPLICABILITY. The following provision or provisions of this Act apply retroactively to January 1, 2016:

1. The section of this Act amending section 437A.15.

2. The section of this Act amending section 437B.11.

Sec. 20. RETROACTIVE APPLICABILITY. The following provision or provisions of this Act apply retroactively to January 1, 2015, for tax years beginning on or after that date:

1. The section of this Act enacting section 422.11L, subsection 6.

Sec. 21. RETROACTIVE APPLICABILITY. The following provision or provisions of this Act apply retroactively to January 1, 2016, for tax years beginning on or after that date:

1. The section of this Act amending section 476C.1.

2. The section of this Act amending section 476C.5.

Sec. 22. RETROACTIVE APPLICABILITY. The following provision or provisions of this Act apply retroactively to January 1, 2015, for tax years beginning on or after that date:

1. The sections of this Act amending section 476C.3.

Sec. 23. RETROACTIVE APPLICABILITY. The following provision or provisions of this Act apply retroactively to applications for the renewable energy tax credit made on or after June 26, 2015:

1. The sections of this Act amending section 476C.3.

Sec. 24. RETROACTIVE APPLICABILITY. The following provision or provisions of this Act apply retroactively to May 22, 2015:

1. The section of this Act amending section 429.2.

Sec. 25. APPLICABILITY. The section of this Act enacting section 422.10A applies to qualified geothermal heat pump property expenditures incurred on or after January 1, 2017.

Sec. 26. APPLICABILITY. The following provision or provisions of this Act apply to tax years beginning on or after January 1, 2017:

1. The section of this Act amending section 422.12A.

Sec. 27. APPLICABILITY. The section of this Act amending section 423.3, subsection 80, applies to purchases made on or after the effective date of the section of this Act amending section 423.3, subsection 80.

Approved May 27, 2016