

# IOWA Department of REVENUE

2013

LEGISLATIVE SUMMARIES

EMPHASIZING TAX AND FINANCE ISSUES

*July 2013*

## 2013 IOWA LEGISLATURE TAX RELATED ACTIONS

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## **STREAMLINED SALES TAX: FOOD AND FOOD INGREDIENTS DEFINITION**

Prior Law \_\_\_\_\_

“Food and food ingredients” is defined as including substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

New Provisions \_\_\_\_\_

The definition of food and food ingredients now also includes beverage-grade carbon dioxide gas.

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts House File 199 amends section 423.3, subsection 57, paragraph d, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

## INTEREST AND DIVIDENDS FROM “DOUBLE EXEMPT” BONDS

Prior Law \_\_\_\_\_

Under various provisions scattered throughout the Iowa Code, interest and dividends from certain government issued bonds are exempt from Iowa individual and corporation income taxes. Interest and dividends from these bonds is generally not exempt from franchise taxes paid by financial institutions.

New Provisions \_\_\_\_\_

There is no substantive change. For clarity, Iowa Code sections 422.7(2) and 422.35(2) are amended to explicitly state that interest and dividends from the tax exempt bonds is excluded when computing Iowa net income and to consolidate the references to those bonds in one section of the Iowa Code. Revised section 422.7(2) also cross-references the various statutes granting tax exempt status. In addition, Iowa Code section 422.61(3)(b) is amended to recognize that the exclusion does not generally apply to franchise taxes. Duplicative references to the exempt bonds in Iowa Code sections 422.7(19), 422.7(48), and 422.35(13) are eliminated.

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts House File 575 amends section 422.7, subsection 2, Code 2013. Section 2 strikes section 422.7, subsections 19 and 48, Code 2013. Section 5 amends section 422.35, subsection 2, Code 2013. Section 6 strikes section 422.35, subsection 13, Code 2013. Section 7 amends section 422.61, subsection 3, paragraph b, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

13 HF 575-A

## OBSOLETE FEDERAL TAX CREDITS

Prior Law \_\_\_\_\_

Certain federal tax credits under the Economic Growth and Tax Reconciliation Act of 2001 are not treated as income or subtracted when computing the deduction for federal tax income taxes.

New Provisions \_\_\_\_\_

There is no substantive change. The credits are more than ten years old. References to the obsolete credits are deleted for the sake of clarity.

Section Amended \_\_\_\_\_

Section 3 of 2013 Iowa Acts House File 575 strikes Iowa Code section 422.9, subsections 6 and 7, Code 2013.

Effective Date \_\_\_\_\_

April 24, 2013.

13 HF 575-B

## **AUTO BODY SALES TAX EXEMPTION**

Prior Law \_\_\_\_\_

Auto body repair shops can claim the resale exemption for items purchased for use in connection with auto body repair services if the auto body repair shop can prove that the items are “entirely consumed in connection with the performance of an auto body repair service purchased by the ultimate user.” The exemption is created by changing the definition of “property purchased for resale in connection with the performance of a service.”

Under the prior law, to claim the exemption auto body shops were required to provide specific documentation. However, due to the nature of the auto body repair services, providing the documentation was unworkable.

New Provisions \_\_\_\_\_

The previous law is clarified by creating a separate sales tax exemption rather than exempting specific tangible personal property used in auto body repair services by changing the definition of “property purchased for resale in connection with the performance of a service.”

Now, chemicals, solvents, sorbent, reagents, or other tangible personal property used in providing a vehicle repair service are exempt from sales tax if the chemicals, solvents, sorbents, reagents, or other tangible personal property:

1. Are directly and primarily used in providing the vehicle repair service;
2. Are consumed or dissipated in providing the vehicle repair service; and
3. Will come into physical contact with the vehicle upon which the vehicle repair service is performed.

Tangible personal property that can be used to provide multiple vehicle repair services, including, but not limited to, machinery, tools, and equipment are not exempt from taxation under this law.

Section Amended \_\_\_\_\_

Section 10 of 2013 Iowa Acts House File 575 amends Code section 423.1, subsection 39, paragraphs b and c, Code 2013. Section 15 amends Code section 423.3, Code 2013 by adding new subsection 99.

Effective Date \_\_\_\_\_

July 1, 2013.

13 HF 575-C

## **OBSOLETE RECIPROCAL WINE SHIPPER SALES TAX EXEMPTION**

Prior Law \_\_\_\_\_

Historically, reciprocal shippers of wine exempt from the wine gallonage tax under Iowa Code section 123.187 were also exempt from sales and use tax. In 2010, the language on reciprocal shippers in Iowa Code section 123.187 was stricken from the Code and replaced with a new section on direct shippers. This made the corresponding sales tax exemption for reciprocal shippers irrelevant.

New Provisions \_\_\_\_\_

The reciprocal shipper sales tax exemption has been stricken from the Code to reflect the fact that the corresponding language in Iowa Code section 123.187 was struck from the Code in 2010.

Section Amended \_\_\_\_\_

Section 13 of 2013 Iowa Acts House File 575 strikes section 423.3, subsection 44, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

13 HF 575-D

## FOOD STAMP SALES TAX EXEMPTION TERMINOLOGY

Prior Law \_\_\_\_\_

Iowa Code section 423.3(58) provides a sales tax exemption for the sales price of items purchased with coupons issued under the federal Food Stamp Act of 1977.

New Provisions \_\_\_\_\_

Iowa Code section 423.3(58) is amended to reflect changes to the types of payments permitted under the federal food stamp program as well as the addition of a new program, the federal supplemental nutritional assistance program (SNAP). The amendment adds food stamps, electronic benefits transfer cards, or other methods of payment authorized by the United States Department of Agriculture and issued under the federal Food Stamp Act of 1977, or SNAP, to the types of purchasing methods eligible for the exemption.

Section Amended \_\_\_\_\_

Section 14 of 2013 Iowa Acts House File 575 amends Code section 423.3, subsection 58, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

13 HF 575-E

## PREPAID WIRELESS ENHANCED 911 SURCHARGE CLARIFICATION

Prior Law \_\_\_\_\_

Iowa Code section 34A.7B(11) provides that the audit and appeal procedures applicable under Iowa Code chapter 423 shall apply to the administration of the prepaid wireless E911 surcharge.

New Provisions \_\_\_\_\_

Iowa Code section 34A.7B(11) is amended to clarify that the collection and enforcement procedures, as well as other pertinent provisions applicable to the sales and use tax imposed under Iowa Code chapter 423, also apply to the administration of the prepaid wireless E911 surcharge.

Section Amended \_\_\_\_\_

Section 16 of 2013 Iowa Acts House File 575 amends Code section 34A.7B, subsection 11, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

13 HF 575-F

## **AGRICULTURAL ASSETS TRANSFER TAX AND CONTRACT FARMING TAX CREDITS**

### **Prior Law**

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The Agricultural Assets Transfer Tax Credit is available for individual and corporation income taxes for landowners that assist beginning farmers in acquiring agricultural assets, such as land or equipment, by lease or rental agreement. The Iowa Agriculture Development Authority (IADA) is responsible for determining tax credit eligibility. The IADA may issue up to \$6 million in tax credits per year. The tax credit equals 5% of the amount paid to the taxpayer under the agreement or 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 lease or rental agreement may be terminated by either the taxpayer or the beginning farmer. If the IADA determines that the taxpayer is not at fault for the termination, the IADA will not issue a tax credit certificate for subsequent years, but any prior tax credit certificates issued will be allowed. If the IADA determines that the taxpayer is at fault for the termination, any prior tax credit certificates issued will be disallowed, and the tax credits can be recaptured by the Department of Revenue.

### **New Provisions**

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The existing \$6 million tax credit cap is increased to \$12 million. Eight million of that amount is allocated for the Agricultural Assets Transfer Tax Credit. The tax credit percentages for cash rent and crop share agreements are increased from 5% and 15% to 7% and 17% respectively. If the beginning farmer is also a veteran, landowners may claim an additional 1% of eligible expenses, making the credit effectively 8% and 18% for the first year of the agreement.

The remaining \$4 million dollars in the tax credit program is allocated for a new Custom Farming Contract Tax Credit. The custom farming credit is available for landowners who hire a beginning farmer to do custom work and allows the landowner to claim 7% of the value of the contract on a tax credit. If the beginning farmer is a veteran, the credit is 8% for the first year.

For both the Agricultural Assets Transfer Tax Credit and the Custom Farming Contract Tax Credit, IADA will issue tax credit certificates, which cannot exceed \$50,000 for an individual taxpayer for this credit. The certificate must be attached to an Iowa tax return in order to claim the credit. Any credit in excess of the tax liability may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

The IADA may adjust the allocation of the \$12 million of tax credits by adoption of a resolution.

Both tax credits are repealed effective December 31, 2017.

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts House File 599 amends section 2.48, subsection 3, paragraph e, subparagraph (1), Code 2013. Section 2 amends section 175.2, subsection 1, Code 2013. Section 3 strikes section 175.4, subsection 18, Code 2013. Section 4 amends section 175.8, subsection 1, unnumbered paragraph 1, Code 2013. Section 5 amends section 175.8, subsection 2, Code 2013. Section 6 creates new section 175.36A, Code Supplement 2013. Section 7 creates new section 175.36B, Code Supplement 2013. Section 8 amends section 175.37, subsection 1, Code 2013. Section 9 amends section 175.37, subsection 2, paragraph b, Code 2013. Section 10 amends section 175.37, subsection 4, Code 2013. Section 11 amends section 175.37, subsection 5, Code 2013. Section 12 amends section 175.37, subsection 6, Code 2013. Section 13 amends section 175.37, subsection 8, unnumbered paragraph 1. Section 14 strikes section 175.37, subsection 8, paragraph c, Code 2013. Section 15 amends section 175.37, subsection 9, unnumbered paragraph 1, Code 2013. Section 16 amends section 175.37, subsection 9, paragraph b, Code 2013. Section 17 strikes section 175.37, subsection 10, Code 2013. Section 18 creates new section 175.38, Code Supplement 2013. Section 19 creates new section 175.39, Code Supplement 2013. Section 20 amends section 422.11M, Code 2013. Section 21 amends section 422.12, Code 2013. Section 22 repeals section 175.35, Code 2013.

Effective Date \_\_\_\_\_

Effective June 17, 2013 and retroactive to January 1, 2013, for tax years beginning on or after that date.

## INNOVATION FUND TAX CREDIT CHANGES

### Prior Law

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An innovation fund tax credit is available for Iowa individual income, corporation income, franchise, insurance premium, and money and credits tax. The credit equals 20% of the investment made in an innovation fund certified by the Iowa Economic Development Authority (Authority). The Authority issues tax credit certificates for investors in the fund, and the credit can not be claimed until the third year following the year in which the investment was made. Any tax credit in excess of the tax liability can be credited to the tax liability for the following five years or until depleted, whichever is earlier. The credit is not transferable, and the credit is capped at \$8 million per fiscal year.

No tax credits were ever issued by the Authority since this tax credit was enacted in 2011.

### New Provisions

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The innovation fund tax credit is now 25% of the investment made in the innovation fund. The Authority will issue the tax credit certificates on a first-come, first serve basis, and the Authority cannot issue any tax credit certificates before September 1, 2014. The tax credit can now be claimed in the year in which the investment was made, and any credit in excess of the tax liability can be carried forward for five years. The tax credits continue to be capped at \$8 million per fiscal year. The Authority will not certify any innovation funds after June 30, 2018.

The credit is now transferable. The original owner of the certificate has 90 days of the date of the transfer to surrender the original certificate to the Department of Revenue. Within 30 days of receiving the transferred certificate, the Department of Revenue will issue a replacement certificate to the purchaser of the tax credit. Any consideration received for the transfer of the tax credit is not income for Iowa individual income, corporation income, and franchise tax. Any consideration paid for the transfer of the tax credit is not allowed as a deduction for Iowa individual income, corporation income, and franchise tax.

The Iowa Economic Development Authority Board, in conjunction with the Department of Revenue, shall submit annual reports to the General Assembly and the Governor regarding the amounts of tax credits issued each fiscal year, along with the amounts of tax credits that are transferred. In addition, the innovation fund tax credit will be reviewed by the Legislative Tax Expenditure Committee in 2017.

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts House File 615 amends section 2.48, subsection 3, Code 2013, by adding new paragraph f. Section 2 amends section 15E.52, subsection 3, Code 2013. Section 3 amends section 15E.52, subsection 5, Code 2013. Section 4 amends section 15E.52, subsection 6, Code 2013. Section 5 amends section 15E.52, subsection 6, Code 2013, by adding new paragraphs d, e, f and g. Section 6 amends section 15E.52, Code 2013, by adding new subsections 8, 9, 10, 11, 12 and 13.

Effective Date \_\_\_\_\_

Retroactive to January 1, 2013, for tax years beginning on or after that date and for equity investments in an innovation fund made on or after that date.

13 HF 615

## ENDOW IOWA TAX CREDIT LIMIT

Prior Law \_\_\_\_\_

The Endow Iowa tax credit is available for individual income, corporation income, franchise, insurance premium, and moneys and credits tax. The credit is equal to 25% of a taxpayer's endowment gift to a qualified community foundation. The gift must be for a permanent endowment fund established to benefit a charitable cause in Iowa. The aggregate tax credit limit is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with section 99F.11(3), Code 2013.

For 2012, the original amount of credits available was \$4,642,945.

New Provisions \_\_\_\_\_

The aggregate credit limit is increased to \$6 million retroactive to January 1, 2012. The additional credit from the tax imposed on gambling games is eliminated.

Section Amended \_\_\_\_\_

Section 11 of 2013 Iowa Acts House File 620 amends section 15E.305, subsection 2, Code 2013. Section 12 strikes section 99F.11, subsection 3, paragraph d, subparagraph 3, Code 2013.

Effective Date \_\_\_\_\_

Effective June 17, 2013 and retroactive to January 1, 2012, for credits authorized on or after that date and for applications received on or after that date.

13 HF 620-A

## INCREASE IN TAX CREDIT AWARDS ISSUED BY IOWA ECONOMIC DEVELOPMENT AUTHORITY

Prior Law \_\_\_\_\_

The Iowa Economic Development Authority (Authority) can award \$120 million in tax credits each fiscal year related to the high quality jobs program, the enterprise zone program, the assistive device credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, tax credits for investments in innovation funds, and the redevelopment tax credit program. Of this \$120 million, \$2 million is allocated to the tax credits for investments in qualifying businesses and community-based seed capital funds, \$8 million is allocated to tax credits for investments in innovation funds, and no more than \$5 million is allocated to the redevelopment tax credit program for brownfields and grayfields.

The Authority can authorize tax credits in excess of \$120 million for a fiscal year, but the amount of such excess is counted against the total amount of tax credits that can be authorized for a subsequent fiscal year.

New Provisions \_\_\_\_\_

The Authority can now award \$170 million in tax credits for a fiscal year. Of this \$170 million, no more than \$10 million is allocated to the redevelopment tax credit program. The Authority can also allocate less than \$2 million for tax credits for investments in qualifying businesses and community-based seed capital funds and can allocate less than \$8 million for tax credits for investments in innovation funds.

The Authority may authorize tax credits in excess of \$170 million in a fiscal year, but such excess shall not exceed 20% of \$170 million, or \$34 million, and this continues to be counted against the total amount of tax credits that can be authorized for a subsequent fiscal year. Any tax credits authorized and awarded by the Authority during a fiscal year that are irrevocably declined by the awarded business on or before June 30 of the next fiscal year may be reallocated, authorized, and awarded during the fiscal year in which the decline occurs.

Section Amended \_\_\_\_\_

Section 6 of 2013 Iowa Acts House File 620 amends section 15.119, subsection 1, Code 2013. Section 7 amends section 15.119, subsection 2, paragraphs d and e, Code 2013. Section 8 amends section 15.119, subsection 3, Code 2013.

Effective Date \_\_\_\_\_

Retroactive to July 1, 2012, for fiscal years beginning on or after that date.

13 HF 620-B

## SITUATIONS CREATING SALES TAX NEXUS/E-FAIRNESS

### Prior Law

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Iowa Code section 423.1(48) defines “retailer maintaining a place of business in this state” or any like term to include any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether that place of business or representative is located here permanently or temporarily, or whether the retailer or subsidiary is admitted to do business within this state pursuant to Iowa Code chapter 490.

### New Provisions

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Division I of 2013 of Iowa Acts House File 625 adds a rebuttable presumption that a retailer shall be considered to be maintaining a place of business in this state, if any person that has substantial nexus in this state, other than a common carrier, does any of the following:

- Sells a similar line of products as the retailer and does so under the same or similar business name.
- Maintains an office, distribution facility, warehouse, storage place, or similar place of business in this state to facilitate the delivery of property or services sold by the retailer to the retailer’s customers.
- Uses trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the retailer.
- Delivers, installs, assembles, or performs maintenance services for the retailer’s customers.
- Facilitates the retailer’s delivery of property to customers in this state by allowing the retailer’s customers to take delivery of property sold by the retailer at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in this state.
- Conducts any other activities in this state that are significantly associated with the retailer’s ability to establish and maintain a market in this state for the retailer’s sales.

The presumption may be rebutted by a showing of proof that the person’s activities in this state are not significantly associated with the retailer’s ability to establish or maintain a market in this state for the retailer’s sales.

Additionally, any agreement, contract or ruling, entered into after the effective date of this Act, between a retailer and a state agency that provides that a retailer is not required to collect sales and use tax in this state despite the presence in this state of a warehouse, distribution center, or fulfillment center that is owned and operated by the

retailer or an affiliate of the retailer shall be null and void unless the agreement, contract, or ruling is approved by resolution, by a majority vote of each house of the general assembly.

An additional provision was added to require any person that will make taxable sales of tangible personal property or furnish services to any state agency obtain a permit to collect sales or use tax. The section prohibits a state agency from purchasing tangible personal property or services from any person unless that person has a valid, unexpired permit.

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts House File 625 amends section 423.1, subsection 48, Code 2013. Section 2 creates new section 423.13A, Code Supplement 2013. Section 3 amends 423.36, by adding new subsection 1A, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

## SCHOOL TUITION ORGANIZATION TAX CREDIT CHANGES

Prior Law \_\_\_\_\_

A School Tuition Organization (STO) Tax Credit is available for Individual and Corporation Income Tax filers. The credit was not available for S corporations, partnerships, limited liability companies, estates or trusts. The credit is equal to 65% of the amount of a voluntary cash or non-cash contribution made by a taxpayer to an STO. 90% of the revenues received by an STO must be used to provide tuition grants to eligible families to allow children to attend a qualified school of their choice.

By December 1 of each year, the Department of Revenue authorizes STOs to issue tax credit certificates for the following tax year by notifying each STO of the amount of tax credits that can be issued for the following tax year. For the 2012 and 2013 calendar years, the total amount of tax credits that could be issued by STOs totaled \$8,750,000.

New Provisions \_\_\_\_\_

For tax years beginning on or after January 1, 2013, the STO Credit is available to S corporations, partnerships, limited liability companies, or estates or trusts. The Credit will be allowed to the shareholders of S corporations, partners of partnerships, members of limited liability companies, or beneficiaries of estates or trusts based on the individual's pro rata share of earnings of the S corporation, partnership, limited liability company, estate or trust.

The total amount of STO Tax Credits authorized is increased from \$8,750,000 to \$12,000,000 for 2014 and subsequent calendar years.

Section Amended \_\_\_\_\_

Section 4 of 2013 Iowa Acts House File 625 amends section 422.11S, Code 2013, by adding new subsection 4A. Section 5 amends section 422.11S, subsection 7, paragraph a, subparagraph (2), Code 2013.

Effective Date \_\_\_\_\_

The change allowing the STO Credit to S corporations, partnerships, limited liability companies, or estates or trusts is retroactive to January 1, 2013, for tax years beginning on or after that date. The increase in the STO Credit to \$12,000,000 is effective for the 2014 calendar year.

13 HF 625-B

## FAIRGROUND PROPERTY TAX EXEMPTION

Prior Law \_\_\_\_\_

Fairgrounds owned by a county, when the fairgrounds are devoted to public use and not held for pecuniary profit, are exempt from property tax.

New Provisions \_\_\_\_\_

Fairgrounds that are owned by a county or a fair are exempt from property tax.

The use of the fairgrounds for a purpose other than a fair event by the owner or by a lessee, including the use for pecuniary profit does not affect the exempt status of the property.

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts House File 627 amends Code section 427.1, Code 2013 by adding new subsection 39.

Effective Date \_\_\_\_\_

Effective July 1, 2013 for assessment years beginning on or after January 1, 2014.

13 HF 627

## HYDROELECTRIC CONVERSION PROPERTY SALES TAX EXEMPTION

Prior Law \_\_\_\_\_

Iowa Code section 423.3(54) provides a sales tax exemption for wind energy conversion property to be used as an electric power source and the sale of the materials used to manufacture, install, or construct wind energy conversion property used or to be used as an electric power source.

New Provisions \_\_\_\_\_

Section 423.3(54) is amended to create a sales tax exemption for hydroelectricity conversion property to be used as an electric power source and the sale of materials used to manufacturer, install, or construct hydroelectricity conversion property used or to be used as an electric power source.

The definition of “hydroelectric conversion property includes: any device, including but not limited to a generator, turbine, powerhouse, intake, coffer dam, walls, water conduit, tailrace, any other concrete components, electrical equipment substation, poles, wires, transformers, breakers, and switches used to convert water, water power, or hydroelectricity to a form of usable energy.

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts House File 630 amends Code section 423.3, subsection 54, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

13 HF 630

## **ALGAE PRODUCTION PROPERTY AS AGRICULTURAL PROPERTY**

Prior Law \_\_\_\_\_

The property tax classification of algae production property was not specifically addressed in the Iowa Code.

New Provisions \_\_\_\_\_

Beginning with property valuations established on or after January 1, 2013, real estate used directly in the cultivation and production of algae for harvesting as a crop for animal feed, food, nutritionals, or biofuel production is considered agricultural property. To be considered agricultural property, the real estate must be an enclosed pond or land containing a photobioreactor.

A photo bioreactor used in the production of algae for harvesting as a crop for animal feed, food, nutritionals, or biofuel production is not attached, and is therefore, not considered real property for purposes of property taxation.

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts House File 632 amends Code section 427A.1, subsection 4 Code 2013 by adding new paragraph d. Section 2 amends Code section 441.21, subsection 12, Code 2013.

Effective Date \_\_\_\_\_

Assessment years beginning on or after January 1, 2013.

13 HF 632

## **FUEL BLENDING RIGHTS AND MOTOR FUEL DETERMINATION PERIOD EXTENSION**

Prior Law \_\_\_\_\_

Iowa Code section 452A.3(1) establishes the formula used to determine the tax rate on motor fuel used to operate a vehicle. Currently, the rate is variable, based on the percentage of ethanol blended with fuel. This ethanol-based formula is effective until June 30, 2013. Iowa Code section 452A.3(1A) provides that after June 30, 2013, the excise tax on each gallon of all types of motor fuel shall be twenty cents.

New Provisions \_\_\_\_\_

Division II of the Act codifies the right of distributors and dealers to blend conventional blendstock for oxygenate blending, gasoline, or diesel fuel using a biofuel. A refiner, supplier, terminal operator, or terminal owner may not refuse to sell conventional blendstock for oxygenate blending, gasoline, or diesel fuel based on a distributor or dealers intent to blend.

New supply agreements may not restrict a dealer or distributors' ability to do any of the following:

- Purchase, sell, or dispense motor fuel or special fuel that is a renewable fuel from a source other than the supplier, if the supplier does not furnish motor fuel or special fuel that is a renewable fuel for sale by the distributor or dealer;
- Installing blender pumps or other equipment for higher blends restricting the locations where higher blends can be offered;
- Use a dispenser to dispense ethanol blended gasoline with a specified blend or range of blends under Iowa Code chapter 214A;
- Use a form of payment for the sale of renewable fuel that is the same type used for another type of motor fuel or special fuel;
- Sell or dispense renewable fuel in any specified area on the distributor or dealers' premises, including but not limited to any area in which a name or logo of a franchiser or any other entity appear;
- Advertise biodiesel or ethanol blends.

A refiner, supplier, terminal operator, or terminal owner who violates this section is subject to a civil penalty of \$10,000. Each day that a violation continues is considered a separate offense.

Division IV of the Act amends Iowa Code section 452A.3(1) to change the expiration date of the ethanol-based formula for calculating the motor fuel tax from June 30, 2013 to June 30, 2014. Iowa Code section 452A.3(1A) is amended to change the effective date of the twenty-cent per gallon tax on motor fuel from June 30, 2013 to June 30, 2014.

Section Amended \_\_\_\_\_

Section 2 of 2013 Iowa Acts House File 640 amends section 214A.1, Code 2013 by adding new subsections 8A, 12A, 16A, 18A, 18B, 23A, 23B, 23C, and 23D. Section 3 amends section 214A.20, subsection 1, Code 2013. Section 4 amends section 323.1, Code 2013 by adding new subsections 01, 3A, 7A, 7B, 7C, 11 and 12. Section 5 adds new section 323.4A, Code Supplement 2013. Section 6 amends section 452A.2, Code 2013 by adding new subsections 6A, 9A, 28A, 30A, and 37A. Section 7 creates new section 452A.6A, Code Supplement 2013. Section 11 amends section 452A.3, subsection 1, unnumbered paragraph 1, Code 2013. Section 12 amends section 452A.3, subsection 1A, Code 2013.

Effective Date \_\_\_\_\_

The blender's rights provisions are effective July 1, 2013. The motor fuel determination period is effective June 17, 2013.

## REINVESTMENT DISTRICTS

Prior Law \_\_\_\_\_

None.

New Provisions \_\_\_\_\_

Municipalities, with approval from the Iowa Economic Development Authority Board (“the Board”), are now authorized to establish Reinvestment Districts and receive remittances of new state sales tax and state hotel and motel tax revenues collected in those Districts to fund projects within the District. New states sales tax revenue is defined as 4/6 of the state sales tax revenue from retailers within the district that receive a sales tax permit on or after the creation of the district. New state hotel and motel tax is defined as the total amount of state hotel and motel tax revenue from establishments within the District that receive a tax permit on or after the creation of the District.

To gain approval from the Board, a municipality must submit a plan proposal to the Board meeting the requirements of the Act. Plan proposals must be submitted to the Board no later than July 1, 2018. The total amount of proposed funding from state sales tax revenue and state hotel and motel tax revenue to be remitted to the municipality may not exceed 35% of the total cost of all the proposed projects in the district plan. The district area must consist of contiguous parcels and must not exceed 25 acres. At least one project in the District must have a capital investment of at least ten million dollars.

The calculation of the new state sales tax and new state hotel motel tax begins on the commencement date of the plan as established by the Board. The commencement date is the first day of the first calendar quarter beginning after either (1) the date that construction of the project with the largest amount of capital investment among all proposed projects within the District is completed; or (2) the date that the project with the largest amount of capital investment becomes operational, whichever is later.

The total aggregate amount of state sales tax and hotel motel tax revenues that may be approved by the board for remittance to all municipalities shall not exceed \$100 million. The length of existence for a Reinvestment District is 20 years after the commencement date.

The Department will calculate the amount of new state sales tax and hotel and motel tax quarterly; administer the Reinvestment District Fund (“the Fund”) and the accounts within the Fund for each Reinvestment District; and distribute all moneys within the District account within the fund to the municipality that established the District for deposit in the municipality’s reinvestment project fund.

Section Amended \_\_\_\_\_

2013 Iowa Acts House File 641 creates new chapter 15J, Code Supplement 2013. Section 9 of the Act amends section 432.2, subsection 11, paragraph b, Code 2013, by adding new subparagraph 6. Section 10 amends section 423A.6, unnumbered paragraph 1, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013

13 HF 641

## UPDATE OF REFERENCES TO THE INTERNAL REVENUE CODE

Prior Law \_\_\_\_\_

The primary statutory references to the Internal Revenue Code (IRC) related to the determination of income are amended through January 1, 2012.

New Provisions \_\_\_\_\_

The primary references to the federal provisions for the determination of income and for the research activities credit were updated to January 1, 2013 as amended by the American Taxpayer Relief Act of 2012, Public Law No. 112-240.

Some of the major provisions of the American Taxpayer Relief Act for which Iowa is now coupled are:

- An increase in section 179 expensing to \$500,000 for 2012 and 2013
- A deduction for out-of-pocket educator expenses up to \$250 for 2012 and 2013
- A deduction for tuition and fees for higher education for 2012 and 2013
- Election to deduct state sales/use tax as an itemized deduction in lieu of state income tax for 2012 and 2013
- An income tax exemption for IRA distributions donated to charity for 2012 and 2013
- An itemized deduction for mortgage insurance premiums as a qualified residence interest expense for 2012 and 2013
- Coupling with earned income tax credit and child and dependent care tax credits for 2012 and subsequent years
- A limitation on itemized deductions for high-income taxpayers for 2013 and subsequent years

The only provision of the American Taxpayer Relief Act for which Iowa is decoupled is bonus depreciation for assets acquired in 2012 (see page 26, SF 106-B for more information).

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts Senate File 106 amends section 15.335, subsection 7, paragraph b, Code 2013. Section 2 amends section 422.3, subsection 5, Code 2013. Section 3 amends section 422.9, subsection 2, paragraph 1, Code 2013. Section 4 amends section 422.10, subsection 3, paragraph b, Code 2013. Section 5 amends section 422.32, subsection 1, paragraph g, Code 2013. Section 6 amends section 422.33, subsection 5, paragraph d, subparagraph (2), Code 2013.

Effective Date \_\_\_\_\_

Retroactive to January 1, 2012, for tax years beginning on or after that date.

13 SF 106-A

## DECOUPLING WITH BONUS DEPRECIATION

Prior Law \_\_\_\_\_

Iowa did not couple with the 50% bonus depreciation provision allowable for federal income tax purposes for assets acquired on or after January 1, 2008, but before September 9, 2010. Iowa did not couple with the 100% bonus depreciation provisions allowable for federal income tax purposes for assets acquired after September 8, 2010, but before January 1, 2012. Iowa did not couple with the 50% bonus depreciation provision allowable for federal income tax purposes for assets acquired during 2012.

New Provisions \_\_\_\_\_

The American Taxpayer Relief Act of 2012 provided for 50% bonus depreciation for federal income tax purposes for assets acquired in 2013. This 50% bonus depreciation provision for assets acquired in 2013 was not adopted for Iowa individual, corporation and franchise tax purposes. The MACRS (modified accelerated cost recovery system) method of depreciation without the bonus depreciation provisions of section 168(k) of the Internal Revenue Code must be used in computing depreciation for Iowa income tax purposes for assets acquired during 2013. Adjustments are also made for Iowa income tax purposes for any gain or loss from the sale of assets where the depreciation deductions are different for Iowa and federal tax purposes.

Section Amended \_\_\_\_\_

Section 9 of 2013 Iowa Acts Senate File 106 amends section 422.7, subsection 39A, unnumbered paragraph 1, Code 2013. Section 10 amends section 422.35, subsection 19A, unnumbered paragraph 1, Code 2013.

Effective Date \_\_\_\_\_

Retroactive to January 1, 2013, for tax years ending on or after that date.

13 SF 106-B

## **EXTENDED STATUTE OF LIMITATIONS FOR CERTAIN AIRLINE EMPLOYEES TO REQUEST REFUNDS**

Prior Law \_\_\_\_\_

None. Taxpayers have up to three years after the due date of the return to timely request a refund.

New Provisions \_\_\_\_\_

The FAA Modernization and Reform Act of 2012, Public Law 112-95, allowed a qualified airline employee who received a settlement payment from an airline company in bankruptcy to roll over that amount into a traditional IRA. This would result in a potential refund for federal income tax purposes. Due to the bankruptcy, these employees were not previously allowed to roll those amounts over to an IRA, and the normal three year statute of limitations for refund for federal purposes had expired. For federal purposes, these employees had until April 15, 2013 to file an amended return and receive a refund for federal income tax purposes.

For Iowa individual income tax purposes, these qualified airlines employees have until June 30, 2013 to file an amended Iowa income tax return and claim a refund.

Section Amended \_\_\_\_\_

Section 13 of 2013 Iowa Acts Senate File 106 amends section 422.73, Code 2013, by adding new subsection 1A.

Effective Date \_\_\_\_\_

Retroactive to January 1, 2012, for refund claims filed on or after that date.

13 SF 106-C

## BUSINESS PROPERTY TAX CREDIT

Prior Law \_\_\_\_\_

None.

New Provisions \_\_\_\_\_

### Eligibility

New Iowa Code chapter 426C creates a business property tax credit (“credit”). One credit is available to each eligible parcel classified and taxed as commercial property, industrial property, or railway property. A parcel that is part of a “property unit” that is claiming the credit is not eligible for a separate credit.

To qualify as a “property unit”, the parcels that make up the property unit must:

- 1) be “contiguous” (i.e. touching);
- 2) be located within the same county;
- 3) have the same property classification;
- 4) be owned by the same person; and
- 5) be operated by that person for a common use and purpose.

Property that is rented or leased to low-income individuals or families and that is assessed as Section 42 housing is not eligible for the credit or may not be part of a property unit that receives the credit.

For credits claimed for fiscal years beginning July 1, 2014 and July 1, 2015, property that is a mobile home park, manufactured home community, land-leased community, assisted living facility, or property primarily used or intended for human habitation containing three or more separate dwelling units is not eligible for the credit and may not be part of a property unit that receives the credit.

### Filing for Credit

Once a claim has been filed and the credit is allowed there is no need to re-file the claim as long as the parcel or property unit continues to qualify for the credit.

To receive the credit against taxes due and payable during the fiscal year beginning July 1, 2014, businesses must file a claim not later than January 15, 2014.

For taxes due and payable for fiscal years beginning on or after July 1, 2015, businesses must file a claim no later than March 15 preceding the fiscal year in which the taxes are due and payable. So, to receive a credit for taxes due and payable for fiscal year beginning July 1, 2015, businesses must file a claim no later than March 15, 2015.

If the property ceases to qualify for the credit, the owner is required to provide written notice, by March 15 preceding the fiscal year in which the taxes are due and payable, to the county assessor informing the assessor that the property no longer qualifies for the credit.

If the ownership of all or a portion of a parcel or property unit that is allowed a credit changes, the new owner must file a new claim for the credit. If the ownership of a portion of a parcel or property unit that is allowed a credit changes, the owner of the portion or property unit for which ownership did not change must re-file the claim for credit.

The business property tax credit is paid out of a newly-created business property tax credit fund. For fiscal year beginning July 1, 2014 and 2015, there is appropriated from the general fund to the business property tax credit fund \$50,000,000 and \$100,000,000, respectively. For fiscal year beginning July 1, 2016, and each year thereafter, \$125,000,000 is appropriated from the general fund to the business property tax credit fund.

#### Audit by the Department

If the Department determines that the amount of the credit was incorrectly calculated or that the credit is not allowable, the Department shall recalculate the credit and notify the claimant and the county auditor of the recalculation or denial and the reasons for it.

The Department has three years from October 31 of the year in which the claim was filed to adjust the business property tax credit.

The claimant or board of supervisors may appeal any decision of the Department to the state board of tax review. The claimant, the board of supervisors, or the Department may seek judicial review of the action of the state board of tax review.

#### Penalty for False Claims

A person who makes a false claim for the purpose of obtaining a credit or who knowingly receives the credit without being legally entitled to it is guilty of a fraudulent practice.

Section Amended \_\_\_\_\_

Sections 3 – 11, inclusive, of 2013 Iowa Acts Senate File 295 create new chapter 426C, Code 2013.

**Effective Date** \_\_\_\_\_

Effective June 12, 2013 for property taxes due and payable in fiscal years beginning on or after July 1, 2014.

**13 SF 295-A**

## VALUATION GROWTH LIMITATION REDUCED TO 3 PERCENT

Prior Law \_\_\_\_\_

For property valuations established as of January 1, 1980, and each year thereafter, the increase in the assessed value of agricultural and residential property was limited to 4 percent. The percentage of growth was required to be the same for agricultural and residential property; therefore, if one of these classes of property had less than 4 percent growth for a year, the other class was limited to the same percent of growth.

New Provisions \_\_\_\_\_

For property valuations established as of January 1, 2013, and each assessment year thereafter, the increase in the assessed value of agricultural and residential property is limited to 3 percent. The percentage of growth must be the same for agricultural and residential property; therefore, if one of these classes of property has less than 3 percent growth for a year, the other class is limited to the same percent of growth.

Section Amended \_\_\_\_\_

Section 17 of 2013 Iowa Acts Senate File 295 amends Code section 441.21, subsection 4, Code 2013.

Effective Date \_\_\_\_\_

Effective June 12, 2013 for assessment years beginning on or after January 1, 2013.

13 SF 295-B

## COMMERCIAL, INDUSTRIAL, AND RAILROAD PROPERTY TAX “ROLLBACK”

Prior Law \_\_\_\_\_

For property valuations established as of January 1, 1981, and each year thereafter, commercial and industrial property, and railroad company property taxed under Chapter 434 was assessed at 100 percent of its actual value.

New Provisions \_\_\_\_\_

For property valuations established for the assessment year beginning January 1, 2013, commercial and industrial property and railroad company property taxed under Chapter 434 is assessed at 95 percent of its actual value.

For property valuations established for the assessment year beginning January 1, 2014, and each assessment year thereafter, commercial and industrial property and railroad company property taxed under Chapter 434 is assessed at 90 percent of its actual value.

Section Amended \_\_\_\_\_

Section 18 of 2013 Iowa Acts Senate File 295 amends Code section 441.21, subsection 5, Code 2013. Section 19 amends Code section 441.21, subsections 9 and 10, Code 2013.

Effective Date \_\_\_\_\_

Effective June 12, 2013 for assessment years beginning on or after January 1, 2013.

13 SF 295-C

## COMMERCIAL AND INDUSTRIAL PROPERTY TAX REPLACEMENT

Prior Law \_\_\_\_\_

None.

New Provisions \_\_\_\_\_

Beginning with the fiscal year beginning July 1, 2014, a county may make a claim to the Department for an amount equal to the total amount of the commercial and industrial property tax replacement claims ("replacement claims") made by the taxing districts located within the county. Generally speaking, the replacement claim is the tax lost by a taxing district as a result of the rollback of the commercial property and industrial property.

For each fiscal year beginning on or after July 1, 2014, the Department will receive a general fund appropriation to pay all replacement claims for the fiscal year in which the claims are made.

For fiscal years beginning on or after July 1, 2017, the appropriation cannot exceed the total amount of money necessary to pay all replacement claims for the fiscal year beginning July 1, 2016. If the amount appropriated to the Department is not sufficient to pay all replacement claims, the Department is required to prorate the payment of replacement claims to the county treasurer and notify the county auditors of the pro rata percentage.

Section Amended \_\_\_\_\_

Section 20 of 2013 Iowa Acts Senate File 295 creates new Code section 441.21A, Code 2013.

Effective Date \_\_\_\_\_

Effective June 12, 2013 for assessment years beginning on or after January 1, 2013.

13 SF 295-D

## MULTIRESIDENTIAL PROPERTY CLASSIFICATION

Prior Law \_\_\_\_\_

Under prior law, Iowa had four property classifications: Residential, Agricultural, Commercial, and Industrial.

When a city or county establishes an urban revitalization area, it is required to specify whether the revitalization is applicable to none, some, or all of the property assessed as residential, agricultural, commercial or industrial property within that urban revitalization area.

Commercial property consisting of three or more separate living quarters with at least 75 percent of the space used for residential purposes and residential property are eligible to receive 100 percent exemption from taxation for ten years on the actual value added by improvements if they are located within an urban revitalization area.

New Provisions \_\_\_\_\_

Beginning with property valuations established on or after January 1, 2015, Iowa will have a fifth property classification known as “multiresidential property.”

### Definition of Multiresidential Property

The following property shall be valued as a separate class of property known as “multiresidential property” and be valued at a percentage of its actual value:

- Mobile home parks;
- Manufactured home communities;
- Land-leased communities;
- Assisted living facilities;
- Property primarily used or intended for human habitation containing three or more separate dwelling units.
- The portion of a building that is used or intended for human habitation and a proportionate share of the land upon which the building is situated, regardless of the number of dwelling units located within the building, if the use for human habitation is not the primary use of the building and such building is otherwise classified as residential property.

For parcels that partially satisfy the requirements for classification as multiresidential property, the assessor shall classify that portion of the parcel as multiresidential property. The remaining portion of the parcel shall be classified as the classification for which it qualifies.

Property that is rented or leased to low-income individuals or families which is assessed as Section 42 housing or a hotel, motel, inn, or other building where rooms or dwelling

units are usually rented for less than one month cannot be classified as multiresidential property.

#### Actual, Assessed, and Taxable Value

For property valuations established for the assessment year beginning January 1, 2015, the percentage of actual value of multiresidential property must be the greater of 86.75 percent or the percentage of actual value at which residential property is assessed for the same assessment year. The percentage will be reduced for each subsequent assessment year until the assessment year beginning January 1, 2022. For the assessment year beginning January 1, 2022, and each year thereafter, multiresidential property will be assessed at the same percentage of actual value as residential property for the same assessment year.

Any construction or installation of a solar energy system on property classified as multiresidential will not increase the actual, assessed, and taxable value of the property for five full assessment years.

#### Urban Revitalization

A city or county establishing an urban revitalization area is required to specify whether the revitalization is applicable to none, some, or all of the property assessed as residential, multiresidential, agricultural, commercial or industrial property within the urban revitalization area.

Multiresidential property located within an urban revitalization is eligible to receive 100 percent exemption from taxation for a period of ten years if the property consists of three or more separate living quarters with at least 75 percent of the space used for residential purposes.

Section Amended \_\_\_\_\_

Section 24 of 2013 Iowa Acts Senate File 295 amends Code section 404.2, subsection 2, paragraph f, Code 2013. Section 25 amends Code section 404.3, subsection 4, Code 2013. Section 26 amends Code section 441.21, subsection 8, paragraph b, Code 2013. Section 27 amends section 441.21, subsections 9 and 10, Code 2013. Section 28 amends Code section 441.21, by adding new subsection 13.

Effective Date \_\_\_\_\_

January 1, 2015

**13 SF 295-E**

## EXEMPTION FOR TELECOMMUNICATION COMPANY PROPERTY

Prior Law \_\_\_\_\_

Telephone and telegraph companies operating a line in the State of Iowa are centrally assessed by the Iowa Department of Revenue. The Department finds the actual value of the companies' property by considering information they report annually. The Department uses that information to calculate an actual value per Iowa line mile. As centrally assessed property, telecommunication company property currently is taxed upon 100% of its value per Iowa line mile.

New Provisions \_\_\_\_\_

Division IV of 2013 Iowa Acts Senate File 295 introduces a tiered property tax exemption for specified portions of value of the company's property. The exemption percentage is tied and applied to each specified portion of the property's value. Beginning with Assessment Year 2013, the following percentages of exemption will apply per dollar amount of value:

Total Assessed Value	\$0 - 20M Assessed Value	\$20M - \$55M Assessed Value	\$55 - \$500M Assessed Value	>\$500M Assessed Value
2013 Exemption %	20.00%	17.50%	12.50%	10.00%
2014 Forward Exemption %	40.00%	35.00%	25.00%	20.00%

For example, in Assessment Year 2013 a company valued at \$200 million will receive a 20% exemption on the first \$20 million of its value, a 17.5% exemption on the next \$35 million of its value (\$20 million plus \$35 million = \$55 million), and a 12.5% exemption on the next \$145 million of its value (\$55 million + \$145 million = \$200 million).

In Assessment Year 2014, that same company will receive a 40% exemption on the first \$20 million of its value, a 35% exemption on the next \$35 million of its value, and a 25% exemption on the next \$145 million of its value.

Sections Amended \_\_\_\_\_

Division IV of the bill amends sections 433.4, 433.5, 433.8, and 433.9, Code 2013. In addition, section 433.6, Code 2013, is repealed. The language contained in this section is incorporated into the other amended sections.

Effective Date \_\_\_\_\_

Division IV of 2013 Iowa Acts Senate File 295 is effective June 12, 2013 and applies retroactively for Assessment Years beginning on or after January 1, 2013.

13 SF 295-F

## STUDY OF PROPERTY TAX TREATMENT OF COMPANIES PROVIDING TELECOMMUNICATIONS SERVICES

Prior Law \_\_\_\_\_

None.

New Provisions \_\_\_\_\_

Section 36 of 2013 Iowa Acts Senate File 295 directs the Department of Revenue, in consultation with the Department of Management and representatives of companies providing telecommunications services in Iowa by any means; including but not limited to mobile, wireless, VoIP, and landline; and other interested persons to study the current assessment process for such companies and recommend changes, including potential methods to provide equivalent property tax treatment for all companies providing telecommunications services in Iowa and recommendations for apportioning the property tax revenues back to local taxing authorities.

The report must also include draft legislation to implement the recommendations made. The Department must file the report with the Chairpersons and Ranking Members of the Ways and Means Committees of the Senate and the House of Representatives and with the Legislative Services Agency by August 1, 2015.

Once the Department's report is filed, a Legislative Telecommunications Company Property Tax Review Committee will be created. The Legislative Committee will consist of six legislators, two appointed by the Senate Majority Leader, one appointed by the Senate Minority Leader, two appointed by the Speaker of the House, and one appointed by the House Minority Leader. The Legislative Committee will then review the report and determine what legislative action to take, if any. The Department will provide additional information and analysis to the Committee upon request.

To facilitate the study, companies providing telecommunications service in Iowa are required to submit certain information, in aggregate, to the Department. The Department's confidentiality provisions for taxpayer information will apply to any information submitted by telecommunications companies pursuant to the report.

Sections Amended \_\_\_\_\_

None.

Effective Date \_\_\_\_\_

June 12, 2013.

13 SF 295-G

## IOWA TAXPAYERS TRUST FUND TAX CREDIT

Prior Law \_\_\_\_\_

None.

New Provisions \_\_\_\_\_

An Iowa Taxpayers Trust Fund Tax Credit is now available for Iowa individual income tax. The credit is equal to the amount of money in the Iowa Taxpayers Trust Fund at the end of a fiscal year divided by the number of eligible individuals who filed Iowa Individual Income Tax returns by October 31 of the year preceding the year in which the credit is allowed.

For example, there will be \$120,000,000 in the Iowa Taxpayers Trust Fund at the end of the fiscal year ending June 30, 2013. It is anticipated that 2,150,000 individuals will file Iowa Individual Income Tax returns for the 2012 calendar year by October 31, 2013. This would result in a \$55 Taxpayers Trust Fund Tax Credit that will be available for all individuals who file an Iowa Income Tax return for the 2013 tax year. The 2013 Iowa return must be filed by October 31, 2014 to be eligible for the credit. Any credit in excess of the tax liability (which is the computed Iowa tax less other nonrefundable credits plus any school district surtax or EMS surtax less other refundable credits which does not include tax withheld and estimated payments) is not refundable and cannot be carried back or carried forward to another tax year.

The Department of Revenue will determine the amount of the Credit for each year shortly after November 1 of the previous year when the total number of individual filers for the previous year is determined and the amount of Taxpayer Trust Fund Tax Credits claimed on Iowa returns is determined. If the amount of taxpayer trust fund tax credits claimed on tax returns is less than the amount authorized, the difference will be transferred to the Taxpayer Trust Fund for the next year. For example, if only \$90,000,000 of Taxpayer Trust Fund Tax Credits are claimed on 2013 Iowa returns filed by October 31, 2014, the remaining \$30,000,000 will be transferred to the Taxpayers Trust Fund and will be available for the Taxpayer Trust Fund Tax Credit for the 2014 Iowa return.

There must be a balance in the Taxpayers Trust Fund of \$30,000,000 or more in order for the Taxpayers Trust Fund Credit to be available.

Section Amended \_\_\_\_\_

Section 41 of 2013 Iowa Acts Senate File 295 amends section 8.57E, subsection 2, Code 2013. Section 42 amends section 257.21, unnumbered paragraph 2, Code 2013.

Section 43 adopts new section 422.11E, Code 2013. Section 44 amends section 422D.2, Code 2013.

Effective Date \_\_\_\_\_

Retroactive to January 1, 2013, for tax years beginning on or after that date.

**13 SF 295-H**

## Property Assessment Appeal Board Extension

### Prior Law \_\_\_\_\_

The Property Assessment Appeal Board (“PAAB”) consists of one certified real estate appraiser, an attorney, and a professional with experience in the field of accounting or finance and state and local taxation matters. The salary of the Board members is the same as the salary of a district court judge.

If taxpayers feel their property is not valued properly, they can protest the valuation and appear before the Board to contest the assessment. Taxpayers can ask for revaluation of the property, but no reduction or increase is allowed for prior years.

The assessment by the assessor and notice to the taxpayer of an increase in an assessment is to be completed no later than April 15 of each year. In addition, no changes are to be made on the assessment rolls after April 15, except by order of the Board of Review, PAAB, or a decree of court. In addition, the owners of real property are to be notified not later than April 15 of any adjustment of the real property assessment.

A property owner or aggrieved taxpayer who is dissatisfied with the owner’s or taxpayer’s assessment can file a protest against the assessment with the Board of Review on or after April 16 of the year of the assessment.

Appeals to PAAB are to be filed within twenty days after the date the Board of Review’s letter of disposition of the protest was postmarked.

PAAB is required to provide at least thirty days’ written notice of the date of an appeal. The appeal is to be considered by a less than a majority of the members of the board.

### New Provisions \_\_\_\_\_

The Board will now consist of two real property appraisers and an attorney practicing in the area of state and local taxation or property tax appraisals. The Governor will now set board members’ salary using approved ranges set by the General Assembly as a range 5 position.

Taxpayers who feel their property was not valued properly may now also contact the assessor to contest the assessment through an informal assessment review prior to protesting to the local Board of Review.

The assessment shall be completed no later than April 1 each year. If the assessor increases any assessment the assessor shall give notice of the increase in writing to the taxpayer by mail postmarked April 1. No changes shall be made on the assessment

rolls after April 1 except by order of the board of review, PAAB or a decree of court. A protest against the assessment must be filed with the board of review on or after April 7.

On even-numbered assessment years when property has not been reassessed and there has been a decrease in value of property from the previous reassessment year, the protestor can show the decrease in value by comparing the market value of the property as of January 1 of the current assessment year and the actual value of the property for the previous reassessment year.

Boards of Review may allow taxpayers to file protests electronically, and PAAB may also provide for filing of a notice of appeal and petition by electronic means. Also, participation in a PAAB hearing may be by telephone or other means of electronic communication.

Appeals to PAAB must now be filed within twenty days after the adjournment of the local Board of Review or May 31, whichever is later. This filing period is now consistent with the time for filing an appeal in District Court.

The thirty day notice PAAB is required to provide for an appeal date can be waived by mutual agreement of all parties to the appeal. The appeal may be considered by one or more members of the Board.

Code sections 7E.6, 13.7, 428.4, 441.19, 441.35, 441.38, 441.39, 441.43, 441.49, and 445.60, and enacting section s421.1A and 441.37A are repealed effective July 1, 2018. Code section 441.28 as it relates to PAAB was set to expire July 1, 2018.

Section Amended \_\_\_\_\_

Section 47 of 2013 Iowa Acts Senate File 295 amends section 421.1A, subsection 2, paragraph b, Code 2013. Section 48 amends section 421.1A, subsection 6, Code 2013. Section 49 amends section 421.1A, subsection 7, Code 2013, by striking the subsection. Section 50 amends section 441.21, subsection 3, Code 2013. Section 51 amends section 441.23, Code 2013. Section 52 amends section 441.26, subsection 1, Code 2013. Section 53 amends section 441.28, Code 2013. Section 54 adds new section 441.30, code 2013. Section 55 amends section 441.35, subsection 2, Code 2013. Section 56 amends section 441.37, subsection 1, paragraphs a and b, Code 2013. Section 57 amends section 441.37, by adding new subsection 2A, Code 2013. Section 58 amends section 441.37A, subsection 1, paragraphs a and b, Code 2013. Section 59 amends section 441.37A, subsection 1, by adding new paragraph e, Code 2013. Section 60 amends section 441.37A, subsection 2, Code 2013. Section 61 amends section 441.37A, subsection 3, paragraph a, Code 2013. Section 62 amends 2005 Iowa Acts, chapter 150, section 134.

Effective Date \_\_\_\_\_

June 12, 2013 for assessment years beginning on or after January 1, 2014, except for the following:

- June 12, 2013 for the change in members of the Property Assessment Appeal Board
- The fiscal year beginning on or after July 1, 2013 for the amendment to 421.1A, subsection 6, and the amendment to 2008 Iowa Acts, chapter 1191, section 14, subsection 5
- January 1, 2013, for assessment years beginning on or after that date, for the amendment of section 441.37A, subsection 2

13 SF 295-I

## EARNED INCOME TAX CREDIT CHANGES

Prior Law \_\_\_\_\_

An Earned Income Tax Credit is available for Iowa Individual Income Tax. The credit is equal to 7% of the federal Earned Income Tax Credit available under section 32 of the Internal Revenue Code. Any tax credit in excess of the tax liability is refundable.

New Provisions \_\_\_\_\_

The Iowa Earned Income Tax Credit is 14% of the federal Earned Income Tax Credit for tax years beginning in the 2013 calendar year. The Iowa Earned Income Tax Credit is 15% of the federal Earned Income Tax Credit for tax years beginning on or after January 1, 2014. Any tax credit in excess of the tax liability is still refundable.

Section Amended \_\_\_\_\_

Section 70 of 2013 Iowa Acts Senate File 295 amends section 422.12B, subsection 1, Code 2013.

Effective Date \_\_\_\_\_

Retroactive to January 1, 2013, for tax years beginning on or after that date.

13 SF 295-J

## STATE DEBT COORDINATOR REPORT

Prior Law \_\_\_\_\_

2010 Iowa Acts, ch 1146, § 9, 27 (Iowa Code § 421C.1) established the Office of State Debt Coordinator (“OSDC”) within the Department of Revenue for administrative and budgetary purposes. The State Debt Coordinator was never appointed by either Governor Culver or Governor Branstad.

New Provisions \_\_\_\_\_

Section 60 of 2013 Iowa Acts Senate File 396 requires the Director of Revenue to develop and recommend legislative proposals for the continued efficiency of the OSDC. These recommendations are to be detailed in a report to the Department of Management, the Governor, and the General Assembly, no later than January 13, 2014.

Although no Coordinator was ever appointed, the Department will prepare a report recommending improvements that can be made in state debt collections. The Department will work with the Judicial Branch and other interested stakeholders in researching existing programs, developing recommendations, and preparing the report.

Section Amended \_\_\_\_\_

None.

Effective Date \_\_\_\_\_

Effective 7/1/2013

## NEXT MONTH'S INTEREST CALCULATION ON ASSESSMENTS ISSUED AFTER THE 20TH

Prior Law \_\_\_\_\_

A notice of assessment issued by the Department after the 20th day of the month is required to include the interest calculation for both the current and subsequent months.

New Provisions \_\_\_\_\_

The Department is no longer required to include the subsequent month's interest calculation on notices of assessment issued after the 20<sup>th</sup> day of the month. This change conforms to current practice.

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts Senate File 432 amends section 422.25, subsection 1, paragraph b, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

13 SF 432-A

## ELIMINATE 20 DAY NOTICE FOR SALES TAX AND EPC

Prior Law \_\_\_\_\_

For sales tax and the environmental protection charge (“EPC”), the Department is required by statute to send a 20-day notice informing a taxpayer that a return was incorrect or insufficient, prior to the notice of assessment. Many taxpayers protest this 20-day notice; however, taxpayers are not actually allowed to protest until the official notice of assessment is issued, creating an administrative burden for the Department and confusing taxpayers as to the procedurally correct time to protest. The 20-day notice is not issued for any other tax types.

New Provisions \_\_\_\_\_

The statutory requirement to provide a 20-day notice prior to assessment for sales tax and EPC has been eliminated.

Section Amended \_\_\_\_\_

Section 2 of 2013 Iowa Acts Senate File 432 amends section 423.37, subsection 2, Code 2013. Section 3 of 2013 Iowa Acts Senate File 432 amends section 424.10, subsection 2, paragraph a, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

13 SF 432-B

## **ASSESSOR INFORMATION USING GEOGRAPHIC INFORMATION SYSTEM**

Prior Law \_\_\_\_\_

Under prior law, the Director of Revenue (“Director”) did not have explicit statutory authority to use geographic information system (“GIS”) technology or to require certain assessing authorities and local governments to provide information to the Department electronically using electronic GIS file formats.

New Provision \_\_\_\_\_

The Director may use GIS technology and may require assessing authorities and local governments that have adopted technology that is compatible with GIS technology to provide information to the Department electronically using electronic GIS file formats.

Section Amended \_\_\_\_\_

Section 4 of 2013 Iowa Acts Senate File 432 amends Code section 421.17, subsection 2, Code 2013 by adding new paragraph d.

Effective Date \_\_\_\_\_

July 1, 2013

13 SF 432-C

## ASSESSOR EXAMINATION PROCESS

Prior Law \_\_\_\_\_

The Director of Revenue ("Director") is required to prepare and administer a written examination for the purpose of examining and certifying assessor and deputy assessor candidates. The examinations were to be administered two times per year in Des Moines, Iowa.

Notification of the time, place, and date of the examinations is required to be mailed to each city and county assessor, county auditor, and chairperson of each city and county conference board at least 30 days prior to the date of the examination.

The Director is required to notify, in writing, each applicant of their score on the examination.

New Provisions \_\_\_\_\_

The Director must prepare and provide for an examination process for the purpose of examining and certifying assessor and deputy assessor candidates. However, the Director is no longer required to administer a written exam.

The Director is required to approve one or more examination locations and to make a list of the approved locations available to applicants. Each applicant is required to select an examination location from the list.

The Director's notification to applicants of the date and time of the examination at least 30 days prior to the date of the examination is no longer required to be mailed; the notification may be made using an alternative method.

The Director is still required to notify each applicant of their score on the examination, but the notification need not be in writing.

Sections Amended \_\_\_\_\_

Section 5 of 2013 Iowa Acts Senate File 432 amends Code section 421.5, subsection 1, Code 2013. Section 6 amends Code section 421.5, subsection 4, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013

13 SF 432-D

## TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM EXTENSION

Prior Law \_\_\_\_\_

A targeted jobs withholding tax credit is available for eligible businesses that operate in certain pilot project cities. The cities include Sioux City, Council Bluffs, Fort Madison, Burlington and Keokuk. Businesses enter into a withholding agreement with the pilot project city, and three percent of the gross wages paid to employees covered under the agreement are paid to the pilot project city and taken as a credit on the Iowa withholding tax return. To enter an agreement, the employer must agree to create or retain ten jobs in an urban renewal area, each paying at least equal to the average county wage, or make a qualifying investment of at least \$500,000 within an urban renewal area in the city. The deadline to enter into such an agreement is June 30, 2013.

New Provisions \_\_\_\_\_

The deadline for cities to enter into a withholding agreement is extended to June 30, 2018. The requirement that the employer be located within an urban renewal area is removed. A definition of “retained job” is added. The amendments also make changes to Iowa Economic Development Authority’s ongoing review of withholding agreements and the consequences of an employer’s failure to comply with the agreement.

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts Senate File 433 amends section 403.19A, subsection 1, paragraphs c, e, f, and g, Code 2013. Section 2 amends section 403.19a, subsection 1 by adding new paragraph 0f, Code 2013. Section 3 amends section 403.19A, subsection 3, paragraphs a, b, c, and f, Code 2013. Section 4 amends section 403.19A, subsection 3, paragraph d, subparagraph (1), Code 2013. Section 5 amends section 403.19A, subsection 3, by adding new paragraph, of Code 2013. Section 6 describes the applicability of the Act to agreements entered into before and after the effect date of the Act.

Effective Date \_\_\_\_\_

July 1, 2013

13 SF 433

## HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDIT CHANGES

Prior Law \_\_\_\_\_

A refundable tax credit is available for 25% of the qualified rehabilitation costs incurred for the substantial rehabilitation of eligible property in Iowa. To be eligible, the property or district must be any of the following:

- Listed on the National Register of Historic Places or eligible for such a listing;
- Designated as having historic significance to a district listed in the National Register of Historic Places or be eligible for such a listing;
- Designated by a city or county ordinance as a local landmark; or
- A barn constructed before 1937.

To be considered “substantial rehabilitation” of commercial property, the rehabilitation costs must equal 50% of the assessed value of the property, prior to rehabilitation, excluding the land. For residential property or barns, rehabilitation costs must equal at least \$25,000 or 25% of the property’s assessed value, prior to rehabilitation, excluding the land, whichever is less. The property must be placed into service within 60 months of the date on which the project application was approved.

The program is funded for up to \$45 million in tax credits. There are multiple funding streams for tax credit awards:

- 10% of the dollar amount of tax credits is to be awarded to small projects (\$50,000 or less);
- 30% of the dollar amount of tax credits is to be awarded to projects in cultural and entertainment districts;
- 20% of the dollar amount of tax credits is to be awarded to disaster recovery projects;
- 20% of the dollar amount of tax credits is to be awarded to projects involving the creation of more than 500 new permanent jobs; and
- 20% of the dollar amount of tax credits is to be awarded to any eligible projects.

New Provisions \_\_\_\_\_

Substantial rehabilitation of commercial property now includes rehabilitation costs equal to \$50,000 or 50% of the assessed value, whichever is less. The category of property that previously included residential property and barns is expanded to include any “property other than commercial property.”

The date by which property must be placed into service is extended from within 60 months to within 72 months of the date of approval if more than 50% of the qualified

rehabilitation costs are incurred within 60 months of the date on which the project application was approved under this section.

The requirement that 10% of the dollar amount of tax credits is allocated to new projects with final qualified rehabilitation costs of \$500,000 is amended to \$750,000.

Section Amended \_\_\_\_\_

Section 1 of 2013 Iowa Acts Senate File 436 amends Iowa Code section 404A.1, subsection 2, paragraph e, Code 2013. Section 2 amends Iowa Code section 404A.3, subsection 3, paragraph b, Code 2013. Section 3 amends section 404A.4, subsection 4, paragraph b, subparagraph 1, Code 2013.

Effective Date \_\_\_\_\_

The extension to 72 months of the time period by which the project must be placed into service is effective upon enactment, May 16, 2013, for property placed in service on or after that date. The remaining new provisions are effective July 1, 2013.

## **WATER UTILITY DELIVERY TAX & TASK FORCE EXTENSION**

### **Prior Law** \_\_\_\_\_

The Department values water utilities by determining the unit valuation of the entire operating property.

The Utility Replacement Tax Task Force was required to study, through January 1, 2013, the effects that replacement taxes imposed on electricity and natural gas providers have on local taxing authorities, local taxing districts, consumers, and taxpayers.

### **New Provisions** \_\_\_\_\_

Property taxes imposed on water utilities will be replaced with an excise tax that will be based on the delivery of water to a consumer.

The replacement delivery tax is equal to the number of gallons of water delivered to consumers in the water utility's service area during the tax year multiplied by the replacement delivery tax rate in effect for the service area.

Each water utility whose property is subject to the replacement delivery tax is required to file a return containing specified information with the Director of Revenue on or before March 31 following the previous tax year.

The Director and the Department of Management then compute the allocation of the tax among the local taxing districts and report the allocations to the county treasurers on or before August 15. County treasurers then notify each water utility of its tax obligation before August 31. The water utility must remit the tax in two payments, the first on or before September 30 and the second on or before March 31.

All operating property and other property that is primarily and directly used in the delivery of water that is also subject to the replacement delivery tax is subject to a statewide property tax of three cents per thousand dollars of assessed value.

The existing Utility Replacement Tax Task Force is extended through January 1, 2016 and is required to study the effects that replacement taxes imposed on electricity and natural gas providers and on rate-regulated water utilities have on local taxing authorities, local taxing districts, consumers, and taxpayers.

### **Sections Amended** \_\_\_\_\_

Section 1 of 2013 Iowa Acts Senate File 451 amends Code section 257.3, subsection 1, paragraph c, Code 2013. Section 2 amends Code section 331.604, subsection 4, Code 2013. Section 3 amends Code section 421.10, Code 2013. Section 4 amends Code section 427A.1, subsection 1, paragraph h, Code 2013. Section 5 amends Code

section 427B.17, subsection 5, unnumbered paragraph 1, Code 2013. Section 6 amends Code section 428.24, Code 2013. Section 7 amends Code section 428.26, Code 2013. Section 8 amends Code section 428.28, Code 2013. Section 9 amends Code section 437A.15, subsection 7, paragraph b, Code 2013. Sections 10 through 30, inclusive, create new Code sections 437B.1 through 437B.21, inclusive Code 2013. Section 31 amends Code section 441.73, subsection 1, Code 2013. Section 32 amends Code section 443.2, unnumbered paragraph 2, Code 2013. Section 33 amends Code section 476.6, subsection 19, paragraphs a and b, Code 2013.

Effective Date \_\_\_\_\_

Effective May 9, 2013, and retroactive to property tax assessments and replacement tax years beginning on or after January 1, 2013.

## **S CORPORATION APPORTIONMENT CREDIT EXPANDED TO ESTATES AND TRUSTS**

Prior Law \_\_\_\_\_

An S Corporation Apportionment Credit is available to resident shareholders of S corporations which carry on business within and without Iowa. The S corporation apportionment credit is computed on Form IA 134. In essence, resident shareholders who elect to claim the S Corporation Apportionment Credit are taxed on the amount of distributions received from the S corporation less federal income taxes paid, or the income earned by the S corporation based on the ratio of Iowa sales divided by total sales, whichever was the greater. Even though estates and trusts can be shareholders in S corporations, estates and trusts are not eligible to claim the S Corporation Apportionment Credit.

New Provisions \_\_\_\_\_

The S Corporation Apportionment Credit is now available to estates and trusts with a situs in Iowa which is a shareholder in an S corporation that does business within and without Iowa. The Credit is still claimed on form IA 134, and can now be reflected on an Iowa fiduciary return, form IA 1041.

Section Amended \_\_\_\_\_

Section 120 of 2013 Iowa Acts, Senate File 452 amends section 422.5, subsection 1, paragraph j, subparagraph (2), subparagraph division (1), Code 2013. Section 121 amends section 422.8, subsection 2, paragraph b, unnumbered paragraph, 1, Code 2013.

Effective Date \_\_\_\_\_

Retroactive to January 1, 2013, for tax years beginning on or after that date.

13 SF 452-A

## PARTNERSHIP FILING REQUIREMENTS

Prior Law \_\_\_\_\_

Partnerships, which include limited partnerships, that are organized in Iowa or having a place of business in Iowa are required to file Iowa partnership returns. The Iowa partnership returns require the net income and capital gains or losses reported on the federal partnership return, the names and address of the partners, and their respective shares of net income and capital gains or losses from the partnership.

New Provisions \_\_\_\_\_

Partnerships, including limited partnerships, which are doing business in Iowa, or deriving income from sources within Iowa as defined in Iowa Code section 422.33, subsection 1, are required to file Iowa returns. This includes partnerships having income from real, tangible, or intangible property located or having a situs in Iowa.

Section Amended \_\_\_\_\_

Section 122 of 2013 Iowa Acts Senate File 452 amends section 422.15, subsection 2, Code 2013.

Effective Date \_\_\_\_\_

Retroactive to January 1, 2013, for tax years beginning on or after that date.

13 SF 452-B

## SILVICULTURE SALES TAX EXEMPTION

Prior Law \_\_\_\_\_

None.

New Provisions \_\_\_\_\_

To ensure that silviculture is not incidentally subject to sales tax as the taxable service of tree trimming and removal, agricultural production is now defined to include production from silvicultural activities, or forestry. Agricultural products now also include the products of silviculture.

A sales tax exemption was added for services provided by forestry consultants and forestry vendors engaged in forestry practices on private or public land

Section Amended \_\_\_\_\_

Section 125 of 2013 Iowa Acts Senate File 452 amends section 423.1, subsection 5, Code 2013. Section 128 of Senate File 452 amends section 423.3 by adding new subsection 99, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

13 SF 452-C

## SECURITY SERVICES SALES TAX EXEMPTION

Prior Law \_\_\_\_\_

Security and detective services are taxable services. Included in security and detective services, as set out in the Department's rules, are the services of a peace officer engaged privately in security or detection work.

New Provisions \_\_\_\_\_

Specifically excluded from the taxable service of security and detective services are private security and detective services furnished by a peace officer when the chief executive officer of the peace officer's law enforcement agency knows and has approved of the services. This is the normal process for off-duty peace officer security and detective work, and this process allows the peace officer to wear a uniform issued by the peace officer's law enforcement agency, make arrests and carry a weapon, even though the peace officer is hired for that specific service by a private entity rather than the law enforcement agency.

Section Amended \_\_\_\_\_

Section 126 of 2013 Iowa Acts Senate File 452 amends section 423.2, subsection 6, paragraph a, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

13 SF 452-D

## DEFINITION OF MANUFACTURER

### Prior Law

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There is an exemption from sales or use tax from the sale or rental of computers, machinery, and equipment if the computers, machinery and equipment are directly and primarily used in processing by a manufacturer. Statutorily, manufacturer, for sales tax purposes, is defined in section 428.20, which defines manufacturer for property tax assessment purposes. A contract manufacturer is a manufacturer that otherwise falls within the definition of manufacturer under section 428.20, except that a contract manufacturer does not sell the tangible personal property it processes on behalf of other manufacturers.

Iowa Code section 428.20 defines manufacturer for real property tax assessment purposes to mean a person who purchases, receives, or holds personal property of any description for the purpose of adding to its value by a process of manufacturing, refining, purifying, combining of different materials, or by the packing of meats, with a view to selling the property for gain or profit.

The Department's definition of manufacturer was challenged in front of the Iowa Supreme Court in *Sherwin-Williams v. Iowa Dept. of Revenue*, 789 N.W.2d 417 (Iowa 2010). The issue was whether Sherwin-Williams was entitled to the manufacturing exemption for equipment used in its retail outlets. The Department argued that only equipment used by one whose principal business is manufacturing is exempt because allowing the exemption to be applied to a retail establishment would produce the absurd result of including as manufacturers restaurants, bars, lemonade stands, and various home-improvement stores. The Department also argued that the word manufacturer must be interpreted consistently with its common meaning, encompassing only those whose principal business is manufacturing, and because the equipment at issue was used in establishments whose principal business is retail sales, the manufacturing exemption did not apply.

The Department also argued the court should look to the definition of manufacturer in section 428.20 which applies to both sales/use tax and property tax, and make a ruling for sales tax not inconsistent with property tax. Under property tax rules, a manufacturing establishment is a business entity in which the primary activity consists of adding to the value of personal property by any processing of manufacturing, refining, purifying, the packing of meats, or the combination of different materials with the intent of selling for gain or profit. The Department's property classification rules provide that commercial real estate includes land and structures which are primarily used or intended as a place of business where goods, wares, services, or merchandise is stored or offered for sale at wholesale or retail. Sherwin-Williams' retail stores were assessed for property-tax purposes as commercial real estate, not industrial real estate.

The court did not agree with the Department's arguments and found that sales and use tax can be imposed based on the use of the specific equipment as opposed to the taxpayer's use of the premises as a whole. Therefore, the classification of the real property for property tax assessment purposes does not matter. Rather, it is how the machinery or equipment is being used. The court did not find it absurd for the legislature to accord a retailer a manufacturer's exemption when specific equipment is used by the retailer in the same manner and for the same purpose as such equipment would be used by a taxpayer whose principal business is manufacturing.

New Provisions \_\_\_\_\_

To codify Sherwin-Williams, a manufacturer is now defined to mean a person who purchases, receives, or holds personal property of any description for the purpose of adding to its value by a process of manufacturing, refining, purifying, combining of different materials, or by the packing of meats, with a view to selling the property for gain or profit, in addition to contract manufacturers. Contract manufacturers are defined in the same way and are no longer defined under section 428.20.

In addition, language was added to clarify that it is not necessary that a person be primarily engaged in an activity listed in the definition of manufacturer in order to qualify as a manufacturer for sales or use tax purposes.

Section Amended \_\_\_\_\_

Section 127 of 2013 Iowa Acts Senate File 452 amends section 423.3, subsection 47, paragraph d, subparagraph (4), Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

13 SF 452-E

## **WIND DOWN AND FUTURE REPEAL OF IOWA FUND OF FUNDS TAX CREDIT PROGRAM**

### **Prior Law**

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A contingent tax credit is available for investments made in the Iowa Fund of Funds. The Iowa Fund of Funds, which was organized by the Iowa Capital Investment Corporation, makes investments in venture capital funds that make a commitment to consider investing in businesses located in Iowa. The Fund of Funds hired a fund manager to assist in making these investment decisions. The contingent tax credit is capped at \$60 million, and \$3 million of the credit is reserved for loan guarantees and other credit related enhancements on loans to rural and small business borrowers within the state of Iowa. The tax credits are only redeemed if the actual rate of return on the Fund investments does not meet the rate of return guaranteed to investors. Any return in excess of the guaranteed rate is to be reinvested in the Fund of Funds as a revolving fund. The contingent tax credits are issued by the Iowa Capital Investment Board. The Fund of Funds is scheduled to be liquidated in 2052, fifty years after its organization in 2002.

The investments in the venture capital funds are funded by a revolving loan with the contingent tax credits as collateral. The revolving loan arrangement was in danger of being in default in early 2012, and an agreement was reached between all parties involved in this program whereby \$25.6 million in tax credits were verified to be claimed on Iowa tax returns. These tax credits could then be sold to companies who could claim the tax credit on a tax return, and the proceeds from the credit sales were used to satisfy the revolving loan debt. The \$25.6 million roughly equaled the amount of money invested in these venture capital firms.

### **New Provisions**

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Legislation was enacted to reflect the terms of the settlement between all the parties related to the wind down of the Fund of Funds program. Some provisions included the following:

- The Iowa Fund of Funds cannot make new investments in private seed and venture capital partnerships or entities.
- A designated investor cannot make any investment in the Iowa Fund of Funds unless such investment was required by the Agreement.
- No additional tax credits will be issued, redeemed or verified unless required by the Agreement or deemed necessary by the Director of Revenue and the Iowa Attorney General's office.
- No new fund managers can be involved in the Fund of Funds program.
- Tax credit certificates can no longer be pledged as security for a loan unless provided in the Agreement.

- The \$3 million of credits reserved for loan guarantees and credit related enhancements on loans to rural and small business borrowers has been repealed.
- The Iowa Capital Investment Corporation will assist the Iowa Capital Investment Board, the Department of Revenue, and the Attorney General's office in winding down the Fund of Funds program.
- Any investment returns for the Fund of Funds in excess of the rate guaranteed to investors will be deposited in the general fund of the state of Iowa after the revolving debt is satisfied.
- The issuance of contingent and verified tax credit certificates related to the Fund of Funds program is to be governed by the Agreement.
- The Fund of Funds program will be repealed on the expiration or termination of the Agreement or December 31, 2027, whichever is the later.

Section Amended \_\_\_\_\_

Section 129 of 2013 Iowa Acts Senate File 452 amends section 15E.62, Code 2013, by adding new subsections 3 and 4. Section 130 amends section 15E.65, subsection 2, paragraph h, Code 2013. Section 131 creates new section 15E.72, Code 2013.

Effective Date \_\_\_\_\_

June 20, 2013.

13 SF 452-F

## TAX APPEALS STUDY COMMITTEE

### Prior Law

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Taxpayers have the right to appeal an issued assessment or refund denial from the Department of Revenue (“Department”). Under the current appeals process, if the matter is not resolved informally, a hearing is scheduled and exhibits and testimony are heard by an Administrative Law Judge (“ALJ”). After the hearing, the ALJ issues a proposed order. If either party disagrees with the ALJ’s order, the party may appeal to the Director of the Department for a decision. If a party disagrees with the Director’s decision, the decision may be appealed to the State Board of Tax Review. That decision may be appealed to the District Court. A District Court decision may be appealed to the Iowa Supreme Court.

The current process has resulted in a large backlog of appeals. Additionally, the fact that the Director is the authority that reviews ALJ decisions is problematic for both the taxpayer and the Department. The Director’s role in the appeals process limits the Department’s ability to consult with the Director on important issues that may be the subject of an appeal. The Director’s role in the appeals process also raises concerns for the taxpayer about the Director’s ability to be an impartial judge. The Department would like to address these concerns by exploring new procedures that remove the Director from the appeals process.

### New Provisions

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The Department, in consultation with the Department of Management and other interested stakeholders (collectively “Study Committee”), is required to study the fairness, effectiveness, and independence of the current administrative appeals process used to resolve tax matters. If the Study Committee determines that changes are necessary, it must study the desirability, practicality, and feasibility of replacing components of the current appeals process with a new consolidated and independent administrative appeals board within the executive branch to resolve disputes between the Department and taxpayers.

The Department must prepare and file a report detailing the findings and recommendations of the Study Committee with the chairpersons and ranking members of the ways and means committees of the Senate and the House of Representatives, and with the Legislative Services Agency by January 8, 2014.

This shall not be construed to provide the Department of Revenue with the power to eliminate or modify the Property Assessment Appeals Board created pursuant to section 421.1A.

Section Amended \_\_\_\_\_

Section 133 of 2013 Iowa Acts Senate File 452 requires the Department to conduct the Tax Appeal Board Study, but this requirement will not be codified.

Effective Date \_\_\_\_\_

July 1, 2013.

13 SF 452-G

## SAVE AND PTER FUNDS CALCULATION AND DISTRIBUTION

Prior Law \_\_\_\_\_

Following the repeal of the School Infrastructure Local Option (SILO) sales and services tax, the increase in the state sales and use tax from 5% to 6% is used to fund the Secure an Advanced Vision for Education Fund (SAVE). The money in the Fund is distributed to school districts to use for infrastructure purposes. The formula for the distribution of moneys in the Fund is based upon the amounts that would have been received if the SILO tax continued to exist. Moneys in a fiscal year in excess of the amount needed to provide each school district with its formula amount are distributed and credited to the Property Tax Equity and Relief Fund (PTER).

New Provisions \_\_\_\_\_

Beginning July 1, 2014, SAVE Fund money will be distributed on a per pupil basis calculated using each school district's budget enrollment, as defined in Iowa Code section 257.6, for that fiscal year. The distribution and credit of moneys to the PTER Fund will now occur prior to distribution of moneys in SAVE to school districts, at a fixed rate of 2.1% of the moneys available in a fiscal year.

Section Amended \_\_\_\_\_

Section 134 of 2013 Iowa Acts Senate File 452 amends Iowa Code section 423.F.2, subsection 1, paragraph b, Code 2013. Section 135 amends Iowa Code section 423F.2, subsection 3, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2014.

13 SF 452-H

## FROM FARM TO FOOD DONATION TAX CREDIT

Prior Law \_\_\_\_\_

None.

New Provisions \_\_\_\_\_

Division XVIII of 2013 Iowa Acts, Senate File 452 creates a Farm to Food Donation Tax Credit for individual and corporation income tax. In order to qualify for the credit, the taxpayer must produce a food commodity and donate it to an Iowa food bank or an Iowa emergency feeding organization. The donated food may not be damaged or out-of-condition and unfit for human consumption. A food commodity that meets the requirements for donated foods pursuant to the Federal Emergency Food Assistance Program satisfies this requirement.

Individual members of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual shall claim the credit based upon the pro rata share of their earnings from the business entity.

The tax credit is available for 15% of the value of the food commodities donated in the tax year, when valued according to the federal guidelines for charitable contribution of food under Internal Revenue Code section 170(e)(3)(c), or \$5,000, whichever is less. The amount of the contribution for which the tax credit is claimed is not allowed as an itemized deduction for Iowa income tax.

Any credit in excess of the tax liability is not refundable, but the excess can be carried forward to the tax liability for the 5 five years, or until depleted, whichever is earlier.

Section Amended \_\_\_\_\_

Section 139 through section 144 of 2013 Iowa Acts Senate File 452 creates new sections 190B.301 through 190B.306, Code Supplement 2013. Section 145 creates new section 422.11E, Code Supplement 2013. Section 146 creates new section 422.33, subsection 30, Code Supplement 2013.

Effective Date \_\_\_\_\_

July 1, 2013, for tax years beginning on or after January 1, 2014.

13 SF 452-I

## MOTOR VEHICLE FEE EQUITY

### Prior Law

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Motor vehicles owned by non-residents but operated within Iowa by an Iowa resident are subject to the annual registration fee and a fee for new registration. However, the fees are not required to be paid if the vehicle is operated within Iowa temporarily, for 90 days or less. It is unclear whether the phrase “vehicles operated by residents temporarily, not exceeding ninety days” required the vehicle to be operated on the roads of Iowa for 90 days and whether the vehicle had to be operated in Iowa for 90 consecutive days.

A person who willfully makes a false statement in regard to the purchase price of the vehicle subject to a fee for new registration is guilty of a fraudulent practice and is also subject to a penalty of 75 percent of the amount of the fee for new registration required to be paid. The 75 percent penalty and fraudulent practice charge was limited to cases in which the person made a false statement in regard to the purchase price; it did not, however, apply to situations in which a person willfully tried to evade the entire fee for new registration.

### New Provisions

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The new law was a response to individuals who created business entities in states, such as Montana, that do not impose sales or use tax or a fee for new registration (“non-tax state”) on the purchase of a motor vehicle, for the sole purpose of evading the Iowa fee for new registration or use tax. The business entity would purchase the vehicle and register it in the non-tax state. The individual who created the business entity would drive the vehicle primarily in Iowa with a non-tax state’s license plates.

The new law clarifies the meaning of the phrase “vehicles operated by residents temporarily, not exceeding ninety days,” creates two rebuttable presumptions, and creates penalties for willful attempts to evade payment of the fee for new registration.

### Clarification of 90-day Operation

The new law clarifies the prior law by explicitly providing that a vehicle is not operated in Iowa temporarily, and is therefore subject to registration and the owner is required to pay the fees for registration, if the vehicle is located within Iowa for more than 90 consecutive or non-consecutive days and is operated upon an Iowa highway by an Iowa resident during the time the vehicle is located within Iowa.

Prior to the new law, it was difficult to prove that a vehicle was operated within Iowa for greater than 90 days. Therefore, the 90-day temporary period of operation does not apply to a vehicle owned by a shell business. The new law provides non-exclusive factors that indicate a business is a shell which includes, but is not limited to, a lack of specific business activity or purpose or failure to maintain a physical location in the state in which the business is registered.

### Rebuttable Presumptions

An Iowa resident who is found to be in control of a vehicle which is owned by a shell business and for which the fee for new registration has not been paid is guilty of a fraudulent practice and shall also be assessed a penalty of 75 percent of the amount of the fee for new registration required to be paid.

If the Department determines that the non-resident owner of the vehicle is a shell business, it is rebuttably presumed that:

- (1) the Iowa resident in control of the vehicle is the actual owner of the vehicle;
- (2) the vehicle is subject to Iowa registration; and
- (3) the payment of the fee for new registration is owed by the Iowa resident.

The new law provides non-exclusive factors that indicate a person is in control of the vehicle.

### Willful Attempt to Evade the Fee for New Registration

In addition to a person who willfully makes a false statement in regard to the purchase price of the vehicle subject to a fee for new registration, a person who willfully attempts in any manner to evade payment of the fee for new registration is also guilty of a fraudulent practice and will be assessed a penalty of 75 percent of the amount of the fee for new registration required to be paid.

Sections Amended \_\_\_\_\_

Section 160 of 2013 Iowa Acts Senate File 452 amends Code section 321.55, Code 2013. Section 161 amends Code section 321.105A, Code 2013.

Effective Date \_\_\_\_\_

July 1, 2013.

13 SF 452-J

## PROPERTY TAX CREDIT / RENT REIMBURSEMENT FUNDING

Prior Law \_\_\_\_\_

Iowa Code section 425.1(1) provides an annual appropriation to reimburse counties for homestead tax credits.

Section 425.39 provides an appropriation to reimburse counties for property tax credits allowed to elderly and disabled homeowners and for rent reimbursements paid to elderly and disabled renters.

Section 426.1 provides an annual appropriation to counties for agricultural land tax credits.

Section 426A.1A provides an appropriation to reimburse counties for the state's portion of military service tax credits allowed to eligible military veterans.

New Provisions \_\_\_\_\_

The following credits are fully funded and the appropriations to fund these credits for the 2014 fiscal year are as follows:

- |   |               |
|---|---------------|
| • Homestead Credit                        | \$138,000,000 |
| • Elderly & Disabled Credit/Reimbursement | \$ 27,200,000 |
| • Agricultural Land Tax Credit            | \$ 39,100,000 |
| • Military Credit                         | \$ 2,400,000  |

Sections Amended \_\_\_\_\_

N/A

Effective Date \_\_\_\_\_

Fiscal Year 2014