

IOWA **Department of REVENUE**

2009

LEGISLATIVE SUMMARIES

EMPHASIZING TAX AND FINANCE ISSUES

July 2009

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**SOCIAL SECURITY NUMBERS AND FEDERAL TAX
IDENTIFICATION NUMBERS ON DECLARATION OF VALUE
FORMS ARE CONFIDENTIAL**

Prior Law

The Department of Revenue is responsible for designing a declaration of value form to be used in real estate transfers.

New Provisions

Social security numbers and federal tax identification numbers on declaration of value forms are confidential and cannot be obtained by public inspection. The Department of Revenue is responsible for keeping the social security numbers and federal tax identification numbers confidential.

Section Amended

Section 1 of House File 477 amends section 428A.7, Code 2009.

Effective Date

July 1, 2009

SMALL WIND INNOVATION ZONE ELIGIBILITY FOR RENEWABLE ENERGY TAX CREDITS

Prior Law

A renewable energy tax credit is available for individual income, corporation income, franchise, insurance premium tax, sales/use tax, and utility replacement tax. A renewable energy facility includes wind energy conversion facilities, and the facility must be approved by the Iowa Utilities Board (IUB) to be eligible for the tax credit. The tax credit for wind energy conversion facilities equals one and one-half cents per kilowatt-hour of electricity. Tax credit certificates are issued by the Department of Revenue for the renewable energy tax credit.

New Provisions

House File 810 provides that small wind energy systems operating in a small wind innovation zone will be eligible for the renewable energy tax credit of one and one-half cents per kilowatt-hour of electricity. The small wind energy system must have a nameplate generating capacity of 100 kilowatts or less.

A political subdivision of the state of Iowa, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association or tribal council, can seek approval from the IUB to set up a small wind innovation zone.

The Department of Revenue will continue to issue tax credit certificates for the renewable energy tax credits related to small wind energy systems operating in a small wind innovation zone.

Section Amended

Section 1 of House File 810 creates new section 476.48, Code 2009.

Effective Date

Retroactive to January 1, 2009, for tax years beginning or after that date.

RESEARCH ACTIVITIES TAX CREDIT FOR INNOVATIVE RENEWABLE ENERGY GENERATION COMPONENTS

Prior Law

For eligible business approved by the Department of Economic Development under the High Quality Jobs Program or the Enterprise Zone Program, the Iowa research activities tax credit could include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa. These expenses were not eligible for the federal credit for increasing research activities. These innovative renewable energy components do not include more than 200 megawatts of installed effective nameplate capacity. The Iowa research activities credit for innovative renewable energy components was limited to \$1 million in the aggregate, and the \$1 million had already been claimed.

New Provisions

House File 817 provides for an additional \$1 million in the aggregate for the Iowa research activities credit for innovative renewable energy components. The \$1 million was appropriated for the fiscal year beginning July 1, 2009, from the Grow Iowa Values Fund to the General Fund to fund this additional credit.

In addition, Senate File 471 provides that notwithstanding this \$1 million limitation, an additional \$1 million is available from the Iowa power fund for the fiscal year beginning July 1, 2009, and July 1, 2010, to fund an additional \$2 million for the Iowa research activities credit for innovative renewable energy components.

Sections Amended

Section 1 of House File 817 amends section 15.335, subsection 1, unnumbered paragraph 1, Code 2009. Section 2 which provides for the transfer of funds from the Grow Iowa Values Fund is uncodified. Section 22 of Senate File 471 amends section 469.10, Code 2009, by adding new subsection 4A.

Effective Date

April 23, 2009, for projects approved on or after that date.

PROPERTY TAX ABATEMENT OR REFUND FOR RELIGIOUS, LITERARY, AND CHARITABLE SOCIETIES

Prior Law

Religious, literary, and charitable societies were required to file a claim for property tax exemption by February 1, 2006, to receive the exemption against taxes payable in the fiscal year beginning July 1, 2007, and to file a claim for property tax exemption by February 1, 2007, to receive the exemption against taxes payable in the fiscal year beginning July 1, 2008.

New Provisions

Senate File 43 permits religious, literary, and charitable societies that acquired property by gift or purchase but failed to file a timely claim for property tax exemption by the February 1 deadline to file a claim for exemption with the county board of supervisors by August 1, 2009, to receive a refund or abatement of taxes payable in the fiscal years beginning July 1, 2007, and July 1, 2008. The legislation applies only to a county with a population of more than 21,000 but not more than 21,300.

Sections Amended

Senate File 43 will not be codified.

Effective Date

April 15, 2009. The legislation applies retroactively to property taxes payable in the fiscal years beginning July 1, 2007, and July 1, 2008.

09 SF 43

SPECIAL DISASTER RELATED LOCAL OPTION SALES TAX

Prior Law

A county can implement a Local Option Sales Tax after an election to be held according to Iowa Code section 39.2. Contiguous cities are considered one jurisdiction for the purposes of the vote. The tax may be imposed only on January 1 or July 1. Twenty-five percent of the revenue distribution amount is based upon the county's assessed property values for the 3-year period from July 1, 1982, to June 30, 1985.

New Provisions

A city or unincorporated area that does not currently have a Local Option Sales Tax and that was in a county declared a disaster area during 2008 may impose a Local Option Sales Tax after an election to be held either March 3, 2009, or May 5, 2009. Contiguous cities taking advantage of this opportunity will not be considered one jurisdiction for purposes of approving or imposing the tax. The tax will be imposed either on April 1, 2009, or July 1, 2009. Twenty-five percent of the revenue distribution amount is based upon the city or unincorporated area's assessed property values for the 3-year period from July 1, 2004, to June 30, 2007.

Section(s) Amended

Senate File 44 will not be codified.

Effective Date

February 2, 2009

09 SF 44

CORPORATE TAX CREDIT FOR CERTAIN SALES TAX PAID BY THIRD-PARTY DEVELOPER

Prior Law

Eligible businesses approved under the High Quality Jobs Program may claim a corporate tax credit equal to the sales and use taxes paid by a third-party developer relating to gas, electricity, water, or sewer utility services; goods, wares, or merchandise; or on services rendered or furnished to, or performed for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the eligible business. Sales tax attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution facility can also be included.

Upon project completion, the third-party developer provided documentation to the Department of Economic Development regarding the amount of sales tax paid. The sales tax paid on racks, shelving, and conveyor equipment was also documented and identified separately. The Department of Economic Development issued tax credit certificates to the eligible business for the sales tax paid, with a separate certificate being issued for the sales tax attributable to racks, shelving, and conveyor equipment.

Reporting forms and credit certificates were provided by and submitted to the Department of Economic Development.

New Provisions

Senate File 142 provides that the third-party developer must provide documentation to the Department of Revenue for the sales tax paid, including documentation for the sales tax on racks, shelving, and conveyor equipment. In addition, the Department of Revenue will now issue the tax credit certificates to the eligible business for the sales tax paid. The Department of Revenue will now issue the separate tax credit certificate for the sales tax attributable to racks, shelving, and conveyor equipment.

All references to the Department of Economic Development have been changed to reference the Department of Revenue.

Section Amended

Section 4 of Senate File 142 amends section 15.331C, subsection 2, Code 2009.

Effective Date

July 1, 2009

09 SF 142

EXTENSION OF TIME FOR CERTAIN MILITARY PERSONNEL TO FILE IOWA INCOME TAX RETURNS

Prior Law

Individuals in the armed forces of the United States serving in areas designated as combat zones or hazardous duty areas, or deployed outside the United States away from the individual's permanent duty station in a contingency operation designated by the United States Secretary of Defense, are allowed additional time to file Iowa income tax returns or to perform other acts related to the Department of Revenue. These other acts include filing claims for refunds, making tax payments other than withholding payments, filing appeals on tax matters, and filing returns for taxes other than income tax. These individuals have 180 days after the leaving the combat zone or hazardous duty area or ceasing to perform in a contingency operation to file Iowa income tax returns and perform other acts related to the Department.

New Provisions

Senate File 253 allows additional military personnel to be granted the additional 180 days to file returns and perform other acts related to the Department of Revenue. Individuals on active duty federal military service in the armed forces, armed forces military reserve, or National Guard who are deployed outside the United States in other than a combat zone, qualified hazardous duty area, or contingency operation will now be granted the additional 180-day time period.

Section Amended

Section 1 of Senate File 253 amends section 422.21, unnumbered paragraph 2, Code 2009.

Effective Date

Retroactive to January 1, 2008, for tax years beginning on or after that date.

TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM

Prior Law

A targeted jobs withholding tax credit program is available to employers who enter into an agreement with pilot project cities approved by the Department of Economic Development. The current pilot project cities are Sioux City, Council Bluffs, Burlington, Keokuk, and Fort Madison. These pilot project cities enter into a withholding agreement with an employer who either creates at least 10 new jobs, each paying a wage at least equal to the average county wage, or who makes a qualifying investment of at least \$500,000 within an urban renewal area in the city.

The withholding credit is equal to 3% of the gross wages paid by the employer to each employee covered under the withholding agreement. The employees covered under the agreement can include new jobs created or retained jobs. A pilot project city cannot enter into a withholding agreement with an employer after June 30, 2010. The pilot project city must certify to the Department of Revenue the amount of withholding credit an employer has remitted to the city.

New Provisions

Senate File 304 requires that the withholding agreement must specify the total amount of withholding tax credits awarded, and that the amount of withholding credits cannot exceed the amount of the qualifying investment in the project.

In addition, the time period for a pilot project city to enter into a withholding agreement with an employer has been extended until June 30, 2013. The pilot project cities must submit an annual report to the Department of Economic Development detailing the amount of payments and receipts under the withholding agreement. The Department of Economic Development has the authority to approve or deny a withholding agreement if the agreement fails to meet the statutory requirements of the program.

Section Amended

Section 1 of Senate File 304 amends section 403.19A, subsection 3, paragraph c, Code 2009.

Effective Date

July 1, 2009

09 SF 304

INSTRUCTIONAL SUPPORT INCOME SURTAX

Prior Law

Section 257.22, Code 2009 did not include sections 422.4 or 422.70 in the list of sections applicable to the administration of this surtax.

New Provisions

Senate File 322 adds sections 422.4 and 422.70 to the list of sections applicable to the administration of the instructional support income surtax.

Section Amended

Section 1 of Senate File 322 amends section 257.22, Code 2009.

Effective Date

July 1, 2009

CHANGES TO ONE-TIME REGISTRATION FEE FOR MOTOR VEHICLES

Prior Law

The Director of Revenue was required to work with the Department of Transportation to provide appropriate forms for reporting the one-time fee for new motor vehicle registration. In addition, the Director was required to create a receipt for licensed vehicle dealers to give to vehicle purchasers.

New Provisions

The Director of Revenue is no longer required to develop forms to be used for the administration of the one-time fee for new motor vehicle registration.

Sections Amended

Section 2 of Senate File 322 amends section 321.105A, subsection 4, paragraph a, Code 2009. Section 3 amends section 321.105A, subsection 5, paragraph a, Code 2009.

Effective Date

July 1, 2009

MARRIED PERSONS FILING SEPARATE RETURNS

Prior Law

The federal 1040 income tax instructions state that married persons filing separate returns may not take the standard deduction if their spouses itemize deductions. Iowa Code section 422.9, subsection 4 indicates that when married persons file separately, both must use the optional standard deduction if either elects to use it. Although these two phrases have the same meaning, some taxpayers were confused by the difference in terminology.

New Provisions

Senate File 322 amends the Iowa Code to be consistent with the federal 1040 instructions and the Internal Revenue Code by adding the phrase, "...and both must claim itemized deductions if either elects to claim itemized deductions."

Section Amended

Section 4 of Senate File 322 amends section 422.9, subsection 4, Code 2009.

Effective Date

Retroactive to January 1, 2009, for tax years beginning on or after that date.

09 SF 322-C

CHECKOFF LANGUAGE CONSISTENCY

Prior Law

Currently, Iowa Code section 422.12K refers to “liabilities on the books of the department of revenue.”

New Provisions

The “department of revenue” has been changed to the “department of administrative services” to reflect the actual practice.

Section Amended

Section 5 of Senate File 322 amends section 422.12K, subsection 2, Code 2009.

Effective Date

July 1, 2009

DEFINITION OF COMMERCIAL DOMICILE

Prior Law

Section 422.32, subsection 3, Code 2009 used to read: “Commercial domicile” means the principal place from which the trade of business of the taxpayer is directed or managed.

New Provisions

Senate File 322 corrects a typographical error so that “trade of business” now reads “trade or business” as is used throughout the code.

Section(s) Amended

Section 6 of Senate File 322 amends section 422.32, subsection 3, Code 2009.

Effective Date

July 1, 2009

RACETRACK TAX REBATE LIMITATION

Prior Law

The owner or operator of an automobile raceway facility could apply for a rebate of all state sales tax imposed and collected by retailers selling tangible personal property and taxable services within the facility.

New Provisions

Senate File 322 clarifies that the rebate is limited to 5% of the sales price of the property and services regardless of the sales tax rate imposed by § 423.2 of the Code.

Section Amended

Section 7 of Senate File 322 amends subsection 423.4(5), paragraphs b and f, Code 2009.

Effective Date

July 1, 2009

VALUATION AND CERTIFICATION OF UTILITY PROPERTY

Prior Law

The Director of Revenue was required to complete the valuation of utility properties by the second Monday in July and certify the valuations to the county auditor by the third Monday in August.

New Provisions

The Director is now required to complete the valuation of utility properties and certify the valuations to county auditors by October 31 each year. This extension will not have an adverse impact on either the companies or local governments.

Sections Amended

Section 8 of Senate File 322 amends section 428.29; section 9 amends section 433.4; section 10 amends section 433.7; section 11 amends section 434.2, unnumbered paragraph 1; section 12 amends section 434.17; section 13 amends section 437.6; section 14 amends section 437A.19, subsection 2, paragraph f, unnumbered paragraph 3, and section 15 amends section 438.14. All amendments are to the 2009 Code.

Effective Date

July 1, 2009

RENAMING CHAPTER 423 OF THE CODE

Prior Law

The official title of chapter 423 of the Code was “Sales and Use Taxes,” although it was more commonly known as the “Streamlined Sales and Use Tax Act.”

New Provisions

The title is changed to “Streamlined Sales and Use Tax Act” to reflect the common name.

Section Amended

Section 16 of Senate File 322 amends the title of chapter 423, Code 2009.

Effective Date

July 1, 2009

HIGH QUALITY JOBS PROGRAM

Prior Law

Businesses approved by the Department of Economic Development under the High Quality Jobs Creation Program (HQJC) were eligible for various tax incentives. To be eligible for the HQJC, a business had to create new jobs and could not be a retail or service business.

Under the program, eligible businesses were entitled to an investment tax credit of 1% to 5% of their new investment (depending on the number of new jobs created) if the new jobs had annual wages and benefits of at least 130% to 159% of the average county wage. Eligible businesses were entitled to an investment tax credit of 6% to 10% of their new investment (depending on the number of new jobs created) if the new jobs had annual wages and benefits of at least 160% of the average county wage. Additional tax incentives included a supplemental research activities credit, a refund of sales tax paid to contractors or subcontractors during the construction phase of the project, and a local property tax exemption.

New Provisions

Senate File 344 changes both the eligibility requirements and the tax incentives available for this program. Because businesses retaining created jobs are also now eligible for tax incentives, the name of the program has been changed to the High Quality Jobs Program. The average county wage component has been changed to a qualifying wage threshold, and businesses providing a sufficient benefits package will qualify for a credit against the qualifying wage threshold. Businesses creating jobs only need to pay 100% of the qualifying wage threshold at the start of the project completion period, but must pay 130% of the qualifying wage threshold by the project completion date. Businesses retaining jobs must pay 130% of the qualifying wage threshold from the start of the project completion period. Retail businesses or businesses where entrance is limited by a cover charge or membership requirement cannot qualify for the tax incentives.

The tax incentives for the High Quality Jobs Program are as follows:

Number of new or retained jobs is zero

- Investment less than \$100,000 – 1% Investment tax credit
- Investment of \$100,000 – \$499,999 – 1% Investment tax credit and sales tax refund
- Investment of \$500,000 or more – 1% Investment tax credit, sales tax refund, and additional R & D credit

Number of new or retained jobs is 1-5

- Investment less than \$100,000 – 2% Investment tax credit
- Investment of \$100,000 – \$499,999 – 2% Investment tax credit and sales tax refund
- Investment of \$500,000 or more – 2% Investment tax credit, sales tax refund, and additional R & D credit

Number of new or retained jobs is 6-10

- Investment less than \$100,000 – 3% Investment tax credit
- Investment of \$100,000 – \$499,999 – 3% Investment tax credit and sales tax refund
- Investment of \$500,000 or more – 3% Investment tax credit, sales tax refund, and additional R & D credit

Number of new or retained jobs is 11-15

- Investment less than \$100,000 – 4% Investment tax credit
- Investment of \$100,000 – \$499,999 – 4% Investment tax credit and sales tax refund
- Investment of \$500,000 or more – 4% Investment tax credit, sales tax refund, and additional R & D credit

Number of new or retained jobs is 16-30

- Investment less than \$100,000 – 5% Investment tax credit
- Investment of \$100,000 – \$499,999 – 5% Investment tax credit and sales tax refund
- Investment of \$500,000 or more – 5% Investment tax credit, sales tax refund, and additional R & D credit

Number of new or retained jobs is 31-40, and the investment is \$10 million or more

- 6% Investment tax credit, sales tax refund, additional R & D credit, and local property tax exemption

Number of new or retained jobs is 41-60, and the investment is \$10 million or more

- 7% Investment tax credit, sales tax refund, additional R & D credit, and local property tax exemption

Number of new or retained jobs is 61-80, and the investment is \$10 million or more

- 8% Investment tax credit, sales tax refund, additional R & D credit, and local property tax exemption

Number of new or retained jobs is 81-100, and the investment is \$10 million or more

- 9% Investment tax credit, sales tax refund, additional R & D credit, and local property tax exemption

Number of new or retained jobs is 101 or more, and the investment is \$10 million or more

- 10% Investment tax credit, sales tax refund, additional R & D credit, and local property tax exemption

Sections Amended

Section 10 of Senate File 344 amends section 15.326. Section 11 amends section 15.327. Section 12 amends section 15.329, subsections 1, 2, and 5. Section 13 amends section 15.330, subsection 4. Section 14 amends section 15.331A, subsection 2. Section 15 amends section 15.333, subsection 1, unnumbered paragraph 1. Section 16 amends section 15.335A. All amendments are to Code 2009.

Effective Date

July 1, 2009

ENTERPRISE ZONE PROGRAM

Prior Law

Businesses that were approved by the Department of Economic Development under the Enterprise Zone Program were eligible for various tax incentives. The tax incentives included a 10% investment tax credit for new investment related to the location or expansion of an eligible business creating new jobs, a supplemental research activities credit, and a refund of sales tax paid to contractors or subcontractors during the construction phase of the project.

One eligibility requirement for the Enterprise Zone Program was that the business must create at least 10 new jobs

New Provisions

Senate File 344 provides that the business must either create or retain 10 jobs to be eligible for tax incentives under the Enterprise Zone Program.

Section Amended

Section 17 of Senate File 344 amends section 15E.193, subsections 1 and 2, Code 2009.

Effective Date

July 1, 2009

APPROPRIATION BONDS EXEMPT FROM STATE INCOME TAX

Prior Law

None

New Provisions

Senate File 376 authorizes Iowa's State Treasurer to issue and sell bonds on behalf of the state to provide funds for infrastructure projects, capital projects which qualify as vertical infrastructure projects, the Iowa Jobs Program, watershed flood rebuilding and prevention projects, soil conservation projects, sewer infrastructure projects, housing and public service shelter projects, public broadband and alternative energy projects, and projects relating to bridge safety and rehabilitation of deficient bridges.

The bonds will be payable out of the revenue bonds debt service fund and any bond reserve fund, and no taxing power shall be used to issue the bonds. In addition, the bonds will be declared to be limited special obligations of the state and will not constitute debt or indebtedness of the state.

Any bonds issued and sold under the section, except as otherwise provided in any trust indentures, resolutions, or other instruments authorizing their issuance, are exempt from the state income tax. In addition, the interest on the bonds is exempt from the state income tax and the state inheritance tax. Finally, Senate File 376 provides that payment of moneys appropriated from the revenue bond debt service fund shall not be made in a way that adversely affects the tax-exempt status of any outstanding bonds issued by the treasurer.

Section Amended

Section 1 of Senate File 376 creates new Code section 12.87.

Effective Date

April 26, 2009

VALUE OF HEALTH INSURANCE FOR NONQUALIFIED DEPENDENT NOT SUBJECT TO TAX

Prior Law

The IRS does not consider dependent children who are age 19 through 25, unmarried, and not full-time students or domestic partners to be “dependents” for federal tax purposes. So while they may qualify for health insurance under a taxpayer’s health insurance plan, a tax is imposed upon the fair market value of the coverage. The fair market value differs based upon the number of non-qualified tax dependents enrolled on the insurance plan. The excess value of the non-qualified dependent’s coverage was included as part of the taxpayer’s gross income and subject to federal and state withholding and FICA, as well as being reported on the taxpayer’s form W-2.

New Provisions

The amount of Iowa taxpayers’ health benefits or insurance coverage attributable to nonqualified tax dependents is not subject to state income tax.

Section Amended

Section 6 of Senate File 389 amends section 422.7, Code 2009, by adding new subsection 29A.

Effective Date

Retroactive to January 1, 2009, for tax years beginning on or after that date.

MANDATORY INDICATION OF DEPENDENT HEALTH CARE

Prior Law

Beginning in tax year 2008, the Iowa income tax form allowed a person who filed under section 422.13 to indicate the presence or absence of dependent health care coverage for those dependents for which exemptions were claimed. If the taxpayer indicated that a dependent did not have health care coverage and their income level was appropriate, the Department would send notice to the taxpayer indicating that the dependent may be eligible for certain health care programs, along with relevant information. There was no penalty for a taxpayer who did not provide the above information.

New Provisions

Section 15 of Senate File 389 requires the Department to put a mandatory indication of dependent health care on Iowa income tax forms starting with tax year 2010. Taxpayers are required to indicate whether dependents have health care coverage. When a dependent has no coverage, the Department is required to provide information to the taxpayer regarding an appropriate health care coverage program. The taxpayer is then required to submit an application to that program within 90 days of receiving the information. The Department will be required to report to the General Assembly and the Governor the results of this requirement on an annual basis.

Section Amended

Section 15 of Senate File 389 amends section 422.12M, subsections 1 through 4, Code 2009.

Effective Date

Effective on income tax forms for tax year 2010.

09 SF 389-B

AVIATION FUEL EXCLUDED FROM MOTOR FUEL TAX METHOD OF CALCULATION

Prior Law

The excise tax on ethanol blended gasoline and regular gasoline is based on the total percentage of each type of fuel distributed in the state. Aviation gasoline was included in the calculation of total gallons.

New Provisions

Aviation gasoline is now excluded from the calculation to determine the tax rate for the next fiscal year.

Section Amended

Section 44 of Senate File 419 amends section 452A.3, subsection 1, paragraph a, Code 2009.

Effective Date

July 1, 2009

WIND ENERGY PRODUCTION & RENEWABLE ENERGY TAX CREDIT

Prior Law

Wind energy production projects and renewable energy projects approved by the Iowa Utilities Board (IUB) are eligible for tax credits. The wind energy production tax credit equals \$0.01 multiplied by the number of kilowatt-hours of qualified electricity sold or used for on-site consumption. The renewable energy tax credit equals \$0.015 multiplied by the number of kilowatt-hours of qualified electricity generated for the projects.

The maximum amount of nameplate generating capacity for the wind energy production tax credit was 450 megawatts of capacity, and the maximum amount of nameplate generating capacity for the renewable energy tax credits for wind projects was 180 megawatts. For applications filed after March 1, 2008, a single wind energy production tax credit project had to have a combined nameplate capacity of no less than two megawatts.

Renewable energy wind conversion facilities that were not operational within 18 months after the IUB's approval date due to the unavailability of necessary equipment could be granted a 12-month extension to become operational.

New Provisions

Senate File 456 reduces the aggregate amount of nameplate generating capacity for the wind energy production tax credit to 150 megawatts. The amount of nameplate generating capacity for renewable energy tax credit projects is increased to 330 megawatts.

For applications filed on or after March 1, 2008, a single wind energy production tax credit project must have a combined nameplate capacity of no less than two megawatts and no more than 30 megawatts. In addition, for applications filed on or after July 1, 2009, Iowa colleges, schools, and public hospitals will be eligible for the wind energy production tax credit for qualified electricity generated for their own use as long as the combined nameplate capacity is $\frac{3}{4}$ of a megawatt or greater.

Renewable energy wind conversion facilities that are not operational within 18 months after the IUB's approval date due to the unavailability of necessary equipment can now be granted a 24-month extension to become operational.

Sections Amended

Section 1 of Senate File 456 amends section 476B.1, subsection 4, paragraph d. Section 3 amends section 476B.5, subsection 4. Section 5 amends section 476C.3, subsection 3. Section 6 amends section 476C.3, subsection 4. All amendments apply to the 2009 Code.

Effective Date

The provision regarding a single wind energy production tax credit project having no more than 30 megawatts takes effect April 23, 2009, and applies retroactively to January 1, 2008, for tax years beginning on or after that date. All other provisions take effect July 1, 2009.

09 SF 456-A

WIND ENERGY PRODUCTION TAX CREDIT / SPECIAL VALUATION PROPERTY

Prior Law

In order for a qualified facility to receive the wind energy production tax credit, the owner was required to obtain approval from the county board of supervisors prior to applying for the credit. Wind energy conversion property that had received the special property valuation pursuant to Iowa Code section 427B.26 was not eligible for the production tax credit.

New Provisions

An eligible facility may now receive both the special property valuation and the wind energy production tax credit without the approval of the city council or county board of supervisors if the city or county has enacted an ordinance under section 427B.26. If the city or county has not enacted an ordinance, the owner must receive approval of the applicable city council or county board of supervisors of the city or county in which the qualified facility is located to receive the production tax credit.

Sections Amended

Section 2 of Senate File 456 amends section 476B.4 and section 4 amends section 476B.6, subsection 1. Both amendments are to the 2009 Code.

Effective Date

April 23, 2009. The legislation applies retroactively to January 1, 2008, for tax years beginning on or after that date.

SALES TAX REFUNDS FOR WIND ENERGY PRODUCTION TAX CREDIT APPLICANTS

Prior Law

Tax credits are available for wind energy production facilities approved by the Iowa Utilities Board. The wind energy production tax credit equals \$0.01 multiplied by the number of kilowatt-hours of qualified electricity sold or used for on-site consumption.

Facilities qualifying for the wind energy production tax credit are not eligible for the sales tax exemption for wind energy conversion property provided in Iowa Code section 423.3, subsection 54.

New Provisions

Senate File 456 allows facilities eligible for the wind energy production tax credit to also receive the sales tax exemption for wind energy conversion property. This provision is made retroactive to January 1, 2008, and requires that a claim for refund of sales tax paid by these facilities must be filed with the Department of Revenue prior to October 1, 2009. The refund amount cannot exceed \$100,000 per facility. Claims exceeding \$100,000 will be prorated based upon all valid claims. No interest will be paid on these sales tax refunds.

Section Amended

Section 2 of Senate File 456 amends section 476B.4, Code 2009. Section 7 which provides for the amount of sales tax refunds is uncodified.

Effective Date

Retroactive to January 1, 2008, for tax years beginning on or after that date.

DISASTER REVITALIZATION AREA PROPERTY TAX EXEMPTION

Prior Law

None.

New Provisions

Senate File 457 creates new chapter 404B which allows the governing bodies of a city or county to, by ordinance, designate an area of the city or county a “disaster revitalization area.” To qualify for the designation the area must be within a county or a portion of a county for which the governor has proclaimed a disaster emergency or that the United States president has declared a major disaster.

All real property within a disaster revitalization area is eligible to receive a 100% exemption from taxation on the increase in assessed value of the property, as compared to the property's assessed value on January 1, 2007, if the increase in assessed value is attributable to revitalization of the property occurring between May 25, 2008, and December 31, 2013. The exemption shall not exceed five years, starting with an assessment year beginning on or after January 1, 2010. A city or county may adopt a tax exemption percentage less than the 100% but not greater than 100%. The owners of real property eligible for the exemption can take the disaster revitalization exemption or they may take another exemption for which they are eligible, but not both. Once they have decided upon an exemption and it has been granted, the property owners cannot decide to take a different exemption.

Property owners must file an application for each revitalization project resulting in increased assessed value for which an exemption is claimed. The application for exemption must be filed with the local assessor by February 1 of the first assessment year for which the exemption is requested. The local assessor shall perform a physical review of the property listed on each application to determine if the revitalization project has increased the assessed value of the property. The assessor shall notify the applicant of the determination, and the assessor's decision may be appealed to the local board of review at the times specified in section 441.37. After the tax exemption is granted, the local assessor shall continue to grant the tax exemption for succeeding years without the taxpayer having to file an application for the succeeding years, unless additional revitalization projects occur on the property. The ordinance shall expire or be repealed no later than December 31, 2016.

Sections Amended

Section 23 of Senate File 457 adds new section 404B.1; section 24 adds new section 404B.2; section 25 adds new section 404B.3; section 26 adds new section 404B.4; section 27 adds new section 404B.5; section 28 adds new section 404B.6; and section 29 adds new section 404B.7, all Code 2009.

Effective Date

May 12, 2009

9 SF 457-A

DISASTER RECOVERY HOUSING PROJECT INVESTMENT TAX CREDIT

Prior Law

None

New Provisions

Senate File 457 provides for a tax credit for individual and corporation income tax for a portion of a taxpayer's investment in a qualifying disaster recovery housing project. The credit will be administered by the Iowa Finance Authority (IFA).

To qualify for the tax credit, the property must be owned by the taxpayer and must be located in an area that the governor of Iowa proclaimed a disaster emergency or the president of the United States declared a major disaster during the period from May 1, 2008, through August 31, 2008. The project must also involve the construction or rehabilitation of housing on the property. The property must also meet the criteria for low-income housing tax credits under section 42 of the Internal Revenue Code.

The tax credit equals 75% of the taxpayer's qualifying investment in the disaster recovery housing project. The qualifying investment includes the costs incurred relating to the disaster recovery housing project incurred on or after May 12, 2009, and before July 1, 2010. The amount of the tax credit is divided by five and applied equally to the taxpayer's tax liability for five consecutive years starting with the 2011 calendar year. Any credit in excess of the tax liability is not refundable and there is no carryforward of any unused credit.

The maximum amount of tax credits that can be issued by IFA cannot exceed \$3 million in each of the five years. IFA will issue the certificates on a first-come, first-serve basis.

The taxpayer seeking eligibility for the tax credit must apply to IFA. After verifying eligibility, IFA will issue tax credit certificates to the taxpayer. The tax credit certificate will include the taxpayer's name, address, tax identification number, amount of credit, and any other information required by the Department of Revenue. The tax credit certificate must be attached to the taxpayer's tax return. The tax credits are not transferable.

An individual may claim the tax credit if it is earned by a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based on the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

Any increase in the basis of the property for individual and corporation income tax that would otherwise result from the disaster recovery housing investment shall be reduced by the amount of tax credit allowed.

Sections Amended

Section 31 of Senate File 457 creates new section 16.191. Section 32 creates new section 16.192. Section 33 creates new section 422.11X. Section 34 amends section 422.33 by adding new subsection 27. All amendments apply to the 2009 Code.

Effective Date

May 12, 2009, and applies to disaster recovery housing project costs incurred on or after May 12, 2009, and before July 1, 2010.

SCHOOL TUITION ORGANIZATION TAX CREDIT

Prior Law

A school tuition organization tax credit is available for individual income tax equal to 65% of the amount of a voluntary cash or non-cash contribution made by a taxpayer to a school tuition organization. The school tuition organization must represent more than one school, and 90% of the revenues received by the organization must be used to provide tuition grants to allow children to attend a qualified school of their parents' choice.

By December 1, 2008, the Department of Revenue authorizes school tuition organizations to issue tax credit certificates for the following tax year by notifying each organization of the amount of tax credit that can be issued for the following tax year.

The total amount of tax credits authorized is \$7.5 million for 2008 and subsequent tax years.

New Provisions

Senate File 470 provides that the school tuition organization tax credit is also available for corporation income tax. The maximum amount of school tuition organization tax credits available for corporation income tax equals 25% of the tax credits allocated to each school tuition organization.

Section Amended

Section 44 of Senate File 470 amends section 422.33, Code 2009, by adding new subsection 27.

Effective Date

July 1, 2009

09 SF 470

PROPERTY TAX CREDIT & RENT REIMBURSEMENT FUNDING

Prior Law

Section 425.1(1) provides an annual unlimited appropriation for reimbursements to counties for homestead tax credits allowed to qualified homeowners.

Section 426.1 provides a limited annual appropriation of \$39,100,000 for reimbursements to counties for agricultural land tax credits allowed for eligible land. The first \$10,000,000 is to be transferred to the family farm tax credit fund pursuant to section 425A.1 for reimbursements to counties for credits allowed to eligible family farmers.

Section 426A.1A provides an annual unlimited appropriation for reimbursements to counties for the State's portion of military service tax credits allowed to qualified military veterans.

Section 425.39 provides an annual unlimited appropriation for reimbursements to counties for tax credits allowed to elderly and disabled homeowners and for reimbursements by the Department to elderly and disabled renters.

New Provisions

The appropriations made to these funds for the 2009-2010 fiscal year are:

- Homestead credit \$100,658,781
- Ag. land & family farm credit \$34,610,183
- Military credit \$2,400,000
- Elderly & disabled credit/reimbursement \$22,200,000

If the appropriation for the homestead, military, or elderly/disabled credit is insufficient to fully fund the program, section 25B.7 requires the political subdivision to grant the taxpayer only the portion of the credit the Department estimates will be funded. The Department estimates that the homestead credit will be 73% funded, the military credit 100%, and the elderly/disabled tax credit 100%. The Department will pay rent reimbursements at the same percentage as the elderly/disabled property tax credit percentage.

Section Amended

Section 9 of Senate File 478 lists the amount appropriated for each program.

Effective Date

May 26, 2009.

09 SF 478-A

UPDATE OF REFERENCES TO THE INTERNAL REVENUE CODE FOR RESEARCH ACTIVITIES CREDIT

Prior Law

The primary references to the Internal Revenue Code in the various statutes relating to the Iowa research activities credit were amended through January 1, 2008.

New Provisions

Senate File 478 changes the references to the Internal Revenue Code in the various statutes for the Iowa research activities credit to January 1, 2009. This makes the federal changes made to the research activities credit in 2008 applicable for the Iowa research activities credit.

Section(s) Amended

Section 102 of Senate File 478 amends section 15.335, subsection 4, paragraph b. Section 103 amends section 15A.9, subsection 8, paragraph e, subparagraph (2). Section 131 amends section 422.10, subsection 3, unnumbered paragraph 2. Section 133 amends section 422.33, subsection 3, paragraph d, unnumbered paragraph 2. All amendments apply to the 2009 Code.

Effective Date

Retroactive to January 1, 2008, for tax years beginning on or after that date.

REPEAL OF HOUSING ASSISTANCE CREDIT

Prior Law

The Department of Economic Development was required to offer the housing assistance credit as an alternative to the supplemental new jobs credit from withholding for eligible businesses in an Enterprise Zone. The credit could be in the form of down payment assistance or rental assistance. The credit was funded by a credit from withholding based on the wages paid to the employees participating in the housing assistance program. This credit has never been claimed.

New Provisions

Senate File 478 repeals the housing assistance credit.

Section Amended

Section 104 of Senate File 478 repeals section 15E.196, subsection 1, paragraph b, by striking the paragraph. The repeal applies to the 2009 Code.

Effective Date

July 1, 2009

ENDOW IOWA TAX CREDIT

Prior Law

An Endow Iowa Tax Credit administered by the Department of Economic Development is available for individual income, corporation income, franchise, insurance premium tax, and money and credits tax. The credit is equal to 20% of the taxpayer's endowment gift to a qualified community foundation. The total amount of tax credits authorized in a calendar year could not exceed \$2 million plus a percentage of gaming revenues.

For individual income tax filers, the amount of the endowment gift was also allowed as an itemized deduction as a charitable contribution for Iowa individual income tax. For corporation and franchise tax filers, the amount of the endowment gift was also allowed as a charitable contribution deduction for Iowa corporation income and Iowa franchise tax.

New Provisions

Senate File 478 provides that the Endow Iowa Credit will be 25% of the taxpayer's endowment gift to a qualified community foundation. The total amount of tax credits authorized in a calendar year cannot exceed \$3 million plus a percentage of gaming revenues.

The amount of the endowment gift will no longer be allowed as an itemized deduction as a charitable contribution for Iowa individual income tax and will no longer be allowed as a charitable contribution deduction for Iowa corporation income and Iowa franchise tax.

Sections Amended

Section 105 of Senate File 478 amends section 15E.305, subsection 1. Section 106 amends section 15E.305, subsection 2, unnumbered paragraph 1. Both amendments apply to the 2009 Code.

Effective Date

January 1, 2010, for tax years beginning on or after that date.

09 SF 478-D

LEASED MOTORCYCLES TREATED LIKE LEASED CARS

Prior Law

Leased vehicles subject to registration with a gross vehicle weight rating of less than sixteen thousand pounds, excluding motorcycles and motorized bicycles, were subject to a fee for new registration of 5% of the leased price of the vehicle rather than on the purchase price of the vehicle. The new registration fee is paid by the lessee.

Leased motorcycles and motorized bicycles were subject to a new registration fee of 5% of the purchase price of the vehicle rather than the leased price. The payment of the fee was therefore the responsibility of the dealer, or lessor, as opposed to the lessee.

New Provisions

Leased motorcycles and motorized bicycles are now subject to the same provisions as leased vehicles subject to registration with a gross vehicle weight rating of less than sixteen thousand pounds. Therefore, leased motorcycles and motorized bicycles are subject to a fee for new registration of 5% of the leased price of the vehicle rather than the purchase price of the vehicle. The fee for new registration for leased motorcycles is not paid by the lessor.

Sections Amended

Section 122 of Senate File 478 amends section 321.105A, subsection 2, paragraph c, subparagraph (25), unnumbered paragraph 1, Code 2009. Section 123 amends section 321.105A, subsection 3, paragraph a, Code 2009.

Effective Date

July 1, 2009

REPEAL DEALER MANDATE TO COLLECT ONE-TIME FEE FOR NEW VEHICLE REGISTRATION

Prior Law

A licensed vehicle dealer maintaining a place of business in Iowa who sold a vehicle subject to registration for use in Iowa was required to collect the fee for new registration at the time of making the sale.

New Provisions

A licensed dealer maintaining a place of business in Iowa who sells a vehicle subject to registration for use in Iowa is no longer required to collect the one-time fee for new registration.

Section(s) Amended

Section 124 of Senate File 478 repeals section 321.105A, subsection 5, paragraph a, Code 2009.

Effective Date

July 1, 2009

EXPANDED ELIGIBILITY FOR COMPOSITE RETURNS

Prior Law

A composite return may be filed for Iowa individual income tax for nonresident partners, members, shareholders, or beneficiaries of partnerships; limited liability companies; S corporations; or estates or trusts doing business in Iowa. These nonresident partners, members, shareholders, or beneficiaries must be individuals, estates, or trusts to be included in the composite return.

New Provisions

Senate File 478 provides that if the Director of Revenue determines that it is necessary for the efficient administration of the individual income tax, the Director may require that a composite return be filed for nonresidents other than nonresident partners, members, beneficiaries, or shareholders in partnerships, limited liability companies, trusts, or S corporations.

Section Amended

Section 132 of Senate File 478 amends section 422.13, subsection 5, Code 2009.

Effective Date

July 1, 2009

PENALTY BASIS FOR UNDERPAYMENT OF ESTIMATED CORPORATION INCOME TAX

Prior Law

Corporation income tax filers that expect to have an Iowa tax liability, less credits, of more than \$1,000 must make quarterly estimated payments. If taxpayers do not make sufficient estimated payments, they are subject to a penalty for underpayment of estimated tax, unless they meet any of the specified exceptions to the penalty.

The penalty was computed on 90% of the corporation's current year Iowa corporation income tax liability, less credits.

New Provisions

Senate File 478 provides that the penalty for underpayment of estimated corporate income tax will be computed on 100% of the current year Iowa corporation income tax liability, less credits. This makes the penalty basis consistent with federal law.

Section Amended

Section 135 of Senate File 478 amends section 422.88, subsections 2 and 3, Code 2009.

Effective Date

Retroactive to January 1, 2009, for tax years beginning on or after that date.

ELIMINATE CASUAL SALE EXEMPTION FOR ATVS

Prior Law

Sales from one individual to another individual, or “casual sales,” of all-terrain vehicles (ATVs), snowmobiles, off-road motorcycles, and off-road utility vehicles were exempt from the imposition of sales or use tax.

New Provisions

Sales or use tax is imposed on casual sales of all-terrain vehicles, snowmobiles, off-road motorcycles, and off-road utility vehicles.

Section Amended

Section 136 of Senate File 478 amends section 423.3, subsection 39, Code 2009.

Effective Date

July 1, 2009

BANQUET AND CONFERENCE ROOM RENTALS EXEMPT FROM HOTEL/MOTEL TAX

Prior Law

The rental of banquet rooms, conference rooms, and similar accommodations which were not sleeping quarters was taxable if the person doing the renting was a hotel, motel, or other retailer providing sleeping quarters. The rental of banquet rooms, conference rooms, and similar accommodations by retailers who did not provide sleeping quarters was not taxable.

New Provisions

The definition of “lodging” set out in chapter 423A (Hotel and Motel Tax) is amended to exclude from that definition the rental of “rooms that are not used for sleeping accommodations.” The impact of this change is that the rental of banquet or conference rooms in hotels or motels is no longer subject to the state or local hotel/motel tax.

Section Amended

Section 137 of Senate File 478 amends subsection 423A.2, subsection 3, Code 2009.

Effective Date

July 1, 2009

CERTAIN EXEMPTIONS FROM HOTEL AND MOTEL TAX ARE STRICKEN

Prior Law

All exemptions applicable to Iowa state sales tax and set out in section 423.3 of the 2009 Code were applicable to state and locally imposed hotel and motel tax in Chapter 423A. As such, hotel and motel rooms rented directly by state and local government entities were exempt from tax.

New Provisions

The exemptions in favor of transactions exempt from state sales tax under section 423.3 of the Code are stricken from the state and locally imposed hotel and motel tax. Hotel and motel rooms rented by state and local government entities are now subject to the state and local hotel and motel tax.

Sections Amended

Section 138 of Senate File 478 amends section 423A.5, subsection 1, paragraph c, by striking the paragraph. Section 139 amends section 423A.5, subsection 2, paragraph c by striking the paragraph. Both amendments apply to the 2009 Code.

Effective Date

July 1, 2009

MOTOR FUEL TAX PENALTIES

Prior Law

The illegal use of dyed fuel in the supply tank of a motor vehicle resulted in a civil penalty assessed against the owner or operator of the motor vehicle as follows:

- a. A two hundred dollar penalty for the first violation.
- b. A five hundred dollar penalty for a second violation within three years of the first violation.
- c. A one thousand dollar penalty for third and subsequent violations within three years of the first violation.

A person who imported motor fuel or undyed special fuel without a valid importer's license or supplier's license was assessed a civil penalty as follows:

- a. For a first violation, the importing vehicle could be detained and a penalty of \$2,000 was required to be paid before the vehicle could be released.
- b. For a second violation, the importing vehicle could be detained and a penalty of \$5,000 was required to be paid before the vehicle could be released.
- c. For third and subsequent violations, the importing vehicle and the fuel could be seized and a penalty of \$10,000 required to be paid before the vehicle could be released.
- d. If the operator or owner of the importing vehicle or the owner of the fuel moved the vehicle or the fuel after the vehicle had been detained, an additional penalty of \$5,000 was assessed against the operator or owner of the importing vehicle or the owner of the fuel.

The Department of Revenue or the state Department of Transportation could conduct inspections for coloration, markers, and shipping papers at any place where taxable fuel was or could be loaded into transport vehicles, produced, or stored. Any attempts by a person to prevent, stop, or delay an inspection of fuel or shipping papers by authorized personnel was subject to a civil penalty of not more than \$1,000 per occurrence.

New Provisions

A person while transporting ethanol or biodiesel blended fuel from a refinery or marine or pipeline terminal in Iowa or from a point outside of Iowa over the highways of Iowa shall carry in the vehicle an invoice stating its designation as provided in section 214A.2, subsection 5.

The illegal use of dyed fuel in the supply tank of a motor vehicle shall result in a civil penalty assessed against the owner or operator of the motor vehicle as follows:

- a. A \$500 penalty for the first violation.
- b. A \$1,000 penalty for a second violation within three years of the first violation.
- c. A \$2,000 penalty for third and subsequent violations within three years of the first violation.

A person who imports motor fuel or undyed special fuel without a valid importer's license or supplier's license shall be assessed a civil penalty as follows:

- a. For a first violation, the importing vehicle shall be detained and a penalty of \$4,000 shall be paid before the vehicle will be released.
- b. For a second violation, the importing vehicle shall be detained and a penalty of \$10,000 shall be paid before the vehicle will be released.
- c. For third and subsequent violations, the importing vehicle and the fuel shall be seized and a penalty of \$20,000 shall be paid before the vehicle will be released.
- d. If the operator or owner of the importing vehicle or the owner of the fuel moves the vehicle or the fuel after the vehicle has been detained, an additional penalty of \$10,000 shall be assessed against the operator or owner of the importing vehicle or the owner of the fuel.

The Department of Revenue or the state Department of Transportation may conduct inspections for coloration, markers, and shipping papers at any place where taxable fuel is or may be loaded into transport vehicles, produced, or stored. Any attempts by a person to prevent, stop, or delay an inspection of fuel or shipping papers by authorized personnel shall be subject to a civil penalty of not more than \$2,000 per occurrence.

Sections Amended

Section 140 of Senate File 478 amends section 452A.12, subsection 2, and section 141 amends section 452A.74A, subsections 1, 2, and 5. Both amendments are to the 2009 Code.

Effective Date

July 1, 2009

09 SF 478-L

WIND ENERGY PRODUCTION TAX CREDIT PILOT PROJECT

Prior Law

With the passage of 2009 Iowa Acts, Senate File 456, an eligible project for the wind energy production tax credit approved by the Iowa Utilities Board (IUB) must have a combined nameplate capacity of no less than two megawatts and no more than 30 megawatts. An exception was available for applications filed on or after July 1, 2009, by Iowa colleges, schools, and public hospitals. These entities will be eligible for the wind energy production tax credit for qualified electricity generated for their own use as long as the combined nameplate capacity is $\frac{3}{4}$ of a megawatt or greater.

New Provisions

Senate File 478 provides for the IUB to establish a pilot project which will allow up to two qualified facilities in Cerro Gordo County which are not colleges, schools, or public hospitals to be eligible for the wind energy production tax credit. Each of these facilities must have a combined nameplate capacity of at least one megawatt. The tax credit will be allowed equal to one and one-half cents of qualified electricity sold or used for on-site consumption at the facility.

Section Amended

Section 143 of Senate File 478 creates new section 476B.6A, Code 2009.

Effective Date

July 1, 2009

09 SF 478-M

REPEAL ASSISTIVE DEVICE CREDIT FOR INDIVIDUAL INCOME TAX

Prior Law

A small business purchasing, renting, or modifying an assistive device or making workplace modifications for an individual with a disability employed by the small business was eligible to receive an income tax credit equal to 50% of the first \$5,000 paid during the tax year for the purchase, rental, or modification of the assistive device or the workplace modifications.

New Provisions

The assistive device income tax credit will no longer be available for S corporations, LLCs, partnerships, and sole proprietors. C corporations will still be able to take the credit. Since the credit was enacted in 2000, only one business has applied for the assistive device credit.

Section Amended

Section 151 of Senate File 478 repeals section 422.11E, Code 2009.

Effective Date

July 1, 2009

09 SF 478-N

REPEAL OF THE LIVESTOCK PRODUCTION TAX CREDIT

Prior Law

Effective for tax years beginning on or after January 1, 1996, eligible individual and corporation income taxpayers who operate cow-calf beef operations in Iowa were eligible for a livestock production, or “cow-calf,” credit. The amount of the credit was limited to \$3,000 per taxpayer, and computed on form IA 132. The form had to be filed within 10 months after the end of the tax year, and the refunds were issued by February 28 of the next year. Two million dollars was appropriated from the general fund on an annual basis to fund this tax credit.

New Provisions

The livestock production tax credit, appropriation limitation, and refund of the credit claimed were all repealed.

Sections Amended

Section 152 of Senate File 478 repeals sections 422.120 through 422.122, Code 2009.

Effective Date

Retroactive to November 1, 2008, for refund claims filed on or after that date.

SPECIAL SALES TAX EXEMPTION FOR DATA CENTERS

Prior Law

Prior law provided special sales tax exemptions for Web search portal businesses that purchased Iowa land by the end of 2008.

New Provisions

This new law exempts from sales tax the sale or rental of computers and equipment whether directly or indirectly connected to the computers that are necessary for the maintenance and operation of a data center business. The law lists equipment that qualifies for the exemption. Additionally exempted from sales tax is any backup power generation fuel and electricity for use in a data center business. A “data center business” is defined as an entity whose business is to operate a “data center.” A “data center” is defined as a building rehabilitated or constructed to house a group of networked server computers in one physical location in order to centralize the storage, management, and dissemination of data and information pertaining to a particular business, taxonomy, or body of knowledge. A data center business's facility typically includes the mechanical and electrical systems, redundant or backup power supplies, redundant data communications connections, environmental controls, and fire suppression systems. A data center business's facility also includes a restricted access area employing advanced physical security measures such as video surveillance systems and card-based security or biometric security access systems.

The requirements for claiming the exemption include the following: the purchaser/renter must be a data center business, the data center business must have a physical location in Iowa of at least five thousand square feet, the investment in Iowa must be at least \$200 million within the first six years, and the data center business must comply with the sustainable design and structure standards established by section 103A.8B.

The exemption applies from the date of the initial investment in or the initiation of site preparation activities for the data center. If a data center business does not meet 80% of the investment minimum within the first six years of operation, the data center business will be required to repay all sales or use tax that would have been due without the exemption.

Section Amended

Section 197 of Senate File 478 amends section 423.3 by adding new subsection 95, Code 2009.

Effective Date

July 1, 2009

09 SF 478-P

SPECIAL SALES TAX REFUND FOR DATA CENTERS

Prior Law

Prior to July 1, 2009, the owner of an information technology facility was entitled to full refund for up to five consecutive years of the sales or use tax paid on sales of fuel used in creating electricity or from the sale of electricity used by computers, machinery, or other equipment used for the operation of the technology facility. Additionally, there was a requirement that the facility be certified as meeting the Leadership in Energy and Environmental Design (LEED) standards.

New Provisions

Senate File 478 changes the law to apply to data center businesses rather than information technology facilities. A “data center business” is defined as an entity whose business is to operate a “data center.” A “data center” is defined as a building rehabilitated or constructed to house a group of networked server computers in one physical location in order to centralize the storage, management, and dissemination of data and information pertaining to a particular business, taxonomy, or body of knowledge. The bill provides a graduated scale of incentives based upon the amount of the investment a data center business makes in the state as well as its relative size:

- Investments of at least \$200 million within the first six years and a minimum size of 5,000 square feet – entitled to a permanent full sales tax refund on computers and equipment and related property, and backup power generation fuel and electricity.
- Investments of \$136 million to \$199 million within the first six years and minimum size of 5,000 square feet – entitled to a 50% sales tax refund on computers and equipment and related property, and backup power generation fuel and electricity for seven years.
- Investments of \$5 million to \$136 million to rehabilitate an existing Iowa location with a minimum size of 5,000 square feet – entitled to a 50% sales tax refund on computers and equipment and related property, and backup power generation fuel and electricity for 10 years.
- Investments of \$10 million to \$136 million for new construction with a minimum size of 5,000 square feet – entitled to a 50% sales tax refund on computers and equipment and related property, and backup power generation fuel and electricity for 10 years.
- Investments of \$1 million to \$5 million within the first three years to rehabilitate an existing Iowa location – entitled to a 50% sales tax refund on fuel and computer electricity for five years.
- Investments of \$1 million to \$10 million within the first three years for new construction – entitled to a 50% sales tax refund on fuel and computer electricity for five years.

Any leases entered into by the data center business must be for a duration of at least five years. The available refund is limited to 5% and does not apply to any local option sales tax. The data center business must also comply with the sustainable design and construction standards established by the state building code commissioner pursuant to section 103A.8B.

Sections Amended

Section 198 amends section 423.4, subsection 8; section 199 amends section 423.4 by adding subsection 9. All amendments apply to Iowa Code 2009.

Effective Date

July 1, 2009 for sales or use tax paid on or after July 1, 2009.

PROPERTY TAX EXEMPTION FOR DATA CENTER BUSINESSES

Prior Law

Although there was no prior law for the data center property tax exemption, laws were passed in 2007 (House File 912) and 2008 (House File 2233) providing almost identical exemptions for Web search portal businesses. These exemptions were codified in Iowa Code section 427.1, subsections 35 and 36.

New Provisions

This new provision in Senate File 478 sets forth an exemption from Iowa property tax for certain property that is utilized by a data center business. A “data center business” is defined as an entity whose business is to operate a “data center.” A “data center” is defined as a building rehabilitated or constructed to house a group of networked server computers in one physical location in order to centralize the storage, management, and dissemination of data and information pertaining to a particular business, taxonomy, or body of knowledge. A data center business's facility typically includes the mechanical and electrical systems, redundant or backup power supplies, redundant data communications connections, environmental controls, and fire suppression systems. A data center business's facility also includes a restricted access area employing advanced physical security measures such as video surveillance systems and card-based security or biometric security access systems.

The exemption applies to property, other than land and buildings and other improvements, that is utilized by a data center business meeting certain requirements, including computers and equipment necessary for the maintenance and operation of a data center business and other property whether directly or indirectly connected to the computers, including but not limited to cooling systems, cooling towers, and other temperature control infrastructure; power infrastructure for transformation, distribution, or management of electricity, including but not limited to exterior dedicated business-owned substations, and power distribution systems which are not subject to assessment under chapter 437A; racking systems, cabling, and trays; and backup power generation systems, battery systems, and related infrastructure, all of which are necessary for the maintenance and operation of the data center business.

Sections Amended

Section 200 of Senate File 478 amends section 427.1, Code 2009, by adding a new subsection 37; and section 201 provides an implementation clause.

Effective Date

July 1, 2009. The exemption applies beginning with the assessment year the investment in or construction of the facility utilizing the materials, equipment, and systems are first assessed.

09 SF 478-R

OWNERSHIP OF AUTOMOBILE RACETRACK FACILITIES

Prior Law

The “owner or operator” of the automotive racetrack facility in Newton, Iowa, had the right to claim a rebate of all state sales tax imposed and collected by retailers selling goods or furnishing services at the facility site. That right to rebate would cease upon the sale or other transfer, whether voluntarily or involuntarily, of the racetrack facility to a party other than the original owner of the facility or upon a change of control of the facility. A “change of control” of the facility was defined in two ways: 1) Any change in ownership resulting in less than 60% of the equity interests in the legal entity ceased to be owned by individuals who were residents of Iowa, an Iowa corporation, or combination of both; or 2) The original owners of the legal entity that was the owner or operator of the facility would collectively cease to own more than 50% of the voting equity interests of such legal entity or would otherwise cease to have effective control of the legal entity.

The “owner or operator” of the facility was defined to be a for-profit legal entity for which at least 60% of its equity interests are owned by individuals who were residents of Iowa, an Iowa corporation, or a combination of both. An “Iowa corporation” was defined as being incorporated under the laws of Iowa for which at least 60% of the corporation's equity interests was owned by individuals who were residents of Iowa.

New Provisions

Senate File 478 removes the prohibition against the transfer, by sale or otherwise, of ownership of the facility. Ownership can be transferred, and the new owner or owners can continue to claim the rebate. However, the ownership threshold for “change of control” and owner or operator is changed from 60% to 25%. Thus, if more than 25% of the facility is owned by non-Iowans, the rebate will be forfeited.

Sections Amended

Section 211 of Senate File 478 amends section 423.4, subsection 5, paragraph a, subparagraphs (2), (3), and (4); and section 212 amends section 423.4, subsection 5, paragraph c, subparagraph (4). Both amendments apply to the 2009 Code.

Effective Date

July 1, 2009

09 SF 478-S

SALES TAX EXEMPTION FOR NONPROFIT YOUTH ATHLETIC GROUPS

Prior Law

A sales tax exemption exists for sales made by a nonprofit 501(c)(3) entity, a government entity, or a nonprofit private educational institution where the profits of such sales are used exclusively for educational, charitable, or religious purposes. This exemption is disallowed if the profits are not used by or donated to an appropriate entity and expended for educational, religious, or charitable purposes.

New Provisions

Senate File 478 allows organizations created for the sole or primary purpose of providing athletic activities to youth to be considered created for an educational purpose, and, if otherwise meeting the requirements of paragraph 423.3(78)“a,” sales of property and taxable services on their behalf will be exempt from Iowa tax. This change is made retroactive to July 1, 1998. Refunds of taxes interest or penalties resulting from the retroactivity of this claim are limited to an aggregate of \$50,000. Claims for refund must be made by October 1, 2009. If the total amount of refunds claimed by October 1, 2009, exceeds \$50,000, then refund amounts will be prorated amongst all the claimants.

Sections Amended

Section 218 of Senate File 478 amends section 423.3, subsection 78, Code 2009. Sections 219 and 220, refunds and effective and retroactive applicability, will not be codified.

Effective Date

Effective May 26, 2009, and applies retroactively to July 1, 1998.

09 SF 478-T

METHANE GAS CONVERSION PROPERTY TAX EXEMPTION

Prior Law

A property tax exemption was allowed for: 1) Property used in an operation that collected methane gas or other gases as a by-product of waste decomposition and converted the gas to energy; or 2) Property used to collect the waste that would be decomposed and used to produce methane gas or other gases to be converted to energy. The property had to be connected with a publicly owned sanitary landfill to qualify for the exemption. Property used solely to decompose the waste and then convert the waste to gas was not eligible for the exemption.

New Provisions

Senate File 478 expands the tax exemption eligibility for methane gas conversion property by deleting the restriction that the methane gas conversion property be used in an operation in connection with a publicly owned sanitary landfill. Also, property used to decompose the waste and convert the waste to gas is now eligible for the exemption.

If the property is not used in connection with a publicly owned sanitary landfill, the exemption applies to property originally placed in service on or after January 1, 2008, and on or before December 31, 2012. The exemption is limited to 10 years.

Sections Amended

Section 223 of Senate File 478 amends section 427.1, subsection 29, paragraph a; section 224 amends section 427.1, subsection 29, by adding a new paragraph "d;" section 225 amends section 437A.6, subsection 1, paragraph "d;" section 226 provides an implementation clause and section 227 provides effective and applicability dates. All amendments are to the 2009 Code.

Effective Date

May 26, 2009. Applies retroactively to assessment years beginning on or after January 1, 2008. Exemption claims for the 2008 and 2009 assessment years must be filed with the appropriate county assessor by June 30, 2009.

09 SF 478-U

REPORTING OF RESEARCH ACTIVITIES CREDIT CLAIMS

Prior Law

None. Due to tax confidentiality statutes, information regarding the amount of Iowa tax credits claimed by a specific taxpayer was confidential information.

New Provisions

Senate File 478 provides for an exception to the confidentiality of tax credits claimed as it relates to taxpayers claiming the research activities credit.

By February 15 of each year, the Department will prepare an annual report to the General Assembly containing the total amount of research activities credit claimed on tax returns, along with the portion of the claims issued as refunds, for the previous calendar year. There will be three reports for the following categories:

- Supplemental research activities credits claimed for businesses approved under the high quality jobs program and the enterprise zone program;
- Research activities credit claims for individual income tax; and
- Research activities credit claims for corporation income tax.

In addition, these reports will include the name of each claimant for whom a research activities credit in excess of \$500,000 was issued, along with the amount of the credit received for each claimant.

Sections Amended

Section 232 of Senate File 478 amends section 15.335, Code 2009, by adding new subsection 6. Section 233 amends section 422.10, Code 2009, by adding new subsection 6. Section 234 amends section 422.33, subsection 5, Code 2009, by adding new paragraph h.

Effective Date

July 1, 2009, for research activities credit claims filed on or after that date.

DECOUPLING WITH EMERGENCY ECONOMIC STABILIZATION, ENERGY, EXTENDERS AND AMT RELIEF ACT OF 2008

Prior Law

The Emergency Economic Stabilization, Energy, Extenders and AMT Relief Act of 2008 was passed by Congress in October 2008.

The primary reference to the Internal Revenue Code in various Iowa statutes relating to the determination of income was amended through January 1, 2008, and therefore did not include the provisions of the Emergency Economic Stabilization, Energy, Extenders and AMT Relief Act of 2008.

New Provisions

The primary reference in Iowa law to the Internal Revenue Code regarding the determination of income was **not** amended.

Therefore, the provisions of the Emergency Economic Stabilization, Energy, Extenders and AMT Relief Act of 2008 were **not** adopted for Iowa individual income tax purposes. The provisions that were **not** adopted include the following:

- The tuition and fees deduction for higher education
- The deduction for educator expenses
- The election to deduct state sales/use tax as an itemized deduction in lieu of state income tax
- Itemized deduction for casualty losses without 10% adjusted gross income limitation or \$100 floor
- Expensing of qualified disaster expenses for small business
- Bonus depreciation for qualified disaster property
- Waiver of limitations on itemized deductions for charitable contributions for Midwestern disaster relief
- Tax free treatment of IRA distributions donated to charity
- Look-back election for the earned income tax credit for individuals in the Midwestern disaster area

Section Amended

None

Effective Date

Retroactive to January 1, 2008, for tax years beginning on or after that date.

09 SF 478-W

FILM QUALIFIED EXPENDITURE TAX CREDIT

Prior Law

A film qualified expenditure tax credit is available for individual income, corporation income, franchise, insurance premium, and moneys and credits tax. The credit equals 25% of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Department of Economic Development.

A qualified expenditure is a payment to an Iowa resident or an Iowa-based business for the sale, rental, or furnishing of tangible personal property or for services directly related to the project. The services eligible for the credit included compensation for labor and personnel, but excluded compensation for the director, producers, and cast members other than extras or stand-ins.

New Provisions

Senate File 480 provides that the tax credit cannot exceed 25% of the qualified expenditures, and the Department of Economic Development can negotiate the amount of the tax credit.

The services eligible for the tax credit can now include compensation for the principal director, principal producer, and principal cast members, as long as the director, producers, and principal cast members are Iowa residents or Iowa-based businesses. The amount of the compensation eligible for the tax credit for the principal director, principal producer, and principal cast members is based on the total qualified expenditures of the film project.

- If the qualified expenditures are at least \$10 million but less than \$20 million, the compensation for the principal director, principal producer, and principal cast member cannot exceed \$250,000 each.
- If the qualified expenditures are at least \$20 million, the compensation for the principal director, principal producer, and principal cast member cannot exceed \$1 million each.

The amount of compensation eligible for the tax credit for labor and personnel other than the principal producer, principal director, or principal cast members are not based on the total qualified expenditures of the film project.

- If the qualified expenditures are less than \$10 million, the compensation for labor and personnel other than the principal producer, principal director and principal cast members cannot exceed \$150,000 each.
- If the qualified expenditures are at least \$10 million but less than \$20 million, the compensation for labor and personnel other than the principal producer, principal director, and principal cast members cannot exceed \$250,000 each.
- If the qualified expenditures are at least \$20 million, the compensation for labor and personnel other than the principal producer, principal director, and principal cast members cannot exceed \$300,000 each.

Sections Amended

Section 2 of Senate File 480 amends section 15.393, subsection 2, paragraph a, subparagraph (1). Section 3 amends section 15.393, subsection 2, paragraph a, subparagraph (2). Both amendments apply to the 2009 Code.

Effective Date

July 1, 2009, for projects registered on or after that date.

FILM INVESTMENT TAX CREDIT

Prior Law

A film investment tax credit is available for individual income, corporation income, franchise, insurance premiums, and moneys and credits tax.

The tax credit is equal to 25% of a taxpayer's investment in a film, television, or video project registered with the film office of the Department of Economic Development. The total of the film investment credits for a particular project cannot exceed 25% of the film qualified expenditures for the project.

New Provisions

Senate File 480 provides that the film investment tax credit shall equal an amount not to exceed 25% of the film qualified expenditures on the project, and the Department of Economic Development can negotiate the amount of the tax credit.

Section(s) Amended

Section 4 of Senate File 480 amends section 15.393, subsection 2, paragraph b, subparagraph (1), Code 2009.

Effective Date

July 1, 2009, for projects registered on or after that date.

INCOME TAX EXCLUSION RELATING TO QUALIFIED FILM EXPENDITURES

Prior Law

An income tax exclusion is available for income received by Iowa residents or Iowa-based businesses for individual income and corporation income tax relating to qualified film expenditures relating to film, television, or video projects. These projects must be registered with the film office of the Department of Economic Development. The same expenditures that qualify for the film expenditure tax credit provided in Iowa Code section 15.393 also qualify for the income tax exclusion, as long as the payments are made to Iowa residents or Iowa-based businesses.

The exclusion is allowed to the extent that the income is included in federal adjusted gross income for individuals and federal taxable income for corporations. Therefore, 100% of the income included on the federal return related to qualified film expenditures could be excluded on the Iowa tax return.

New Provisions

Senate File 480 provides the income tax exclusion for qualified film expenditures must be taken over a 4-year period, starting with the tax year in which the qualified expenditure occurred and for the ensuing three years. The income tax exclusion for a tax year cannot exceed 25% of the amount of the qualified expenditures. The exclusion is still only available to Iowa residents and Iowa-based businesses.

Section Amended

Section 5 of Senate File 480 amends section 15.393, subsection 2, paragraph c, Code 2009.

Effective Date

July 1, 2009, for projects registered on or after that date.

HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDITS

Prior Law

An historic preservation and cultural and entertainment district tax credit has been available for individual income, corporation income, franchise, and insurance premiums tax. The credit is equal to 25% of the qualified costs of rehabilitation of eligible property. The credit is administered by the state historic preservation office of the Iowa Department of Cultural Affairs. Tax credit certificates are issued by the Department of Cultural Affairs. The credit is transferable to any person or entity, and the replacement certificate is issued by the Department of Revenue.

The credit was limited in the aggregate to \$20 million for the fiscal year ending June 30, 2010, and subsequent fiscal years. For credits reserved prior to July 1, 2009, there was no time limit for the project to be completed to retain eligibility for the credit.

New Provisions

Senate File 481 increases the amount of aggregate tax credits to \$50 million starting with the fiscal year beginning July 1 2009, and subsequent fiscal years. The additional \$30 million of tax credits for the fiscal year ending June 30, 2010, cannot be reserved until a tax year beginning on or after January 1, 2010. The additional \$30 million of tax credits for the fiscal year ending June 30, 2011, cannot be reserved until a tax year beginning on or after January 1, 2011. The additional \$30 million of tax credits for the fiscal year ending June 30, 2012, cannot be reserved until a tax year beginning on or after January 1, 2012.

The total of \$50 million of tax credits available in a fiscal year are allocated as follows:

- \$5 million for projects with final qualified rehabilitation costs of \$500,000 or less
- \$15 million for projects located in cultural and entertainment districts or projects identified in Iowa great places agreements
- \$10 million for disaster recovery projects
- \$10 million for projects that involve the creation of more than 500 permanent jobs
- \$10 million for any other eligible project

For projects that involve the creation of more than 500 permanent jobs, the jobs must be created within two years of the date the tax credit certificate is issued. The credit is subject to recapture by the Department of Revenue if the jobs are not created within two years.

For credits reserved prior to July 1, 2009, the project must be completed by June 30, 2011, to remain eligible for the tax credit. For credits reserved on or after July 1, 2009, the project must be completed within 36 months of the date on which the project application was approved.

The Department of Revenue must establish by rule the minimum amount of a replacement tax credit certificate that will be issued.

The Department of Revenue will consult with the Department of Cultural Affairs on an annual report to the General Assembly and the Legislative Services Agency on the overall economic impact to the state on the rehabilitation of eligible properties.

Sections Amended

Section 1 of Senate File 481 amends section 404A.2. Section 2 amends section 404A.3. Section 3 amends section 404A.4. Section 4 amends section 404A.5. All amendments apply to the 2009 Code.

Effective Date

July 1, 2009

AMERICORP SEGAL EDUCATION AWARD INCOME TAX EXCLUSION

Prior Law

None

New Provisions

Senate File 482 establishes the Iowa summer youth corps and green corps programs to be administered by the Iowa Commission on Volunteer Service. The Iowa summer youth corps program provides opportunities for youth to be engaged in community-based, service-learning projects. The projects are to be structured, supervised, and designed to produce identifiable improvements to the community.

The Iowa green corps program uses volunteers from the Iowa summer youth corps or AmeriCorps programs for transformative community projects. These projects have an emphasis in energy efficiency, historic preservation, neighborhood development, and storm water reduction and management.

Senate File 482 also excludes from state individual income tax any federal Segal AmeriCorps education award payments.

Sections Amended

Section 1 of Senate File 482 adds new section 15H.5. Section 2 adds new section 15H.6. Section 3 amends section 422.7 by adding new subsection 23. These amendments apply to the 2009 Code.

Effective Date

Sections 1 and 2 were effective May 22, 2009. Section 3 is effective January 1, 2010, for tax years beginning on or after that date.

09 SF 482

CAP ON DEPARTMENT OF ECONOMIC DEVELOPMENT AWARDED TAX CREDITS

Prior Law

There was no cap on the amount of tax credits awarded under the following programs administered by the Department of Economic Development:

- High quality job creation program
- Enterprise zone program
- Eligible housing enterprise zone program
- Quality jobs enterprise zone program
- Assistive device credit program
- Film, television and video project program

New Provisions

Senate File 483 provides for a cap of \$185 million per state fiscal year for tax credits awarded by the Department of Economic Development for the programs listed above. The Department of Economic Development may award more than \$185 million of tax credits in a particular fiscal year, but the amount in excess of \$185 million shall be counted against the total amount of tax credits issued for the subsequent fiscal year.

The Department of Economic Development shall issue a report to the Department of Revenue by August 15 of each year setting forth the amount of tax credits awarded for each program for the previous fiscal year.

Section Amended

Section 1 of Senate File 483 creates new section 15.119.

Effective Date

July 1, 2009, for tax credits awarded on or after that date.

AGRICULTURAL ASSETS TRANSFER TAX CREDIT

Prior Law

A tax credit for agricultural asset transfers from a taxpayer to beginning farmers is available for individual and corporation income tax. The tax credit is allowed for agricultural assets that are subject to a lease or rental agreement.

The tax credit is based upon the gross amount paid to the taxpayer under the lease agreement by the beginning farmer. The tax credit equals either 5% of the amount paid to the taxpayer under the agreement; or in the alternative, the tax credit equals 15% of the amount paid to the taxpayer from crops or animals sold under an agreement in which the payment is exclusively made from the sale of crops or animals.

The credit is administered by the Iowa Agricultural Development Authority, and there was no cap on the amount of tax credit issued by the Authority.

New Provisions

Senate File 483 provides for a cap of \$6 million on agricultural assets transfer tax credits for each state fiscal year. The credits will be issued on a first-come, first-serve basis.

Section Amended

Section 2 of Senate File 483 amends section 175.37 by adding new subsection 10, Code 2009.

Effective Date

July 1, 2009, for agricultural assets transfer agreements executed on or after that date.

ELIMINATION OF NET OPERATING LOSS CARRYBACKS FOR CORPORATION INCOME TAX

Prior Law

Corporation income taxpayers which generated net operating losses on their Iowa returns could generally carry back the net operating loss to the two previous tax years and receive refunds of Iowa corporation taxes paid for those prior years. For corporations incurring net operating losses in a presidentially declared disaster area, the loss could be carried back three years. Corporations engaged in the trade or business of farming which incurred net operating losses could carry the loss back five years.

Any amount of loss remaining after applying the carryback could be carried forward for 20 tax years.

New Provisions

Senate File 483 eliminates the option for corporations to carry back Iowa net operating losses. All Iowa net operating losses for corporation income tax may be carried forward for 20 tax years.

Section Amended

Section 4 of Senate File 483 amends section 422.35, subsection 11, Code 2009.

Effective Date

Retroactive to January 1, 2009, for tax years beginning on or after that date.

