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The 1971 Code of Iowa,  
as amended by the 64th  
General Assembly, First  
Session regarding:

- 1. Personal Net Income Tax**
- 2. Business Tax on Corporations**
- 3. Retail Sales Tax**
- 4. Taxation of Financial Institutions**
- 5. Use Tax**
- 6. Disclosure of Information of Tax Returns**

Compiled by  
DEPARTMENT OF REVENUE  
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## **FOREWORD**

This pamphlet has been prepared by the Iowa Department of Revenue for your information and convenience.

Included in this document are changes enacted by the 64th General Assembly, First Session: Individual Income; Corporation Income; Retail Sales; and Use Tax Laws. Section headings, paragraph and number insertions have been added in accordance with the Code Editor's oral direction.

**STATE OF IOWA**  
**DEPARTMENT OF REVENUE**  
LUCAS STATE OFFICE BUILDING  
DES MOINES  
50319

PB 9593

## CHAPTER 422

### INCOME, CORPORATION, SALES AND BANK TAX

Referred to in §§78.2, subsection 7, 312.1, subsection 4, 321F.9,  
423.4, subsection 1, 423.8, 427.1, subsection 23

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DIVISION I  
INTRODUCTORY PROVISIONS

**422.1 Classification of chapter.** The provisions of this chapter are herein classified and designated as follows:

- Division I      Introductory provisions.
- Division II     Personal net income tax.
- Division III    Business tax on corporations.
- Division IV    Retail sales tax.
- Division V     Taxation of financial institutions.

Division VI    Administration.

Division VII   Allocation of revenues.

[C35,§6943-f1; C39,§6943.033; C46, 50, 54, 58, 62, 66,§422.1; 63GA, ch 1204,§23]

Amendment by 63GA, ch 1204,§23, transposed by editor

**422.2 Purpose or object.** This chapter shall be known as the "Property Relief Act", and shall have for its purpose the direct replacement of taxes already levied or to be levied on property to the extent of the net revenue obtained from the taxes imposed herein, which shall be apportioned back to the credit of individual taxpayers on the basis of the assessed valuation of taxable property as provided in division VII of this chapter. [C35,§6943-f2; C39,§6943.034; C46, 50, 54, 58, 62, 66,§422.2]

See §§422.69, 425.1(1)

**422.3 Definitions controlling chapter.** For the purpose of this chapter and unless otherwise required by the context:

1. The word "taxpayer" includes any person, corporation, or fiduciary who is subject to a tax imposed by this chapter.

2. "Department" means the department of revenue.

3. "Court" means the district court in the county of the taxpayer's residence.

4. "Director" means the director of revenue. [C35,§6943-f3; C39,§6943.035; C46, 50, 54, 58, 62, 66,§422.3; 62GA, ch 342,§72(1, 2)]

Referred to in §423.1, subsection 12

DIVISION II  
PERSONAL NET INCOME TAX

Referred to in §§422.16(5), 422.32(4), 427.1(23), 442.5

**422.4 Definitions controlling division.** For the purpose of this division and unless otherwise required by the context:

1. The words "taxable income" mean the net income as defined in section 422.7 minus the deductions allowed by section 422.9, in the case of individuals; in the case of estates or trusts, the words "taxable income" mean the taxable income (without a deduction for personal exemption) as computed for federal income tax purposes under the Internal Revenue Code of 1954, but with the adjustments specified in section 422.7 plus the Iowa income tax deducted in computing said taxable income and minus federal income taxes as provided in section 422.9.

2. The word "person" includes individuals and fiduciaries.

3. The words "income year" mean the calendar year or the fiscal year upon the basis of which the net income is computed under this division.

4. The words "tax year" mean the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this division.

5. The words "fiscal year" mean an accounting period of twelve months, ending on the last day of any month other than December.

6. The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, con-

servator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

7. The word "paid", for the purposes of the deductions under this division, means "paid or accrued" or "paid or incurred", and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this division. The term "received", for the purpose of the computation of net income under this division, means "received or accrued", and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this division.

8. The word "resident" applies only to individuals and includes, for the purpose of determining liability to the tax imposed by this division upon or with reference to the income of any tax year, any individual domiciled in the state, and any other individual who maintains a permanent place of abode within the state.

9. The words "foreign country" mean any jurisdiction other than one embraced within the United States. The words "United States", when used in a geographical sense, include the states, the District of Columbia, and the possessions of the United States.

10. The word "individual" means a natural person; and where an individual is permitted to file as a corporation, under the provisions of the Internal Revenue Code of 1954, such fictional status shall not be recognized for purposes of this chapter, and such individual's taxable income shall be computed as required under the provisions of the Internal Revenue Code of 1954 relating to individuals not filing as a corporation, with the adjustments allowed by this chapter.

11. The term "head of household" shall have the same meaning as provided by the Internal Revenue Code of 1954.

12. The word "nonresident" applies only to individuals, and includes all individuals who are not "residents" within the meaning of subsection 8 hereof.

13. The term "withholding agent" means any individual, fiduciary, estate, trust, corporation, partnership or association in whatever capacity acting and including all officers and employees of the state of Iowa, or any municipal corporation of the state of Iowa and of any school district or school board of the state, or of any political subdivision of the state of Iowa, or any tax-supported unit of government that is obligated to pay or has control of pay-

ing or does pay to any resident or nonresident of the state of Iowa or his agent any wages that are subject to the Iowa income tax in the hands of such resident or nonresident, or any of the above-designated entities making payment or having control of making such payment of any taxable Iowa income to any nonresident.

14. The term "wages" shall have the same meaning as provided by the Internal Revenue Code of 1954.

15. The term "employer" shall mean and include those who have a right to exercise control as to how, when, and where services are to be performed.

16. The term "other person" shall mean that person or entity properly empowered to act in behalf of an individual payee and shall include authorized agents of such payees whether they be individuals or married couples.

17. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, as amended to and including January 1, 1970. [C35,§6943-f4; C39,§6943.036; C46, 50, 54, 58, 62, 66,§422.4; 62GA, ch 344,§1, ch 345,§1; 63GA, ch 1199,§1]

Referred to in §§422.16(9), 422.32(4), 422.42(13), 442.5, 451.1(8)

Constitutionality, 58GA, ch 295,§5

**422.5 Tax imposed — applicable to federal employees.** A tax is hereby imposed upon every resident of the state, and upon that part of the taxable income of any nonresident which is derived from any property, trust, or other source within this state, including any business, trade, profession, or occupation carried on within this state, which tax shall be levied, collected, and paid annually upon and with respect to his entire taxable income as herein defined at rates as follows:

1. On the first one thousand dollars of taxable income, or any part thereof, three-fourths of one percent.

2. On the second thousand dollars of taxable income, or any part thereof, one and one-half percent.

3. On the third thousand dollars of taxable income, or any part thereof, three percent.

4. On the fourth thousand dollars of taxable income, or any part thereof, four percent.

5. On the fifth, sixth, and seventh thousand dollars of taxable income, or any part thereof, five percent.

6. On the eighth and ninth thousand dollars of taxable income, or any part thereof, six percent.

7. On all taxable income over nine thousand dollars, seven percent.

However, no tax shall be imposed on any resident or nonresident whose net income, as

defined in section 422.7, is three thousand dollars or less; but in the event that the payment of tax under this division would reduce the net income to less than three thousand dollars, then the tax shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of three thousand dollars. The preceding sentence does not apply to estates or trusts. For the purpose of this paragraph, the entire net income, including any part thereof not allocated to Iowa, shall be taken into account. If the combined net income of a husband and wife exceeds three thousand dollars, neither of them shall receive the benefit of this paragraph, and it is immaterial whether they file a joint return or separate returns. An unmarried child under twenty-one years of age who is a dependent of his parent or parents as defined in section 422.12, shall not receive the benefit of this paragraph if such parent's net income exceeds three thousand dollars or if the combined net income of such parents exceeds three thousand dollars.

A resident of Iowa who is on active duty in the armed forces of the United States, as defined in Title 10, United States Code, section 101, for more than six continuous months, shall not include any income received for such service performed on or after January 1, 1969, in computing the tax imposed by this section.

\*Repealed by 63GA, ch 1204,§16

The tax herein levied shall be computed and collected as hereinafter provided.

The provisions of this division shall apply to all salaries received by federal officials or employees of the United States government as provided for herein. [C35,§6943-f5; C39, §6943.037; C46, 50, 54, 58, 62, 66,§422.5; 62GA, ch 348,§14(1, 2); 63GA, ch 111,§5, ch 243,§§1, 4; ch 1200,§1]

Referred to in §§422.6, 422.16, subsections 8, 9 and 11(e), 422.21, 422.69

\*Repealed by 63GA, ch 1204,§16

**422.6 Income from estates or trusts.** The tax imposed by section 422.5 shall apply to and become a charge against estates and trusts with respect to their taxable income, and the rates shall be the same as those applicable to individuals. The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts, whether such income be taxable to the estate or trust or to the beneficiaries thereon. [C35,§6943-f6; C39, §6943.038; C46, 50, 54, 58, 62, 66,§422.6]

Referred to in §§422.14, 422.16, subsections 9 and 11(e)

**422.7 "Net income"—how computed.** The term "net income" means the adjusted gross income as properly computed for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:



1. Subtract interest and dividends from federal securities.

2. Add interest and dividends from foreign securities and from securities of state and other political subdivisions exempt from federal income tax under the Internal Revenue Code of 1954.

3. Where the adjusted gross income includes capital gains or losses, or gains or losses from property other than capital assets, and such gains or losses have been determined by using a basis established prior to January 1, 1934, an adjustment may be made, under rules and regulations prescribed by the director, to reflect the difference resulting from the use of a basis of cost or January 1, 1934, fair market value, less depreciation allowed or allowable, whichever is higher. Provided that the basis shall be fair market value as of January 1, 1955, less depreciation allowed or allowable, in the case of property acquired prior to that date if use of a prior basis is declared to be invalid.

4. Subtract installment payments received by a beneficiary under an annuity which was purchased under an employee's pension or retirement plan when the commuted value of said installments has been included as a part of the decedent employee's estate for Iowa inheritance tax purposes.

5. Add the amount by which the basis of qualified depreciable property is required to be increased for depreciation purposes under the Internal Revenue Code Amendments Act of 1964 to the extent that such amount equals the net amount of the special deduction allowed on the basis of the amount by which the depreciable basis of such qualified property was required to be reduced for depreciation purposes under the Internal Revenue Code Amendments Act of 1962. The "net amount of the special deduction" shall be computed by taking the sum of the amounts by which the basis of qualified property was required to be decreased for depreciation purposes for the years 1962 and 1963 and subtracting from it the sum of the amounts by which the basis of such property was required to be increased, prior to 1964, for depreciation or disposition purposes under the Internal Revenue Code Amendments Act of 1962. [C35, §6943-f7; C39, §6943.039; C46, 50, 54, 58, 62, 66, §422.7; 62GA, ch 342, §73]

Referred to in §§135D.22, 135D.28, 422.4, subsection 1, 422.5, 422.16, subsections 9 and 11(e), 425.1, subsection 5, 442.11, 450.4, subsection 5

**422.8 Allocation of income earned in Iowa and other states.** Under rules and regulations prescribed by the director, net income of individuals, estates and trusts shall be allocated as follows:

1. The amount of income tax paid to another

state or foreign country by a resident taxpayer of this state on income derived from sources in another state or foreign country shall be allowed as a credit against the tax computed under the provisions of this chapter, except that the credit shall not exceed what the amount of the Iowa tax would have been on the same income which was taxed by the other state or foreign country. The limitation on this credit shall be computed according to the following formula: Income earned in another state or country and taxed by such other state or country shall be divided by the total income of the taxpayer resident in Iowa. Said quotient multiplied times the net Iowa tax as determined on the total income of the taxpayer as if entirely earned in Iowa shall be the maximum tax credit against the Iowa net tax.

2. In the case of nonresident taxpayers, if any net income is received from a business, trade, profession, or occupation carried on partly within and partly without the state of Iowa, only such portion of said net income as is fairly and equitably attributable to that part of the business, trade, profession, or occupation carried on within the state of Iowa shall be allocated to Iowa; income from any property, trust, estate or other source within Iowa shall be allocated to Iowa, except that annuities, interest on bank deposits and interest-bearing obligations, and dividends shall be allocated to Iowa only to the extent to which the same are derived from a business, trade, profession, or occupation carried on within the state of Iowa.

3. Taxable income of resident and nonresident estates and trusts shall be allocated in the same manner as individuals. [C35,§6943-f8; C39,§§6943.040, 6943.050; C46, 50, 54, 58,§§422.8, 422.18; C62, 66,§422.8; 62GA, ch 342,§74]

Referred to in §§422.9, subsection 4, 422.16, subsections 9 and 11(e)

**422.9 Deductions from net income.** In computing taxable income of individuals, there shall be deducted from net income the larger of the following amounts:

1. An optional standard deduction of five percent of the net income after deduction of federal income tax, not to exceed two hundred fifty dollars.

2. The total of contributions, interest, taxes, medical expense, child-care expense, losses and miscellaneous expenses deductible for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:

a. Subtract the deduction for Iowa income taxes.

b. Add the amount of federal income taxes paid or accrued as the case may be, during the

tax year, adjusted by any federal income tax refunds. Provided, however, that where married persons, who have filed a joint federal income tax return, file separately, such total shall be divided between them according to the portion thereof paid or accrued, as the case may be, by each; and provided further that where a taxpayer has used an optional standard deduction on his federal return, he shall use the optional standard deduction provided for above.

422.9 (a through d)

d. Add the amount by which expenses paid or incurred in connection with the adoption of a child by the taxpayer exceed three percent of the net income of the taxpayer, or of the taxpayer and spouse in the case of a joint return. The expenses may include medical and hospital expenses of the natural mother which are incident to the child's birth and are paid by the taxpayer, welfare agency fees, legal fees, and all other fees and costs relating to the adoption of a child if the child is placed by a child-placing agency licensed under chapter two hundred third eight (238) of the Code.

and 11(e)

**422.10 and 422.11** Repealed by 56GA, ch 208, §9.

Sales tax refund, 62GA, ch 348, §18; repealed by 63GA, ch 244, §1

**422.12 Deductions from computed tax.** There shall be deducted from the tax after the same shall have been computed as set forth in this division, a personal exemption as follows:

1. For a single individual, or a married person filing a separate return, fifteen dollars.

2. For a head of household, or a husband and wife filing a joint return, thirty dollars.

3. For each dependent, an additional ten dollars. As used in this section, the term "dependent" shall have the same meaning as provided by the Internal Revenue Code of 1954.

4. For a single individual, husband, wife, or head of household, an additional exemption of fifteen dollars for each of said individuals who has attained the age of sixty-five years before the close of the tax year or on the first day following the end of the tax year.

5. For a single individual, husband, wife, or head of household, an additional exemption of fifteen dollars for each of said individuals who is blind at the close of the tax year. For the purposes of this subsection, an individual is blind only if his central visual acuity does not exceed twenty-two hundredths in the better eye with correcting lenses, or if his visual acuity is greater than twenty-two hundredths but is accompanied by a limitation in the fields

of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

For the purpose of this section the determination of whether an individual is married shall be made as of the close of his tax year unless his spouse dies during his tax year, in which case such determination shall be made as of the date of such death. An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married. [C35, §6943-f12; C39, §6943.044; C46, 50, 54, 58, 62, 66, §422.12; 62GA, ch 348, §15; 63GA, ch 243, §2]

Referred to §§400.3, 422.5, 422.16, subsections 9 and 11(e)

#### **422.13 Return by individual.**

1. Every resident of Iowa who is required to file a federal income tax return under the Internal Revenue Code of 1954, or who has a net income of one thousand dollars or more for the tax year from sources taxable under this division, shall make and sign a return.

2. Every nonresident who is required to file a federal income tax return under the Internal Revenue Code of 1954 and who has a net income of one thousand dollars or more for the tax year from sources taxable under this division, shall make and sign a return.

3. If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

4. A nonresident taxpayer shall file a copy of his federal income tax return for the current tax year with the return required by this section. [C35, §6943-f13; C39, §6943.045; C46, 50, 54, 58, 62, 66, §422.13; 63GA, ch 243, §3]

Referred to in §422.16, subsections 9 and 11(e)

#### **422.14 Return by fiduciary.**

1. Every fiduciary subject to taxation under the provisions of this division, as provided in section 422.6, shall make and sign a return for the individual, estate or trust for whom or for which he acts, if the taxable income thereof amounts to six hundred dollars or more. A nonresident fiduciary shall file a copy of the federal income tax return for the current tax year with the return required by this section.

2. Under such regulations as the director may prescribe, a return may be made by one of two or more joint fiduciaries.

3. Fiduciaries required to make returns under this division shall be subject to all the provisions of this division which apply to individuals. [C35, §6943-f14; C39, §6943.046; C46, 50, 54, 58, 62, 66, §422.14; 62GA, ch 342, §76]

Referred to in §422.16, subsections 9 and 11(e)

#### **422.15 Information at source.**

1. Every person or corporation being a resident of or having a place of business in this state, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers and all officers and employees of the state or of any political subdivision of the state, having the control, receipt, custody, disposal or payment of interest (other than interest coupons payable to bearer), rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits and income, amounting to one thousand dollars or over, paid or payable during any year to any individual, whether a resident of this state or not, shall make complete return under such regulations and in such form and manner and to such extent as may be prescribed by the director.

2. Every partnership including limited partnerships organized under provisions of chapter 545, having a place of business in the state, shall make a return, stating specifically the net income and capital gains (or losses) reported on the federal partnership return, the names and addresses of the partners, and their respective shares in said amounts.

3. Every fiduciary shall make a return for the individual, estate, or trust for whom or for which he acts, and shall set forth in such return the taxable income, the names and addresses of the beneficiaries, and the amounts distributed or distributable to each as reported on the federal fiduciary income tax return. Such return may be made by one or two or more joint fiduciaries. [C35,§6943-f15; C39, §6943.047; C46, 50, 54, 58, 62, 66,§422.15; 62GA, ch 342,§77(1, 2)]

Referred to in §§422.16, subsections 9 and 11(e), 422.38

#### **422.16 Withholding of income tax at source.**

1. Every withholding agent as defined herein and every employer as defined herein and further defined in the Internal Revenue Code of 1954, as amended, with respect to income tax collected at source, making payment of wages as defined herein to either a resident employee or employees, or a nonresident employee or employees, working in Iowa, shall deduct and withhold from such wages an amount which will approximate the employee's annual tax liability on a calendar year basis, calculated on the basis of tables to be prepared by the department and schedules or percentage rates, based on such wages, to be prescribed by the department. Every employee or other person shall declare to such employer or withholding agent the number of his personal exemptions and dependency exemptions or credits to be used in applying such tables and schedules or percentage rates, provided that no more such

personal or dependency exemptions or credits may be declared by such employee or other person than the number to which he is entitled. Such claiming of such exemptions or credits in excess of entitlement shall constitute a misdemeanor.

Referred to in §422.17

2. Every withholding agent required to deduct and withhold tax under subsections 1 and 12 of this section shall, for each quarterly period, on or before the last day of the month following the close of each calendar quarterly period make a return on forms prescribed by the director and pay over to the department, in the form of remittances made payable to "Treasurer, State of Iowa", the tax required to be withheld, or the tax actually withheld, whichever is greater, under the provisions of subsections 1 and 12 hereof; provided, however, every withholding agent who withholds more than fifty dollars in any one month shall deposit with the department said sum, made out on a deposit form for the month in such form and manner as may be prescribed by the director. The said deposit form being due on or before the fifteenth day of the month next succeeding the month of withholding, except that no deposit shall be required for the amount withheld in the third month of the quarter but the total amount of withholding for the quarter shall be computed and that amount by which the aforementioned deposit fails to equal the total quarterly liability shall be due upon the filing of the quarterly report which shall be due within the month next succeeding the end of the quarter. If the director in any case has reason to believe that the collection of the tax provided for in subsections 1 and 12 hereof is in jeopardy, the director may require the employer or withholding agent to make such return and pay such tax at any time, in accordance with section 422.30. The director may authorize incorporated banks and trust companies which are depositories or financial agents of the United States, or of this state, to receive any tax imposed under this chapter, in such manner, at such times and under such conditions as the director may prescribe; and the director shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks and trust companies is to be treated as payment of such tax to the department.

3. Every withholding agent employing not more than two persons who expects to employ either or both of such persons for the full calendar year may, with respect to such persons, pay with the withholding tax return due for the first calendar quarter of the year the full amount of income taxes required to be withheld from the wages of such persons for the full calendar year. The amount to be

paid shall be computed as if the employee were employed for the full calendar year for the same wages and with the same pay periods as prevailed during the first quarter of the year with respect to such employee. No such lump sum payment of withheld income tax shall be made without the written consent of all employees involved. The withholding agent shall be entitled to recover from the employee any part of such lump sum payment that represents an advance to the employee. If a withholding agent pays a lump sum with the first quarterly return he shall be excused from filing further quarterly returns for the calendar year involved unless he hires other or additional employees.

4. Every withholding agent who fails to withhold or pay to the department any sums required by this chapter to be withheld and paid, shall be personally, individually, and corporately liable therefor to the state of Iowa, and any sum or sums withheld in accordance with the provisions of subsections 1 and 12 hereof, shall be deemed to be held in trust for the state of Iowa.

5. In the event a withholding agent fails to withhold and pay over to the department any amount required to be withheld under subsections 1 and 12 of this section, such amount may be assessed against such employer or withholding agent in the same manner as prescribed for the assessment of income tax under the provisions of divisions II and VI, chapter 422.

6. Whenever the director determines that any employer or withholding agent has failed to withhold or pay over to the department sums required to be withheld under subsections 1 and 12 of this section the unpaid amount thereof shall be a lien as defined in section 422.26, shall attach to the property of said employer or withholding agent as therein provided, and in all other respects the procedure with respect to such lien shall apply as set forth in said section 422.26.

7. Every withholding agent required to deduct and withhold a tax under subsections 1 and 12 of this section shall furnish to such employee, nonresident, or other person in respect of the remuneration paid by such employer or withholding agent to such employee, nonresident, or other person during the calendar year, on or before January 31 of the succeeding year, or, in the case of employees, if the employee's employment is terminated before the close of such calendar year, within thirty days from the day on which the last payment of wages is made, if requested by such employee, but not later than January 31 of the following year, a written statement showing the following:

a. The name and address of such employer or withholding agent, and the identification number of such employer or withholding agent.

b. The name of the employee, nonresident, or other person and his federal social security account number, together with the last known address of such employee, nonresident, or other person to whom wages have been paid during such period.

c. The gross amount of wages, or other taxable income, paid to the employee, nonresident, or other person.

d. The total amount deducted and withheld as tax under the provisions of subsections 1 and 12 of this section.

e. The total amount of federal income tax withheld.

The statements required to be furnished by this subsection in respect of any wages or other taxable Iowa income shall be in such form or forms as the director may, by regulation, prescribe.

8. An employer or withholding agent shall be liable for the payment of the tax required to be deducted and withheld or the amount actually deducted, whichever is greater, under subsections 1 and 12 of this section; and any amount deducted and withheld as tax under subsections 1 and 12 of this section during any calendar year upon the wages of any employee, nonresident, or other person shall be allowed as a credit to the employee, nonresident, or other person against the tax imposed by section 422.5, irrespective of whether or not such tax has been, or will be, paid over by the employer or withholding agent to the department as provided by this chapter.

9. The amount of any overpayment of the individual income tax liability of the employee taxpayer, nonresident, or other person which may result from the withholding and payment of withheld tax by the employer or withholding agent to the department under subsections 1 and 12 hereof, as compared to the individual income tax liability of the employee taxpayer, nonresident, or other person properly and correctly determined under the provisions of section 422.4, to and including section 422.25, may be credited against any income tax or installment thereof then due the state of Iowa and any balance of one dollar or more shall be refunded to the employee taxpayer, nonresident or other person with interest at six percent per annum, such interest to begin to accrue forty-five days after the date the return was due to be filed or was filed, whichever is the later date. Amounts less than one dollar shall be refunded to the taxpayer, nonresident, or other person only upon written application, in accordance with section 422.74, only if such application is filed within twelve months after



the due date of the return. Refunds in the amount of one dollar or more provided for by this subsection shall be paid by the state treasurer by means of warrants drawn by the comptroller at the direction of the director, or an authorized employee of the department, and the taxpayer's return of income shall constitute a claim for refund for this purpose, except in respect to amounts of less than one dollar. There is hereby appropriated, out of any funds in the state treasury not otherwise appropriated, a sum sufficient to carry out the provisions of this subsection.

10. *a.* Any employer or withholding agent required under the provisions of this chapter to furnish a statement required by this chapter who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish such statement shall, for each such failure, be subject to a civil penalty of one hundred dollars, such penalty to be in addition to any criminal penalty otherwise provided by the Code.

*b.* Any employer or withholding agent required under the provisions of this chapter to withhold taxes on wages or other taxable Iowa income subject to this chapter who fails to withhold such taxes, or to make the required returns or who fails to timely remit to the department the amounts withheld, shall be liable for the amount of such taxes which should have been withheld and paid, and in addition shall be subject to a civil penalty, equal to five percent of the amount which should have been withheld and paid over to the department, for each month or fraction thereof during which such failure continues, not to exceed twenty-five percent in the aggregate; interest at the rate of six percent per annum; shall be added to the tax required to be transmitted beginning with the first day of the second month following the end of the calendar quarter for which the tax was not transmitted, and such interest and such penalty shall become a part of the tax due from the withholding agent.

*c.* If any withholding agent, being a domestic or foreign corporation, required under the provisions of this section to withhold on wages or other taxable Iowa income subject to this chapter, fails to withhold the amounts required to be withheld, make the required returns or remit to the department the amounts withheld, the director may, having exhausted all other means of enforcement of the provisions of this chapter, certify such fact or facts to the secretary of state, who shall thereupon cancel the articles of incorporation or certificate of authority (as the case may be) of such corporation, and the rights of such corporation to carry on business in the state of Iowa shall thereupon cease. The secretary of

state shall immediately notify by registered mail such domestic or foreign corporation of the action taken by him. The provisions of subsection 3 of section 422.40 shall be applicable.

d. The department shall upon request of any fiduciary furnish said fiduciary with a certificate of acquittance showing that no liability as a withholding agent exists with respect to the estate or trust for which said fiduciary acts, provided the department has determined that there is no such liability.

11. a. Every person or married couple filing a joint return shall make a declaration of estimated tax if his or their Iowa income tax attributable to income other than wages subject to withholding can reasonably be expected to amount to fifty dollars or more for the taxable year, except that, in the cases of farmers and fishermen, the exceptions provided in the Internal Revenue Code of 1954 with respect to such declarations shall apply. The declaration provided for herein shall be filed on or before the last day of the fourth month of the taxpayer's tax year for which such declaration is filed, in such form as the director may require by regulations. The estimated tax shall be paid in quarterly installments. The first installment shall be paid at the time of filing the declaration. The other installments shall be paid on or before June 30, September 30, and January 31. However, at the election of the person or married couple filing jointly, any installment of the estimated tax may be paid prior to the date prescribed for its payment. Whenever a person or married couple filing a joint return have reason to believe that his or their Iowa income tax may increase or decrease, either for purposes of meeting the requirement to file a declaration of estimated tax or for the purpose of increasing or decreasing such declaration, an amended estimate shall be filed by him or them to reflect such increase or decrease in estimated Iowa income tax.

b. In the case of persons or married couples filing jointly, the total balance of the tax payable after credits for taxes paid through withholding, as provided in subsection 1 of this section, or through declaration and payment of estimated tax, or a combination of such withholding and declaration of estimated tax payments, as provided herein, shall be due and payable on or before April 30, next following the close of the calendar year, or if the return should be made on the basis of a fiscal year, then on or before the last day of the fourth month next following the close of such fiscal year.

c. The declaration provided for in this section may be filed or amended during the tax-

able year under regulations prescribed by the director.

d. If a taxpayer is unable to make his own declaration, the declaration may be made by a duly authorized agent, or by the guardian or other person charged with the care of the person or property of such taxpayer.

e. Any amount of tax paid on a declaration of estimated tax shall be a credit against the amount of tax found payable on a final, completed return, as provided in subsection 9 hereof, relating to the credit for the tax withheld against the tax found payable on a return properly and correctly prepared under the provisions of section 422.5, to and including section 422.25, and any overpayment of one dollar or more shall be refunded to the taxpayer and such return shall constitute a claim for refund for this purpose. Amounts less than one dollar shall be refunded to the taxpayer only upon written application in accordance with section 422.74, but only if such application is filed within twelve months after the due date for the return. The civil penalties provided by the Internal Revenue Code of 1954 for failure to file a declaration or for underpayment of the tax payable shall apply to persons required to file declarations and make payments of estimated tax under the provisions of this section. Underpayment of estimated tax shall be determined in the same manner as provided under the provisions of the Internal Revenue Code of 1954 and the exceptions therein provided shall also apply.

f. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on his final, completed return for the taxable year credited to his tax liability for the following taxable year.

12. In the case of nonresidents having income subject to taxation by Iowa, but not subject to withholding of such tax under subsection 1 hereof, withholding agents shall withhold from such income at the same rate as provided in subsection 1 hereof, and such withholding agents and such nonresidents shall be subject to the provisions of this section, according to the context, except that such withholding agents may be absolved of such requirement to withhold taxes from such nonresident's income upon receipt of a certificate from the department issued in accordance with the provisions of section 422.17, as hereby amended. In the case of nonresidents having income from a trade or business carried on by them in whole or in part within the state of Iowa, such nonresident shall be considered to be subject to the provisions of subsection 12 hereof unless such trade or business is of such nature that the business entity itself, as a withholding agent, is required to and does

withhold Iowa income tax from the distributions made to such nonresident from such trade or business.

Referred to in §422.17

13. The director may waive or remit any penalty herein provided for when in the director's judgment the error, omission or failure requiring imposition of the penalty is unintentional or due to inadvertence, mistake, misunderstanding, error, casualty or misfortune, or when the assessment or imposition of the penalty would require disproportionate cost or effort.

14. The director shall enter into an agreement with the secretary of the treasury of the United States with respect to withholding of income tax as provided by this chapter, pursuant to an Act of Congress, 66 Stat. 765, Chap. 940; Pub. Law 587; 5 USC, Section 84b, 84c, July 17, 1952, and Executive Order No. 10407, 17 F. R. 10132, November 7, 1952, Laws 1961, Page 527, Par. 19. [C39,§6943.048; C46, 50, 54, 58, 62, 66,§422.16; 62GA, ch 342,§78(1-33); 63GA, ch 111,§6]

Referred to in §§422.17, 422.38

**422.17 Certificate issued by department to make payments without withholding.** Any nonresident whose Iowa income is not subject to subsection 1 of section 422.16, in whole or in part, and who elects to be governed by subsection 12 of said section to the extent that he makes such declaration and pays the entire amount of tax properly estimated thereunder on or before the last day of the fourth month of his tax year, for such year, may for each such year of each such election and such payment, be granted a certificate from the department authorizing each withholding agent, the income from whom the nonresident has included in his declaration of estimate and to the extent such income is included in such declaration of estimate, to make payments to such nonresident without withholding such tax from such payments. Withholding agents, whenever such payments exceed the amount estimated by such nonresident upon his declaration of estimate, as indicated upon such certificate, shall proceed to withhold tax in accordance with subsection 12 of section 422.16. [C39,§6943.049; C46, 50, 54, 58, 62, 66, §422.17; 62GA, ch 342,§79; 63GA, ch 111,§7]

Referred to in §§422.16, subsections 9, 11(e), and 12, 422.38

**422.18 Repealed by 59GA, ch 228,§2. See §422.8.**

**422.19 Scope of nonresidents tax.** The tax herein imposed upon certain income of nonresidents shall apply to all such income actually received by such nonresident regardless of when such income was earned. If the non-

resident is reporting on the accrual basis it shall apply to all such income which first became available to the nonresident so that he might demand payment thereof regardless of when such income was earned. The duty to withhold herein imposed upon withholding agents shall apply only to amounts paid after June 30, 1937. [C39,§6943.051; C46, 50, 54, 58, 62, 66,§422.19; 63GA, ch 111,§8]

Referred to in §§422.16, subsections 9 and 11(e), 422.38  
Constitutionality, 47GA, ch 184,§9

#### **422.20 Information confidential — penalty.**

It shall be unlawful for any officer or employee of the state of Iowa to divulge or to make known in any manner whatever not provided by law to any person the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any person committing an offense against the foregoing provision shall, upon conviction for each such offense, be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine of not more than one thousand dollars, or both; and if the offender be an officer or employee of the state of Iowa he shall also be dismissed from office or discharged from employment. Nothing herein shall prohibit turning over to duly authorized officers of the United States information and income returns pursuant to agreement between the director and the secretary of the treasury of the United States or his delegate. [C62, 66,§422.20; 62GA, ch 342, §80]

Referred to in §§421.1 (5), 422.16 (9), [11, e], 422.38

#### **422.21 Form and time of return.**

Returns shall be in such form as the director may, from time to time, prescribe, and shall be filed with the department on or before the last day of the fourth month after the expiration of the tax year. In case of sickness, absence, or other disability, or whenever good cause exists, the director may allow further time for filing returns. The director shall cause to be prepared blank forms for said returns and shall cause them to be distributed throughout the state and to be furnished upon application, but failure to receive or secure the form shall not relieve the taxpayer from the obligations of making any return herein required. The department may as far as consistent with the provisions of the Code so draft income tax

forms as to conform to the income tax forms of the internal revenue department of the United States government. Each return by a taxpayer upon whom a tax is imposed by subsection 7 of section 422.5 shall show the county of the residence of the taxpayer.

The department shall make available to persons required to make personal income tax returns under the provisions of this chapter, and when such income is derived mainly from salaries and wages or from the operation of a business or profession, a form which shall take into consideration the normal deductions and credits allowable to any such taxpayer, and which will permit the computation of the tax payable without requiring the listing of specific deductions and credits. In arriving at schedules for payment of taxation under such forms the department shall as nearly as possible base such schedules upon a total of deductions and credits which will result in substantially the same payment as would have been made by such taxpayer were he to specifically list his allowable deductions and credits. In lieu of such return any taxpayer may elect to list permissible deductions and credits as provided by law. It is the intent and purpose of this provision to simplify the procedure of collection of personal income tax, and the director shall have the power in any case when deemed necessary or advisable to require any taxpayer, who has made a return in accordance with the schedule herein provided for, to make an additional return in which all deductions and credits are specifically listed. The department may revise the schedules adopted in connection with such simplified form whenever such revision is necessitated by changes in federal income tax laws, or to maintain the collection of substantially the same amounts from taxpayers as would be received were the specific listing of deductions and credits required.

The department shall provide space on the prescribed income tax form, wherein the taxpayer shall enter the name of the school district of his residence. Such place shall be indicated by prominent type. A nonresident taxpayer shall so indicate. If such information is not supplied on the tax return it shall be deemed an incompleting return. [C35,§6943-17; C39,§6943.053; C46, 50, 54, 58, 62, 66,§422.21; 62GA, ch 342,§81(1-12), ch 347,§1; 63GA, ch 110,§44, ch 111,§9]

Referred to in §§422.16, subsections 9 and 11(e), 422.38, 442.11

**422.22 Supplementary returns.** If the director shall be of the opinion that any taxpayer required under this division to file a return has failed to file such a return or to include in a return filed, either intentionally or through error, items of taxable income, the di-

rector may require from such taxpayer a return or supplementary return in such form as the director shall prescribe, of all the items of income which the taxpayer received during the year for which the return is made, whether or not taxable under the provisions of this division. If from a supplementary return, or otherwise, the director finds that any items of income, taxable under this division, have been omitted from the original return, the director may require the items so omitted to be added to the original return. Such supplementary return and the correction of the original return shall not relieve the taxpayer from any of the penalties to which he may be liable under any provisions of this division, whether or not the director required a return or a supplementary return under this section. [C35,§6943-f18; C39,§6943.054; C46, 50, 54, 58, 62, 66,§422.22; 62GA, ch 342,§82(1-6)]

Referred to in §§422.16, subsections 9 and 11(e), 422.38

**422.23 Return by administrator.** The return by an individual, who, while living, was subject to income tax in the state during the tax year, and who has died before making the return, shall be made in his name and behalf by the administrator or executor of the estate and the tax shall be levied upon and collected from his estate. In the making of said return, the executor or administrator shall use the same method of computation, either cash or accrual, as was last used by the deceased taxpayer.

The judge of the district court in which the estate of the decedent is probated may, upon application being filed by the executor or administrator setting forth the income received by said estate, fix a time and place for hearing upon said application and prescribe the notice to be given to the director and may upon hearing determine whether or not the said estate is subject to income tax and, if the facts warrant such a finding, enter an order relieving said executor or administrator from making an income tax report and order that the said estate is not subject to the payment of income tax. Such order shall not become final until thirty days after the same has been filed with the clerk of the district court and a copy of the order entered by the judge shall be immediately mailed to the director by said executor or administrator by registered mail and a return filed showing the mailing of the same. [C35,§6943-f19; C39, §6943.055; C46, 50, 54, 58, 62, 66,§422.23; 62GA, ch 342,§83(1, 2)]

Referred to in §422.16, subsections 9 and 11(e)

**422.24 Installment payments—interest.**

1. For all taxpayers the total tax due shall be paid in full at the time of filing the return.
2. When, at the request of the taxpayer, the

time for filing the return is extended, interest at the rate of six percent per annum on the total tax due, from the time when the return was originally required to be filed to the time of payment, shall be added and paid. [C35, §6943-f20; C39, §6943.056; C46, 50, 54, 58, 62, 66, §422.24; 63GA, ch 111, §10]

Referred in §§422.16 (9), [11, e], 422.39, 422.66

Applicable only to tax years beginning on or after January 1, 1966.

Constitutionality, 61GA, ch 348, §7

#### **422.25 Computation of tax, interest, and penalties—limitation.**

1. As soon as practicable and in any event within three years after the return is filed the department shall examine it and determine the correct amount of tax, and the amount so determined by the department shall be the tax; provided that if the taxpayer omits from income such an amount as will, under the Internal Revenue Code of 1954, extend the statute of limitations for assessment of federal tax to six years under said Code, the period for examination and determination shall be six years; and provided further that the period for examination and determination shall be unlimited in the case of a false or fraudulent return with intent to evade tax or in the case of failure to file a return. Notwithstanding the periods of limitation for examination and determination heretofore specified, the department shall have six months from the date of final disposition of any controversy between the taxpayer and the internal revenue service with respect to the particular tax year to make the examination and determination. The burden of proof of additional tax owing under the six-year period, or unlimited period, shall be on the department. If the tax found due is greater than the amount paid, the department shall compute the amount due, together with interest and penalties as provided in subsection 2 of this section, and shall notify the taxpayer by certified mail of the total, which shall be a sum certain if paid on or before the last day of the month in which the notice is postmarked, or on or before the last day of the following month if the notice is postmarked after the twentieth day of any month. The notice shall also inform the taxpayer of the additional interest and penalty which will be added to the total due if not paid on or before the last day of the applicable month.

See 56GA, ch 210, §2 for barred claims

2. In addition to the tax or additional tax as determined by the department under the provisions of subsection 1 of this section, the taxpayer shall pay interest on such tax or additional tax so determined at the rate of six percent per annum, computed from the date the return was required by law to be filed, and computed on a calendar month basis, con-



sidering each fraction of a month as an entire month. In case of failure to file a return, or to pay the tax required to be paid with the filing of the return, on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure was due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return five percent of the amount of such tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate. In case of willful failure to file a return with intent to evade tax, in lieu of the five percent monthly penalty above provided, there shall be added to the amount required to be shown as tax on such return fifty percent of the amount of such tax, and in case of willful filing of a false return with intent to evade tax, there shall be added to the amount required to be shown as tax on such return fifty percent of the amount of such tax.

3. If the amount of the tax as determined by the department shall be less than the amount theretofore paid, the excess shall be refunded with interest after sixty days from the date of payment at six percent per annum under the provisions of such regulations as may be prescribed by the director.

4. All payments received must be credited first, to the penalty and interest accrued, and then to the tax due.

5. Any person required to supply any information, to pay any tax, or to make, sign, or file any return or supplemental return, who willfully makes any false or fraudulent return, or willfully fails to pay such tax, supply such information, or make, sign, or file such return, at the time or times required by law, shall upon conviction for each such offense be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine not exceeding twenty-five hundred dollars, or both such fine and imprisonment.

6. The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied, as required under the provisions of this division shall be prima-facie evidence thereof except as otherwise provided in this section.

7. The periods of limitation provided by this section may be extended by the taxpayer by signing a waiver agreement to be provided by the department. Such agreement shall stipulate the period of extension and the year or years to which such extension applies. It shall further provide that a claim for refund may

be filed by the taxpayer at any time during the period of extension. In consideration of such agreement, interest due in excess of thirty-six months on either a tax deficiency or tax refund shall be waived.

8. Any person who willfully attempts in any manner to defeat or evade any tax imposed by this division or the payment thereof, shall upon conviction for each such offense be punished by imprisonment in the county jail for a term not exceeding one year or in the state penitentiary for a term not exceeding five years or by a fine not exceeding five thousand dollars, or both such fine and imprisonment.

9. The jurisdiction of any offense as defined in this section is in the county of the residence of the person so charged, unless such person be a nonresident of this state or his residence in this state is not established, in either of which events jurisdiction of such offense is in the county of the seat of government of the state of Iowa.

10. A prosecution for any offense defined in this section must be commenced within six years after the commission thereof, and not after. [C35,§6943-f21; C39,§6943.057; C46, 50, 54, 58, 62, 66,§422.25; 62GA, ch 342,§84 (1-11); 63GA, ch 1202,§1(1, 2)]

Referred to in §§422.16, subsections 9 and 11(e), 422.39, 422.66

**422.26 Lien of tax — collection — action authorized.** Whenever any taxpayer liable to pay a tax and/or penalty imposed refuses or neglects to pay the same, the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to said taxpayer.

The lien aforesaid shall attach at the time the tax becomes due and payable and shall continue until the liability for such amount is satisfied.

In order to preserve the aforesaid lien against subsequent mortgagees, purchasers or judgment creditors, for value and without notice of the lien, on any property situated in a county, the director shall file with the recorder of the county, in which said property is located, a notice of said lien.

The county recorder of each county shall prepare and keep in his office a book to be known as "index of income tax liens", so ruled as to show in appropriate columns the following data, under the names of taxpayers, arranged alphabetically:

1. The name of the taxpayer.
2. The name "State of Iowa" as claimant.
3. Time notice of lien was received.

4. Date of notice.
5. Amount of lien then due.
6. When satisfied.

The recorder shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall forthwith index said notice in said index book and shall forthwith record said lien in the manner provided for recording real estate mortgages, and the said lien shall be effective from the time of the indexing thereof.

The department shall pay a recording fee as provided in section 335.14, for the recording of such lien, or for the satisfaction thereof.

Upon the payment of a tax as to which the director has filed notice with a county recorder, the director shall forthwith file with said recorder a satisfaction of said tax and the recorder shall enter said satisfaction on the notice on file in his office and indicate said fact on the index aforesaid.

The department shall, substantially as provided in sections 445.6 and 445.7, proceed to collect all taxes and/or penalties as soon as practicable after the same become delinquent, except that no property of the taxpayer shall be exempt from the payment of said tax. In the event service has not been made on a distress warrant by the officer to whom addressed within five days from the date the distress warrant was received by him, the authorized revenue agents of the department are hereby empowered to serve and make return of such warrant to the clerk of the district court of the county named in the distress warrant, and all subsequent procedure shall be in compliance with chapter 626.

The attorney general shall, upon the request of the director, bring an action at law or in equity, as the facts may justify, without bond, to enforce payment of any taxes and/or penalties, and in such action he shall have the assistance of the county attorney of the county in which the action is pending.

It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the director or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law. [C35,§6943-f22; C39,§6943.058; C46, 50, 54, 58, 62, 66,§422.26; 62GA, ch 342,§85(1-8)]

Referred to in §§422.16, subsection 6, 422.39, 422.56, 422.66  
Garnishment proceedings for collection of tax, §§626.29-626.31

#### **422.27 Final report of fiduciary—conditions.**

1. No final account of a fiduciary shall be allowed by any court unless such account shows, and the judge of said court finds, that all taxes imposed by the provisions of this

division upon said fiduciary, which have become payable, have been paid, and that all taxes which may become due are secured by bond, deposit or otherwise. The certificate of the director and the receipt for the amount of the tax therein certified shall be conclusive as to the payment of the tax to the extent of said certificate.

2. For the purpose of facilitating the settlement and distribution of estates held by fiduciaries, the director may, on behalf of the state, agree upon the amount of taxes at any time due or to become due from such fiduciaries under the provisions of this division, and payment in accordance with such agreement shall be full satisfaction of the taxes to which the agreement relates. [C35, §6943-f23; C39, §6943.059; C46, 50, 54, 58, 62, 66, §422.27; 62GA, ch 34, §86 (1, 2)]

Referred to in §422.39  
Fiduciaries' reports, §682.33  
Similar provision, §450.58

**422.28 Revision of tax.** A taxpayer may appeal to the director for revision of the tax, interest, and/or penalties assessed against him at any time within ninety days from the date of the notice of the assessment of such tax, additional tax, interest, and/or penalties. The director shall grant a hearing thereon and if, upon such hearing, the director shall determine that the tax, interest, and/or penalties are excessive or incorrect, the director shall revise the same according to the law and the facts and adjust the computation of the tax, interest, and/or penalties accordingly. The director shall notify the taxpayer by registered mail of the result of the hearing and shall refund to the taxpayer the amount, if any, paid in excess of the tax, interest, and/or penalties found by the director to be due with interest after sixty days from the date of payment by the taxpayer at six percent per annum. [C35, §6943-f24; C39, §6943.060; C46, 50, 54, 58, 62, 66, §422.28; 62GA, ch 342, §87(1-7)]

Referred to in §§422.29, subsection 1, 422.41, 422.66  
See state board of tax review, §421.1(5)

#### **422.29 Appeals.**

1. An appeal may be taken by the taxpayer to the district court of the county in which he resides, or in which his principal place of business is located, or in the case of a nonresident not maintaining a place of business in this state either in any county in which the income involved was earned or derived or in Polk county, within sixty days after he shall have received notice of a determination by the director as provided for in section 422.28.

2. The appeal shall be taken by a written notice to the director and served as an original notice. When said notice is so served it shall, with the return thereon, be filed in the office of

the clerk of said district court, and docketed as other cases, with the taxpayer as plaintiff and the director as defendant. The plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by such clerk, in penalty at least double the amount of tax appealed from, and in no case shall the bond be less than fifty dollars, conditioned that the plaintiff shall perform the orders of the court.

3. The court shall hear the appeal in equity and determine anew all questions submitted to it on appeal from the determination of the director. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court with the director who shall then correct the assessment in accordance with said decree. An appeal may be taken by the taxpayer or the director to the supreme court of this state in the same manner that appeals are taken in suits in equity, irrespective of the amount involved. [C35,§6943-f25; C39,§6943.061; C46, 50, 54, 58, 62, 66,§422.29; 62GA, ch 342,§88(1-6)]

Referred to in §§98.29, 422.41, 422.66, 430A.5

**422.30 Jeopardy assessments.** If the director believes that the assessment or collection of taxes will be jeopardized by delay, the director may immediately make an assessment of the estimated amount of tax due, together with all interest, additional amounts, or penalties, as provided by law, and demand payment thereof from the taxpayer. If such payment is not made, a distress warrant may be issued or a lien filed against such taxpayer immediately.

The director shall be permitted to accept a bond from the taxpayer to satisfy collection until the amount of tax legally due shall be determined. Such bond to be in an amount deemed necessary, but not more than double the amount of the tax involved, and with securities satisfactory to the director. [C35, §6943-f26; C39,§6943.062; C46, 50, 54, 58, 62, 66, §422.30; 62GA, ch 342,§89(1-4)]

Referred to in §§422.16, subsection 2, 422.41, 422.59, 422.66, 423.23

**422.31 Statute applicable to personal tax.** All the provisions of subsection 3 of section 422.36 shall be applicable to persons taxable under this division. [C35,§6943-f27; C39, §6943.063; C46, 50, 54, 58, 62, 66,§422.31]

Constitutionality, 56GA, ch 208,§22; 60GA, ch 258,§6  
See 56GA, ch 208,§21, for tax years applicable

### DIVISION III BUSINESS TAX ON CORPORATIONS

Referred to in §427.1, subsection 23

**422.32 Definitions.** For the purpose of this division and unless otherwise required by the context:

1. The word "corporation" includes joint stock companies, and associations organized

for pecuniary profit, except limited partnerships organized under chapter 545.

2. The words "domestic corporation" mean any corporation organized under the laws of this state.

3. The words "foreign corporation" mean any corporation other than a domestic corporation.

4. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, as amended to and including January 1, 1970.

The words, terms, and phrases defined in subsections 1, and 3 to 10, section 422.4, division II, when used in this division, shall have the meanings ascribed to them in said section except where the context clearly indicates a different meaning. [C35,§6943-f28; C39,§6943.064; C46, 50, 54, 58, 62, 66,§422.32; 62GA, ch 345,§2; 63GA, ch 1199,§2]

**422.33 Corporate tax imposed.** A tax is hereby imposed upon each corporation organized under the laws of this state, and upon every foreign corporation doing business in this state, annually in an amount computed by applying the following rates of taxation to the net income received by the corporation during the income year:

On the first twenty-five thousand dollars of taxable income, or any part thereof, the rate of six percent.

On taxable income between twenty-five thousand dollars and one hundred thousand dollars or any part thereof, the rate of eight percent.

On taxable income of one hundred thousand dollars or more, the rate of ten percent.

Effective dates of tax increase, see 62GA, ch 348,§16

1. If the trade or business of the corporation is carried on entirely within the state, the tax shall be imposed on the entire net income, but if such trade or business is carried on partly within and partly without the state, the tax shall be imposed only on the portion of the net income reasonably attributable to the trade or business within the state, said net income attributable to the state to be determined as follows:

a. Interest, dividends, rents, and royalties (less related expenses) received in connection with business in the state, shall be allocated to the state, and where received in connection with business outside the state, shall be allocated outside of the state.

b. Net income of the above class having been separately allocated and deducted as above provided, the remainder of the net income of the taxpayer shall be allocated and apportioned as follows:

Where income is derived from business other than the manufacture or sale of tangible

personal property, such income shall be specifically allocated or equitably apportioned within and without the state under rules and regulations of the director.

Where income is derived from the manufacture or sale of tangible personal property, the part thereof attributable to business within the state shall be in that proportion which the gross sales made within the state bear to the total gross sales.

The gross sales of the corporation within the state shall be taken to be the gross sales from goods delivered within the state, excluding deliveries for transportation out of the state.

For the purpose of this section, the word "sale" shall include exchange, and the word "manufacture" shall include the extraction and recovery of natural resources and all processes of fabricating and curing. The words "tangible personal property" shall be taken to mean corporeal personal property, such as machinery, tools, implements, goods, wares, and merchandise, and shall not be taken to mean money deposits in banks, shares of stock, bonds, notes, credits, or evidence of an interest in property and evidences of debt.

2. If any taxpayer believes that the method of allocation and apportionment hereinbefore prescribed, as administered by the director and applied to his business, has operated or will so operate as to subject him to taxation on a greater portion of his net income than is reasonably attributable to business or sources within the state, he shall be entitled to file with the director a statement of his objections and of such alternative method of allocation and apportionment as he believes to be proper under the circumstances with such detail and proof and within such time as the director may reasonably prescribe; and if the director shall conclude that the method of allocation and apportionment theretofore employed is in fact inapplicable and inequitable, the director shall redetermine the taxable income by such other method of allocation and apportionment as seems best calculated to assign to the state for taxation the portion of the income reasonably attributable to business and sources within the state, not exceeding, however, the amount which would be arrived at by application of the statutory rules for apportionment. [C35,§6943-f29; C39,§6943.065; C46, 50, 54, 58, 62, 66,§422.33; 62GA, ch 342,§90 (1-6), ch 348,§16]

Referred to in §§422.35, 422.37, subsection 1

**422.34 Exempted corporations and organizations.** The following organizations and corporations shall be exempt from taxation under this division:

1. All state banks, as defined in section 524.103, and all national and private banks, credit unions, title insurance and trust companies, building and loan associations, production credit associations, corporations operating under the provisions of chapter 501, insurance companies or insurance associations, reciprocal or inter-insurance exchanges, fraternal beneficiary associations, now or hereafter organized or incorporated by or under the laws of this state or lawfully operating in the state.

2. Cemetery corporations, organizations and associations and corporations organized for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual.

3. Business leagues, chambers of commerce, labor unions and auxiliary organizations, or boards of trade not organized for profit, and no part of the net earnings of which inures to the benefit of any private stockholder or individual.

4. Civic leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare.

5. Clubs, organizations, or associations organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or member.

6. Farmers associations and fruit growers associations, or like organizations organized and operated as sales agents for the purpose of marketing the products of members and turning back to them the proceeds of sales, less the necessary selling expense, on the basis of the quantity of produce furnished by them. [C35,§6943-f30; C39,§6943.066; C46, 50, 54, 58, 62, 66,§422.34; 63GA, ch 273,§1814, ch 1204,§9]

**422.35 Net income of corporation — how computed.** The term "net income" means the taxable income less the net operating loss deduction, both as properly computed for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:

1. Subtract interest and dividends from federal securities.

2. Add interest and dividends from foreign securities and from securities of state and other political subdivisions exempt from federal income tax under the Internal Revenue Code of 1954.

3. Where the net income includes capital gains or losses, or gains or losses from property other than capital assets, and such gains or losses have been determined by using a



basis established prior to January 1, 1934, an adjustment may be made, under rules and regulations prescribed by the director, to reflect the difference resulting from the use of a basis of cost or January 1, 1934, fair market value, less depreciation allowed or allowable, whichever is higher. Provided that the basis shall be fair market value as of January 1, 1955, less depreciation allowed or allowable, in the case of property acquired prior to that date if use of a prior basis is declared to be invalid.

4. Subtract fifty percent of the federal income taxes paid or accrued, as the case may be, during the tax year, adjusted by any federal income tax refunds; and add the Iowa income tax deducted in computing said taxable income.

Effective date of tax increase, see 62GA, ch 348,§17

5. Add the amount by which the basis of qualified depreciable property is required to be increased for depreciation purposes under the Internal Revenue Code Amendments Act of 1964 to the extent that such amount equals the net amount of the special deduction allowed on the basis of the amount by which the depreciable basis of such qualified property was required to be reduced for depreciation purposes under the Internal Revenue Code Amendments Act of 1962. The "net amount of the special deduction" shall be computed by taking the sum of the amounts by which the basis of qualified property was required to be decreased for depreciation purposes for the years 1962 and 1963 and subtracting from it the sum of the amounts by which the basis of such property was required to be increased, prior to 1964, for depreciation or disposition purposes under the Internal Revenue Code Amendments Act of 1962.

Provided, however, that a corporation affected by the allocation provisions of section 422.33 shall be permitted to deduct only such portion of the deductions for net operating loss and federal income taxes as is fairly and equitably allocable to Iowa, under rules and regulations prescribed by the director. [C35, §6943-f31; C39,§6943.067; C46, 50, 54, 58, 62, 66, §422.35; 62GA, ch 342,§91(1, 2), ch 348,§17(1)]

Referred to in §422.61

#### **422.36 Returns.**

1. Every corporation shall make a return and the same shall be signed by the president, vice-president, or other principal officer and by the treasurer or assistant treasurer. Before a corporation shall be dissolved and its assets distributed it shall make a return for any settlement of the tax for any income earned in the income year up to its final date of dissolution.

2. When any corporation, liable to taxation under this division, conducts its business in such a manner as either directly or indirectly to benefit the members or stockholders thereof or any person interested in such business by selling its products or the goods or commodities in which it deals at less than the fair price which might be obtained therefor, or where a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products, goods or commodities of the corporation so owning a substantial portion of its stock in such a manner as to create a loss or improper net income for either of said corporations, or where a corporation, owning directly or indirectly a substantial portion of the stock of another corporation, acquires and disposes of the products, goods, or commodities, of the corporation of which it so owns a substantial portion of the stock, in such a manner as to create a loss or improper net income for either of said corporations, the department may determine the amount of taxable income of either or any of such corporations for the calendar or fiscal year, having due regard to the reasonable profits which, but for such arrangement or understanding, might or could have been obtained, by the corporation or corporations liable to taxation under this division, from dealing in such products, goods, or commodities.

3. Where the director has reason to believe that any person or corporation so conducts his trade or business as either directly or indirectly to distort his true net income and the net income properly attributable to the state, whether by the arbitrary shifting of income, through price fixing, charges for services, or otherwise, whereby the net income is arbitrarily assigned to one or another unit in a group of taxpayers carrying on business under a substantially common control, the director may require such facts as are necessary for the proper computation of the entire net income and the net income properly attributable to the state, and shall determine the same, and in the determination thereof the director shall have regard to the fair profits which would normally arise from the conduct of the trade or business.

Referred to in §422.31

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

5. Where a corporation is not subject to income tax and the stockholders of such corporation are taxed on the corporation's income under the provisions of the Internal Revenue Code of 1954, the same tax treatment shall ap-

ply to such corporation and such stockholders for Iowa income tax purposes. [C35,§6943-f32; C39,§6943.068; C46, 50, 54, 58, 62, 66,§422.36; 62 GA, ch 342,§92(1-5)]

Retroactive, 59GA, ch 226,§1(4) ; 60GA, ch 258,§5

#### **422.37 Consolidated returns.**

1. Any corporation capable of exercising directly or indirectly substantially the entire control of the business of another corporation doing business in the United States either by ownership or control of substantially the entire capital stock of such other corporation, or otherwise, may, under regulations to be prescribed by the director, be permitted, and upon demand of the director shall be required, to make a consolidated return, showing the consolidated net income of all such corporations, and such other information as the director may require.

The department shall compute, determine, and assess the tax upon the combined net income shown by such consolidated return and as apportioned and allocated according to section 422.33; provided that the term "taxable income" as used in this chapter shall not include income represented by dividends received by any one of such corporations from another when the income of the dividend paying corporation is reported to and subject to taxation under this chapter by the state.

2. The director may require the filing of a consolidated return where substantially the entire control of two or more such corporations liable to taxation under this division is exercised by the same interests, or under such other circumstances as the effective administration of this chapter may require. Any corporation liable to report under this division and owned or controlled, either directly or indirectly, by another corporation, may be required to make a consolidated report showing the combined net income, such assets of the corporation as are required for the purpose of this division, and such other information as the director may require.

3. In case it shall appear to the director that any arrangement exists in such a manner as improperly to reflect the business done, the segregable assets or the entire net income earned from business done in the state, the director may, in such manner and under such rules and regulations as the director may determine, equitably to adjust the tax.

4. When any corporation required to make a return under this division conducts the business, whether under arrangement or otherwise, in such manner as either directly or indirectly to benefit the members or stockholders of the corporation, or any of them, or any person or persons directly or indirectly inter-

ested in such business, by selling its products, or the goods or commodities in which it deals, at less than a fair price which might be obtained therefrom, or where such a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires or disposes of the products of the corporation so owning the substantial portion of its capital stock in such manner as to create a loss or improper net income, the director may require such facts as are necessary for the proper computation provided by this division, and may for the purpose of the division determine the amount which shall be deemed to be the entire net income of the business of such corporation for the calendar or fiscal year, and in determining such entire net income the director shall have regard to the fair profits which, but for any agreement, arrangement, or understanding, might be or could have been obtained from dealing in such products, goods, or commodities. [C35,§6943-f33; C39,§6943.069; C46, 50, 54, 58, 62, 66,§422.37; 62GA, ch 342,§93(1-12)]

**422.38 Statutes governing corporations.** All the provisions of sections 422.15 to 422.22, inclusive, of division II, insofar as the same are applicable, shall apply to corporations taxable under this division. [C35,§6943-f34; C39, §6943.070; C46, 50, 54, 58, 62, 66,§422.38]

**422.39 Statutes applicable to corporation tax.** All the provisions of sections 422.24 to 422.27, inclusive, of division II, respecting payment and collection, shall apply in respect to the tax due and payable by a corporation taxable under this division. [C35,§6943-f35; C39, §6943.071; C46, 50, 54, 58, 62, 66,§422.39]

**422.40 Cancellation of authority—penalty—offenses.**

1. If a corporation required by the provisions of this division to file any report or return or to pay any tax or fee, either as a corporation organized under the laws of this state, or as a foreign corporation doing business in this state for profit, or owning and using a part or all of its capital or plant in this state, fails or neglects to make any such report or return or to pay any such tax or fee for ninety days after the time prescribed in this division for making such report or return, or for paying such tax or fee, the director may certify such fact to the secretary of state. The secretary of state shall thereupon cancel the articles of incorporation of any such corporation which is organized under the laws of this state by appropriate entry upon the margin of the record thereof, or cancel the certificate of authority of any such foreign corporation to do business in this state by proper entry.

Thereupon all the powers, privileges, and franchises conferred upon such corporation by such articles of incorporation or by such certificate of authority shall cease and determine. The secretary of state shall immediately notify by registered mail such domestic or foreign corporation of the action taken by him.

2. Any person or persons who shall exercise or attempt to exercise any powers, privileges, or franchises under articles of incorporation or certificate of authority after the same are canceled, as provided in any section of this division, shall pay a penalty of not less than one hundred dollars nor more than one thousand dollars, to be recovered by an action to be brought by the director.

3. Any corporation whose articles of incorporation or certificate of authority to do business in this state have been canceled by the secretary of state, as provided in subsection 1, or similar provisions of prior revenue acts, upon the filing, within ten years after such cancellation, with the secretary of state, of a certificate from the department that it has complied with all the requirements of this division and paid all state taxes, fees, or penalties due from it, and upon the payment to the secretary of state of an additional penalty of fifty dollars, shall be entitled again to exercise its rights, privileges, and franchises in this state; and the secretary of state shall cancel the entry made by him under the provisions of subsection 1 or similar provisions of prior revenue acts, and shall issue his certificate entitling such corporation to exercise its rights, privileges, and franchises.

Referred to in §422.16, subsection 10(c)

4. Any person, or any officer or employee of any corporation, or member or employee of any partnership, who, with intent to evade any requirement of this division or any lawful requirement of the director thereunder, shall fail to pay any tax or to make, sign, or verify any return or to supply any information required by or under the provisions of this division, shall be guilty of a misdemeanor\* and punished accordingly. Any person, corporation, or any officer or employee of a corporation, or member or employee of any partnership, who, with intent to evade any of the requirements of this division, or any lawful requirements of the director thereunder, shall make, render, sign, or verify any false or fraudulent return or statement, or shall supply any false or fraudulent information, or who shall aid, abet, direct, cause, or who shall procure anyone so to do, shall be liable to a penalty of not more than five thousand dollars, to be recovered by the attorney general, in the name of the state, by action in any court of competent jurisdiction, and shall also upon

conviction be punished by imprisonment in the penitentiary for a term not exceeding one year, or by a fine of not less than five hundred dollars nor more than five thousand dollars, or both. Such penalty shall be in addition to all other penalties in this division provided. [C35, §6943-f36; C39, §6943.072; C46, 50, 54, 58, 62, 66, §422.40; 62GA, ch 342, §94(1-5)]

\*Punishment, §687.7

Referred to in §422.16, subsection 10(c)

**422.41 Corporations.** All the provisions of sections 422.28, 422.29, and 422.30 of division II in respect to revision, appeal, and jeopardy assessments shall be applicable to corporations taxable under this division. [C35, §6943-f37; C39, §6943.073; C46, 50, 54, 58, 62, 66, §422.41]

#### DIVISION IV RETAIL SALES TAX

Referred to in §§422.69(5), 423.4, subsection 1, 423.8

See also §98.26

**422.42 Definitions.** The following words, terms, and phrases, when used in this division, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Person" includes any individual, firm, co-partnership, joint adventure, association, corporation, municipal corporation, estate, trust, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number.

2. "Sales" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

3. "Retail sale" or "sale at retail" means the sale to a consumer or to any person for any purpose, other than for processing or for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with taxable services, and the sale of gas, electricity, water, and communication service to retail consumers or users, but does not include commercial fertilizer or agricultural limestone or materials, but not tools or equipment, which are to be used in disease control, weed control, insect control or health promotion of plants or livestock produced as part of agricultural production for market, or electricity or steam or any taxable service when purchased and used in the processing of tangible personal property intended to be sold ultimately at retail. Tangible personal property is sold for processing within the meaning of this subsection only when it is intended that such property shall by means of fabrication, compounding, manufacturing, or germination become an integral part of other tangible personal property intended to be sold ultimately at retail, or shall be consumed as fuel in creating heat, power,

or steam for processing including grain drying or for generating electric current, or consumed in implements of husbandry engaged in agricultural production, or such property is a chemical, solvent, sorbent, or reagent, which is directly used and is consumed, dissipated, or depleted, in processing personal property which is intended to be sold ultimately at retail, and which may not become a component or integral part of the finished product.

Notwithstanding the foregoing provisions of this subsection, the sale of newsprint and ink delivered after the effective date of this Act\* to any person, firm or corporation to be incorporated in or used in the printing of any newspaper, free newspaper or shoppers guide for publication in this state shall be considered as a sale at retail and such person, firm or corporation shall be deemed to be the consumer of such newsprint and ink and subject to the payment of sales tax.

\*Chapter 1201, §5, Acts 63GA, Second Session

4. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect.

5. "Retailer" includes every person engaged in the business of selling tangible goods, wares, merchandise or taxable services at retail, or the furnishing of gas, electricity, water, and communication service, and tickets or admissions to places of amusement and athletic events as provided in this division or operating amusement devices or other forms of commercial amusement from which revenues are derived; provided, however, that when in the opinion of the director it is necessary for the efficient administration of this division to regard any salesmen, representatives, truckers, peddlers, or canvassers, as agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain tangible personal property sold by them irrespective of whether or not they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the director may so regard them, and may regard such dealers, distributors, supervisors, employers, or persons as retailers for the purposes of this division.

6. "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise; provided, however,

a. That discounts for any purpose allowed and taken on sales shall not be included if excessive sales tax is not collected from the purchaser, nor shall the sale price of property returned by customers when the total sale price thereof is refunded either in cash or by credit.

b. That in all transactions in which tangible personal property is traded toward the purchase price of tangible personal property of greater value, the gross receipts shall be only that portion of the purchase price represented by the difference between the total purchase price of such tangible personal property of greater value and the amount of such tangible personal property traded.

7. "Relief agency" means the state, any county, city and county, city or district thereof, or any agency engaged in actual relief work.

8. The word "taxpayer" includes any person within the meaning of subsection 1 hereof, who is subject to a tax imposed by this division, whether acting for himself or as a fiduciary.

9. Sales of building materials, supplies and equipment to owners, contractors, subcontractors or builders, for the erection of buildings or the alteration, repair or improvement of real property, are retail sales in whatever quantity sold.

10. The use within this state of tangible personal property by the manufacturer thereof, as building materials, supplies or equipment, in the performance of construction contracts or for any other purpose except for resale or processing, shall, for the purpose of this division, be construed as a sale at retail thereof by the manufacturer who shall be deemed to be the consumer of such tangible personal property. The tax shall be computed upon the cost to him of the fabrication or production thereof.

11. "Place of business" shall mean any warehouse, store, place, office, building or structure where goods, wares or merchandise are offered for sale at retail or where any taxable amusement is conducted or each office where gas, water, heat, communication or electric services are offered for sale at retail.

12. "Casual sales" means sales of tangible personal property by the owner of a nonrecurring nature, if the seller, at the time of sale, is not engaged for profit in the business of selling tangible goods or services taxed under section 422.43.

13. "Services" means all acts or services rendered, furnished, or performed, other than services performed on tangible personal property delivered into interstate commerce, or services used in processing of tangible personal property for use in taxable retail sales or services, for an "employer" as defined in section 422.4, subsection 15, for a valuable consideration by any person engaged in any bus-



iness or occupation specifically enumerated in this division. The tax shall be due and collectible when the service is rendered, furnished, or performed for the ultimate user thereof.

14. "User" means the immediate recipient of the services who is entitled to exercise a right of power over the product of such services.

15. "Value of services" means the price to the user exclusive of any direct tax imposed by the federal government or by this division.

16. "Gross taxable services" means the total amount received in money, credits, property, or other consideration, valued in money, from services rendered, furnished, or performed in this state except where such service is performed on tangible personal property delivered into interstate commerce or is used in processing of tangible personal property for use in taxable retail sales or services and embraced within the provisions of this division. However, the taxpayer may take credit in his report of gross taxable services for an amount equal to the value of services rendered, furnished, or performed when the full value of such services thereof is refunded either in cash or by credit. Taxes paid on gross taxable services represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax due hereunder, but if any such accounts are thereafter collected by the taxpayer, a tax shall be paid upon the amounts so collected.

Where a retailer or amusement operator sells merchandise by means of vending machines or operates music or amusement devices by coin operated machines at more than one location within the state, the office, building or place where the books, papers and records of the taxpayer are kept shall be deemed to be the taxpayer's place of business.

Every operator of a vending machine or amusement device equipment, the receipts from the operation of which are taxable under section 422.43, shall by means of a sticker identify each such machine operated by him to show the valid sales tax permit number issued to him under which the sales tax concerning the operation of each given machine is being reported and remitted to the department. The stickers shall be provided by the department and it shall be the duty of each operator to place and maintain same in a place easily seen by the user on each machine operated by him. Failure to so identify such machines shall be unlawful and a misdemeanor. [C35, §6943-f38; C39, §6943.074; C46, 50, 54, 58, 62, 66, §422.42; 62GA, ch 342, §95 (1-5), ch 348, §19;

63GA, ch 245,§1, ch 246,§§1, 5, ch 247,§§1(1, 2), 2(1, 2), ch 248,§11, ch 1201,§1]

Referred to in §§422.43, 423.1(8, 10)

Amendment to subsection 3 retroactive to January 1, 1970  
§422.42(9-13), Code 1966, moved to §422.42(8-12)

**422.43 Tax imposed.** There is hereby imposed a tax of three percent upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this division, sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of gas, electricity, water, heat, and communication service, including the gross receipts from such sales by any municipal corporation furnishing gas, electricity, water, heat, and communication service to the public in its proprietary capacity, except as otherwise provided in this division, when sold at retail in the state to consumers or users; and a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement, athletic events including those of educational institutions, fairs; and a like rate of tax upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

There is hereby imposed a tax of three percent upon the gross receipts derived from the operation of all forms of amusement devices and commercial amusement enterprises operated or conducted within the state of Iowa, such tax to be collected from the operator in the same manner as is provided for the collection of taxes upon the gross receipts of tickets or admission as provided in this section.

The tax thus imposed shall cover all receipts from the operation of musical devices, weighing machines, shooting galleries, billiard and pool tables, bowling alleys, pinball machines, slot-operated devices selling merchandise not subject to the general sales taxes and on all receipts from devices or systems where prizes are in any manner awarded to patrons and upon the receipts from fees charged for participation in any game or other form of amusement, and generally upon the gross receipts from any source of amusement operated for profit not specified herein, and upon the gross receipts from which no tax is collected for tickets or admission, but no tax shall be imposed upon any activity exempt from sales tax under the provision of subsection 4 of section 422.45. Every person receiving gross receipts from the sources as defined in this section shall be subject to all provisions of this division relating to retail sales tax and such other provisions of this chapter as may be applicable.

There is hereby imposed a like rate of tax

upon the gross receipts from the renting of any and all rooms, apartments, or sleeping quarters in any hotel, motel, inn, public lodging house, rooming house, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. "Renting" and "rent" include any kind of direct or indirect charge for such rooms, apartments, sleeping quarters, or the use thereof. For the purposes of this division, such renting is regarded as a sale of tangible personal property at retail. However, such tax shall not apply to the gross receipts from the renting of a room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one consecutive days.

All revenues arising under the operation of the provisions of this section shall become part of the state general fund.

Nothing herein shall legalize any games of skill or chance or slot-operated devices which are now prohibited by law.

The tax herein levied shall be computed and collected as hereinafter provided. The tax herein imposed shall be at the rate of three percent.\*

There is hereby imposed, a tax of three percent\* upon the gross receipts from the rendering, furnishing, or performing of services as defined in section 422.42.

\*Effective October 1, 1967

For construction contracts executed prior to October 1, 1967, see 62GA, ch 348, §20

The following enumerated services shall be subject to the tax herein imposed on gross taxable services: Alteration and garment repair; armored car; automobile repair; battery, tire and allied; investment counseling (excluding investment services of trust departments); bank service charges; barber and beauty; boat repair; car wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dry cleaning, pressing, dyeing, and laundering; electrical repair and installation; engraving, photography, and retouching; equipment rental; excavating and grading; farm implement repair of all kinds; flying service; furniture, rug, upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking lots; pipe fitting and plumbing; wood preparation; private employment agencies; printing and binding; sewing and stitching; shoe repair and shoeshine; storage warehouse and storage

locker; telephone answering service; test laboratories; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; vulcanizing, recapping, and retreading; warehouse; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing. [C35, §6943-f39; C39, §6943.075; C46, 50, 54, 58, 62, 66, §422.43; 62GA, ch 348, §§20, 23, 25; 63GA, ch 111, §11, ch 248, §§1(1-6), 2]

Referred to in §§29C.11, 422.42, 422.48, 422.52, 422.53, 422.58, 423.2, 423.9, 423.10, 423.14, 423.21, 423.22

Building and construction contracts before October 1, 1967; see 62GA, ch 348, §20; after June 1, 1969, see 63GA, ch 248, §9

Equipment rental before June 15, 1969, see 62GA, ch 348, §25

**422.44 Tax on surplus war material.** Purchases of tangible personal property or services from the government of the United States or any of its agencies by ultimate consumer-users are hereby declared to be subject to the state use tax.

This section shall not apply to purchases made by counties or municipal corporations. [C46, 50, 54, 58, 62, 66, §422.44; 62GA, ch 348, §21; 63GA, ch 111, §12]

**422.45 Exemptions.** There are hereby specifically exempted from the provisions of this division and from the computation of the amount of tax imposed by it, the following:

1. The gross receipts from sales of tangible personal property services rendered, furnished, or performed which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.

2. The gross receipts from the sales, furnishing or service of transportation service.

3. The gross receipts from sales of educational, religious, or charitable activities, where the entire proceeds therefrom are expended for educational, religious, or charitable purposes.

4. The gross receipts from sales of vehicles subject to registration.

5. The gross receipts or from services rendered, furnished, or performed and of all sales of goods, wares or merchandise used for public purposes to any tax-certifying or tax-levying body of the state of Iowa or governmental subdivision thereof, including the state board of regents, state department of social services, state highway commission and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which derive disbursable funds from appropriations or allotments of funds raised by the levying and collection of taxes, except sales of goods, wares or merchandise or

from services rendered, furnished, or performed and used by or in connection with the operation of any municipally-owned public utility engaged in selling gas, electricity or heat to the general public.

The exemption provided by this subsection shall also apply to all such sales of goods, wares or merchandise or from services rendered, furnished, or performed and subject to use tax under the provisions of chapter 423.

6. The gross receipts from "casual sales".

7. Any private nonprofit educational institution in this state or any tax-certifying or tax-levying body of the state of Iowa or governmental subdivision thereof, including the state board of regents, state department of social services, state highway commission, and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which derive disburseable funds from appropriations or allotments of funds raised by the levying and collection of taxes may make application to the department for the refund of any sales or use tax upon the gross receipts of all sales of goods, wares or merchandise or from services rendered, furnished, or performed to any contractor, used in the fulfillment of any written contract with the state of Iowa or any political subdivision thereof, or any private nonprofit educational institution in this state which property becomes an integral part of the project under contract and at the completion thereof becomes public property, or is devoted to educational uses as specified in this subsection except goods, wares or merchandise or services rendered, furnished, or performed used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public; and excepting such goods, wares and merchandise used in the performance of any contract for a "project" under chapter 419 as defined therein other than goods, wares or merchandise used in the performance of any contract for any "project" under said chapter 419 for which a bond issue was or will have been approved by a municipality prior to July 1, 1968.

a. Such contractor shall state under oath, on forms provided by the department, the amount of such sales of goods, wares or merchandise or services rendered, furnished, or performed and used in the performance of such contract, and upon which sales or use tax has been paid, and shall file such forms with the governmental unit or private nonprofit educational institution which has made any written contract for performance by said contractor. Such forms shall be filed by the contractor with the governmental unit or educational institution before final settlement is made.

b. Such governmental unit or educational institution shall, not more than six months after the final settlement has been made, make application to the department for any refund of the amount of such sales or use tax which shall have been paid upon any goods, wares or merchandise, or services rendered, furnished, or performed, such application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit such claim and, if approved, request the comptroller to issue his warrant to such governmental unit or educational institution in the amount of such sales or use tax which has been paid to the state of Iowa under such contract.

c. Any contractor who shall willfully make false report of tax paid under the provisions of this subsection shall be guilty of a misdemeanor and in addition thereto shall be liable for the payment of the tax with penalty and interest thereon.

8. The gross receipts of all sales of goods, wares, or merchandise, or services, used for educational purposes to any private nonprofit educational institution in this state. The exemption provided by this subsection shall also apply to all such sales of goods, wares or merchandise, or services, subject to use tax under the provisions of chapter 423.

9. Gross receipts from the sales of newspapers, free newspapers or shoppers guides and the printing and publishing thereof.

10. The gross receipts from sales of tangible personal property used or to be used as railroad rolling stock for transporting persons or property, or as materials or parts therefor. [C35,§6943-f40; C39,§6943.076; C46, 50, 54, 58, 62, 66,§422.45; 62GA, ch 342,§96(1-5), ch 348,§§22(1-9), 48, ch 349,§§1(1-7), 2; 63GA ch 111,§1, ch 152, §64, ch 246,§2(1-5), ch 1201,§2, ch 1203,§1]

Referred to in §§422.43, 423.4, subsections 5, 6  
Subsection 9 retroactive to January 1, 1970

**422.46 Credit on tax.** A credit shall be allowed against the amount of tax computed to be due and payable on the gross receipts from sales at retail of any tangible personal property or from services rendered, furnished, or performed upon which the state now imposes a special tax, whether in the form of a license tax, stamp tax, or otherwise, to the extent of the amount of such tax imposed and paid. This provision shall not apply to the sale of airplanes or to the sale at retail of beer, alcoholic beverages and cigarettes. Taxes paid on gross receipts represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax herein provided; provided, that if such accounts are thereafter collected by the retailer, a tax shall be paid upon the amount so collected. [C35,

§6943-f41; C39,§6943.077; C46, 50, 54, 58, 62, 66, §422.46; 62GA, ch 158,§4, ch 348,§24]

#### **422.47 Credit to relief agencies.**

1. A relief agency may apply to the director for refund of the amount of tax imposed hereunder and paid upon sales to it of any goods, wares, merchandise, or services rendered, furnished, or performed, used for free distribution to the poor and needy.

2. Such refunds may be obtained only in the following amounts and manner and only under the following conditions:

a. On forms furnished by the department, and filed within such time as the director shall provide by regulation, the relief agency shall report to the department the total amount or amounts, valued in money, expended directly or indirectly for goods, wares, merchandise, or services rendered, furnished, or performed, used for free distribution to the poor and needy.

b. On these forms the relief agency shall separately list the persons making the sales to it or to its order, together with the dates of the sales, and the total amount so expended by the relief agency.

c. The relief agency must prove to the satisfaction of the director that the person making the sales has included the amount thereof in the computation of the gross receipts of such person and that such person has paid the tax levied by this division, based upon such computation of gross receipts.

3. If satisfied that the foregoing conditions and requirements have been complied with, the director shall refund the amount claimed by the relief agency. [C35,§6943-f42; C39, §6943.078; C46, 50, 54, 58, 62, 66,§422.47; 62GA, ch 342,§97(1-7), ch 348,§26(1, 2)]

Temporary provisions, 55GA, ch 206,§3

#### **422.48 Adding of tax.**

1. Retailers shall, as far as practicable, add the tax imposed under this division, or the average equivalent thereof, to the sales price or charge, less trade-ins allowed and taken and when added such tax shall constitute a part of such price or charge, shall be a debt from consumer or user to retailer until paid, or until the director assumes responsibility for collection of a tax on services, as provided in section 422.43, and shall be recoverable at law in the same manner as other debts.

2. Agreements between competing retailers, or the adoption of appropriate rules and regulations by organizations or associations of retailers to provide uniform methods for adding such tax or the average equivalent thereof, and which do not involve price-fixing agreements otherwise unlawful, are expressly au-

thorized and shall be held not in violation of chapter 553, or other antitrust laws of this state. The director shall co-operate with such retailers, organizations, or associations in formulating such agreements, rules, and regulations. The director may adopt and promulgate rules and regulations for adding such tax, or the average equivalent thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling such retailers to add and collect, as far as practicable, the amount of such tax. [C35,§6943-f43; C39, §6943.079; C46, 50, 54, 58, 62, 66,§422.48; 62GA, ch 342,§98(1, 2); 63GA, ch 246,§3, ch 248,§12]

**422.49 Absorbing tax prohibited.** It shall be unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by this division will be assumed or absorbed by the retailer or that it will not be considered as an element in the price to the consumer, or if added, that it or any part thereof will be refunded. [C35, §6943-f44; C39,§6943.080; C46, 50, 54, 58, 62, 66, §422.49]

Referred to in §422.58, subsection 2

**422.50 Records required.** It shall be the duty of every retailer required to make a report and pay any tax under this division, to preserve such records of the gross proceeds of sales as the director may require and it shall be the duty of every retailer to preserve for a period of five years all invoices and other records of goods, wares, or merchandise purchased for resale; and all such books, invoices, and other records shall be open to examination at any time by the department, and shall be made available within this state for such examination upon reasonable notice when the director shall so order. [C35,§6943-f45; C39, §6943.081; C46, 50, 54, 58, 62, 66,§422.50; 62GA, ch 342,§99(1-3)]

**422.51 Return of gross receipts.** Each person subject to sections 422.52 and 422.53 and in accordance with the provisions thereof shall, on or before the last day of the month following the close of each calendar quarter during which such person is or has become or ceased being subject to the provisions of such sections, make, sign, and file a return for such calendar quarter in such form as may be required. Such returns shall show information relating to gross receipts including goods, wares, and services converted to the use of such person, the amounts of gross receipts excluded and exempt from the tax, the receipts subject to tax, a calculation of tax due, and such other information for the period covered



y the return as may be required. Persons required to file, or committed to file by reason of voluntary action or by order of the department of revenue, monthly deposits of taxes due under this division shall be entitled to take credit against the total quarterly amount of tax due such amount as shall have been deposited by such persons during such calendar quarter. The balance remaining due after such credit for monthly deposits shall be entered on the return; provided, however, that such person may be granted an extension of time not exceeding thirty days for filing such quarterly return, upon a proper showing of necessity therefor. If such extension be granted such person shall have paid by the twentieth day of the month following the close of such quarter ninety percent of the estimated tax due.

2. If necessary or advisable in order to insure the payment of the tax imposed by this division, the director may require returns and payment of the tax to be made for other than quarterly periods, the provisions of section 422.52 or elsewhere to the contrary notwithstanding.

3. Returns shall be signed by the retailer or his duly authorized agent, and must be duly certified by him to be correct. [C35,§6943-f46; C39,§6943.082; C46, 50, 54, 58, 62, 66,§422.51; 62GA, ch 342,§100(1-5), ch 348,§27]

#### **422.52 Payment of tax—bond.**

1. The tax levied hereunder shall be due and payable in quarterly installments on or before the last day of the month next succeeding each quarterly period, the first of such quarterly periods being the period commencing with April 1, 1937, and ending on the thirtieth day of June, 1937; provided, however, commencing with the period beginning January 1, 1966, every retailer who collects more than five hundred dollars in retail sales tax in any one month commencing with January 1, 1966, shall deposit with the department or in a depository bank designated by the director, said sum, made out on a deposit form for the month in such form and manner as may be prescribed by the director, said deposit form being due on or before the twentieth day of the month next succeeding the month of collection, except no deposit will be required for the third month of the calendar quarter and the total quarterly amount, less the amounts deposited for the first two months of the quarter, will be due with the quarterly report on the last day of the month next succeeding the month of collection. Provided further, however, commencing April 1, 1971, every retailer who collects more than fifty dollars and not more than five hundred dollars in retail sales tax in any

one month commencing with April 1, 1971, shall deposit with the department or in a depository bank designated by the director, said sum or an amount equal to not less than thirty percent of the tax collected and paid to the department during the last preceding quarter, made out on a deposit form for the month in such form and manner as may be prescribed by the director, said deposit form being due on or before the twentieth day of the month next succeeding the month of collection, except no deposit will be required for the third month of the calendar quarter and the total quarterly amount, less the amounts deposited for the first two months of the quarter, will be due with the quarterly report on the last day of the month next succeeding the month of collection. Said monthly remittance procedure shall be optional for any sales tax permit holder whose average monthly collection of tax amounts to more than twenty-five dollars and less than five hundred dollars prior to April 1, 1971 and less than fifty dollars from and after April 1, 1971. If the exact amounts of the taxes due or an amount equal to not less than thirty percent of the tax collected and paid to the department during the last preceding quarter on the monthly deposit form are not ascertainable by the retailer, or would work undue hardship in the computation of the taxes due by the retailer, the director may provide by rules and regulations alternative procedures for estimating the amounts (but not the dates) so due by the retailers. The form so prescribed by the director shall be referred to as "retailers monthly tax deposit." Deposit forms shall be signed by the retailer or his duly authorized agent, and must be duly certified by him to be correct. The director may authorize incorporated banks and trust companies which are depositories or financial agents of the United States, or of this state, to receive any tax imposed under this chapter, in such manner, at such times and under such conditions as the director may prescribe. The director shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks and trust companies is to be treated as payment of such tax to the department.

2. Every permit holder at the time of making the return required hereunder, shall compute and pay to the department the tax due for the preceding period.

3. The director may, when necessary and advisable in order to secure the collection of the tax levied under this division, require any person subject to such tax to file with the director a bond, issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility, in such

amount as the director may fix, to secure the payment of any tax and/or penalties due or which may become due from such person. In lieu of such bond, securities approved by the director, in such amount as the director may prescribe, may be deposited with the department, which securities shall be kept in the custody of the department and may be sold by the director at public or private sale, without notice to the depositor thereof, if it becomes necessary so to do in order to recover any tax and/or penalties due. Upon any such sale, the surplus, if any, above the amounts due under this division shall be returned to the person who deposited the securities.

4. The tax by this division imposed upon those sales of motor vehicle fuel which are subject to tax and refund under chapter 324 shall be collected by the state treasurer by way of deduction from refunds otherwise allowable under said chapter. The amount of such deductions he shall transfer from the motor vehicle fuel fund to the special tax fund.

5. The provisions of subsection 1 of this section, according to the context, shall apply to persons having receipts from rendering, furnishing, or performing services enumerated in section 422.43. [C35,§6943-f47; C39, §6943.083; C46, 50, 54, 58, 62, 66,§422.52; 62GA, ch 342,§101(1-19), ch 348,§§28, 29; 63GA, ch 111,§4]

Referred to in §422.51

#### **422.53 Permits—applications for.**

1. It shall be unlawful for any person to engage in or transact business as a retailer within this state, unless a permit or permits shall have been issued to him as hereinafter prescribed, except as otherwise provided in subsection 7 of this section. Every person desiring to engage in or conduct business as a retailer within this state shall file with the department an application for a permit or permits. Every application for such a permit shall be made upon a form prescribed by the director and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the director may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner thereof; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority.

2. At the time of making such application, the applicant shall pay to the department a permit fee of one dollar for each permit, and the applicant must have a permit for each place of business.

3. Upon the payment of the permit fee or fees herein required, the department shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

4. Permits issued under the provisions of this division shall be valid and effective without further payment of fees until revoked by the department.

5. Whenever the holder of a permit fails to comply with any of the provisions of this division or any orders, rules or regulations of the department prescribed and adopted under this division, the director upon hearing after giving ten days' notice of the time and place of the hearing to show cause why his permit should not be revoked, may revoke the permit. The director shall also have the power to restore licenses after such revocation.

6. The department shall charge a fee of one dollar for the issuance of a permit to a retailer whose permit has been previously revoked.

7. Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at state, county, district or local fairs, carnivals and the like, shall report and remit the tax on a nonpermit basis, under such rules as the director shall provide for the efficient collection of the sales tax on such sales.

8. The provisions of subsection 1 of this section, dealing with lawful right of a retailer to transact business, according to the context, shall apply to persons having receipts from rendering, furnishing, or performing services enumerated in section 422.43, except that no person holding a permit pursuant to subsection 1 of this section shall be required to obtain any separate sales tax permit for the purpose of engaging in business involving such services. [C35,§6943-f48; C39,§6943.084; C46, 50, 54, 58, 62, 66,§422.53; 62GA, ch 342,§102 (1-11), ch 348,§30; 63GA, ch 111,§13]

Referred to in §§422.51, 422.58, subsection 2, 423.22

#### **422.54 Failure to file return—incorrect return.**

1. As soon as practicable after a return is filed and in any event within five years after the return is filed the department shall examine it, assess and determine the tax due if the return is found to be incorrect and give notice to the taxpayer of such assessment and determination as provided in subsection 2 hereof. If the determination that a return is

incorrect is the result of an audit of the books and records of the taxpayer, the tax, or additional tax, if any is found due, shall be assessed and determined and the aforesaid notice to the taxpayer shall be given by the department within one year after the completion of the examination of said books and records.

Referred to in §423.16

2. If a return required by this division is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the same is required by notice from the department, the department shall determine the amount of tax due from such information as the department may be able to obtain and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by him, his stock on hand, and/or other factors. The department shall give notice of such determination to the person liable for the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed shall, within thirty days after the giving of notice of such determination, apply to the director for a hearing or unless the director on his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the director shall give notice of the decision to the person liable for the tax. [C35, §6943-f49; C39, §6943.085; C46, 50, 54, 58, 62, 66, §422.54; 62GA, ch 342, §103(1-9)]

Referred to in §§422.55, subsection 1, 423.16

#### **422.55 Appeals.**

1. An appeal may be taken by the taxpayer to the district court of the county in which he resides, or in which his principal place of business is located, within sixty days after he shall have received notice of a determination by the director as provided for in section 422.54.

2. The appeal shall be taken by a written notice to the director and served as an original notice. When said notice is so served it shall, with the return thereon, be filed in the office of the clerk of said district court, and docketed as other cases, with the taxpayer as plaintiff and the director as defendant. The plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by such clerk, in penalty at least double the amount of tax appealed from, and in no case shall the bond be less than fifty dollars, conditioned that the plaintiff shall perform the orders of the court.

3. The court shall hear the appeal in equity and determine anew all questions submitted to it on appeal from the determination of the

director. In such appeal, the burden of proof shall be upon the taxpayer. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court with the director who shall then correct the assessment in accordance with said decree. An appeal may be taken by the taxpayer or the director to the supreme court of this state in the same manner that appeals are taken in suits in equity, irrespective of the amount involved. [C35,§6943-f50; C39,§6943.086; C46, 50, 54, 58, 62, 66,§422.55; 62GA, ch 342,§104 (1-6)]

Referred to in §§423.16, 551A.11

Filing petition on appeal, R.C.P. 368

Service of original notice, R.C.P. 56(a)

**422.56 Statute applicable to sales tax.** All the provisions of section 422.26 shall apply in respect to the taxes and/or penalties imposed by this division, excepting that, as applied to any tax imposed by this division, the lien therein provided shall be prior and paramount over all subsequent liens upon any personal property within this state, or right to such personal property, belonging to the taxpayer without the necessity of recording as therein provided. The requirements for recording shall, as applied to the tax imposed by this division, apply only to the liens upon real property. When requested to do so by any person from whom a taxpayer is seeking credit, or with whom the taxpayer is negotiating the sale of any personal property, or by any other person having a legitimate interest in such information, the director shall, upon being satisfied that such a situation exists, inform such person as to the amount of unpaid taxes due by such taxpayer under the provisions of this division. The giving of such information under such circumstances shall not be deemed a violation of section 422.72 as applied to this division. [C35,§6943-f51; C39,§6943.087; C46, 50, 54, 58, 62, 66,§422.56; 62GA, ch 342,§105]

Referred to in §423.17

**422.57 Service of notices.**

1. Any notice, except notice of appeal, authorized or required under the provisions of this division may be given by mailing the same to the person for whom it is intended by certified mail, addressed to such person at the address given in the last return filed by him pursuant to the provisions of this division, or if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this division by the giving of notice shall commence to run from the date of registration and posting of such notice.

2. The provisions of the Code relative to the

limitation of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine, or enforce the collection of any tax or penalty provided by this division. [C35,§6943-f52; C39,§6943.088; C46, 50, 54, 58, 62, 66,§422.57]

Referred to in §§423.16, 423.17

#### **422.58 Penalties—offenses.**

1. Any person failing to file a permit holders monthly tax deposit, a return or corrected return or to pay any tax within the time required by this division, shall be subject to an interest penalty of five percent of the amount of tax due, plus one-half of one percent of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due, and excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due; but the director, if satisfied that the delay was excusable, may remit all or any part of such interest penalty. Such interest penalty shall be paid to the department and disposed of in the same manner as other receipts under this division. Unpaid interest penalties may be enforced in the same manner as the tax imposed by this division.

2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement and athletic events, or gas, water, electricity, and communication service at retail, or engage in the rendering, furnishing, or performing services enumerated in section 422.43, in this state after his license shall have been revoked, or without procuring a license within sixty days after the effective date of this division, as provided in section 422.53, or who shall violate the provisions of section 422.49, and the officers of any corporation who shall so act, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one hundred dollars or imprisonment in the county jail for not more than thirty days in the discretion of the court.

3. Any person required to make, render, sign, or certify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the assessment required by law to be made, shall be guilty of a felony and shall, for each such offense, be fined not less than five hundred dollars and not more than five thousand dollars, or be imprisoned not exceeding one year, or be subject to both such fine and imprisonment, in the discretion of the court.

4. The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this division, shall be prima-facie evidence

thereof. [C35,§6943-f53; C39,§6943.089; C46, 50, 54, 58, 62, 66,§422.58; 62GA, ch 342,§106(1-3), ch 348,§§31, 32]

**422.59 Statutes applicable.** The director shall administer the taxes imposed by this division in the same manner and subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in subsection 4, section 422.25, section 422.30 and sections 422.67 to 422.75, inclusive, or any amendments which may hereafter be made thereto, all of which sections are by this reference incorporated herein. [C39,§6943.090; C46, 50, 54, 58, 62, 66,§422.59; 62GA, ch 342,§107]

Constitutionality, 47GA, ch 196,§19  
Omnibus repeal, 47GA, ch 196,§20

DIVISION V  
TAXATION OF FINANCIAL INSTITUTIONS  
Division V, Code 1966, transferred to Division VI  
Referred to in §428.36

**422.60 Imposition of tax.** A franchise tax according to and measured by net income is hereby imposed on financial institutions. [63GA, ch 1204,§2]

**422.61 Definitions.** In this division, unless the context otherwise requires:

1. "Financial institution" means a state bank as defined in section 524.103, subsection 19, a national banking association having its principal office within this state, a trust company, a federally chartered savings and loan association, a financial institution chartered by the federal home loan bank board, an association incorporated or authorized to do business under chapter 534, or a production credit association.

2. "Taxable year" means the calendar year or the fiscal year ending during a calendar year, for which the tax is payable.

3. "Taxpayer" means a financial institution subject to any tax imposed by this division.

4. "Net income" means the net income of the financial institution computed in accordance with section 422.35, with the exception that interest and dividends from federal securities shall not be subtracted and interest and dividends from evidences of indebtedness and securities of this state and its political subdivisions, exempt from federal income tax under the Internal Revenue Code of 1945 as amended, shall not be added. [63GA, ch 1204, §3]

**422.62 When due.** The franchise tax is due and payable on the first day following the end of the taxable year of each financial institution, and is delinquent after the last day of the fourth month following the due date. Every financial institution shall file a return as prescribed by the director on or before the delinquency date. The provisions of this section



shall become effective for all taxable years ending on or after January 1, 1970. As to fiscal years ending prior to May 9, 1970, the time for filing a return is extended to the last day of the fourth month following such date. [63GA, ch 1204,§4]

Referred to in §312.1(4)

See 63GA, ch 1204,§4, for tax years prior to 1970

**422.63 Amount of tax.** The franchise tax is imposed annually in an amount measured by applying the following rates to the net income received or accrued during the taxable year:

1. On the first twenty-five thousand dollars of net income, or any part thereof, five percent.
2. On the next fifty thousand dollars of net income, or any part thereof, six percent.
3. On the next twenty-five thousand dollars of net income, or any part thereof, seven percent.
4. On all net income in excess of one hundred thousand dollars, eight percent. [63GA, ch 1204,§5]

**422.64 Tax payable to treasurer.** The franchise tax shall be made payable to the treasurer of state and shall accompany the franchise tax return at the time of filing. [63GA, ch 1204,§6]

**422.65 Allocation of revenue.** Fifty-five percent of the total moneys received from the franchise tax shall be deposited in the state general fund. The remaining moneys received from the franchise tax shall be deposited in a franchise tax fund hereby established in the office of the treasurer of state, and shall be paid quarterly on warrants by the state comptroller, after certification by the director of revenue, as follows:

1. Sixty percent to the general fund of the city or town from which the tax is collected.
2. Forty percent to the general fund of the county from which the tax is collected.

If the financial institution maintains one or more offices for the transaction of business, other than its principal office, a portion of its franchise tax shall be allocated to each office, based upon a reasonable measure of the business activity of each office. The director of revenue shall prescribe, for each type of financial institution, a method of measuring the business activity of each office. Financial institutions shall furnish all necessary information for this purpose at the request of the director.

Quarterly, the director of revenue shall certify to the treasurer of state the amounts to be paid to each city, town, and county from the franchise tax fund. All moneys received from the franchise tax are hereby appropriated

according to the provisions of this section. [63GA, ch 1204,§7]

Referred to in §425.1 [5, d]

Amendments to funds collected after July 1, 1971.

**422.66 Revenue department to enforce.** The department of revenue shall administer and enforce the provisions of this division, and all applicable provisions of sections 422.24, 422.25, 422.26, 422.28, 422.29, and 422.30, and division VI of this chapter, apply to financial institutions and to the franchise tax imposed by this division. [63GA, ch 1204,§8]

DIVISION VI  
ADMINISTRATION

Referred to in §§422.16(5), 422.66

**422.67 Generally—bond—approval.** The director shall administer the taxes imposed by this chapter. The director shall give a bond in an amount to be fixed by the governor, which has been issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility. The reasonable cost of said bond shall be paid by the state, out of the proceeds of the taxes collected under the provisions of this chapter. [C35,§6943-f54; C39,§6943.091; C46, 50, 54, 58, 62, 66,§422.60; 62 GA, ch 342,§108(1, 2)]

Referred to in §§422.59, 423.23

**422.68 Powers and duties.**

1. The director shall have the power and authority to prescribe all rules and regulations not inconsistent with the provisions of this chapter, necessary and advisable for its detailed administration and to effectuate its purposes.

2. The director may, for administrative purposes, divide the state into districts, provided that in no case shall a county be divided in forming a district.

3. The director shall have the power to destroy any and all useless records and all returns, reports, and communications of any taxpayer filed with or kept by the department after such returns, records, reports, or communications shall have been in the custody of the department for a period of not less than five years, provided, however, after the accounts of any person shall have been examined by the director and the amount of tax and penalty due shall have been finally determined, then the director may order the destruction of any records previously filed by such taxpayer, notwithstanding the fact that such records shall have been in the custody of the department for a period less than five years. Such records and documents shall be destroyed in such manner as shall be prescribed by the director.

4. The department may make photostat, microfilm or other photographic copies of

records, reports and other papers either filed by the taxpayer or prepared by the department. When such photostat or microfilm copies have been made, the department may destroy such original records in such manner as prescribed by the director. Such photostat or microfilm copies, when no longer of use, may be destroyed as provided in subsection 3. Such photostat, microfilm, or other photographic records shall be admissible in evidence when duly certified and authenticated by the officer having custody and control thereof. [C35,§6943-f55; C39,§6943.092; C46, 50, 54, 58, 62, 66,§422.61; 62GA, ch 342,§109(1-13)]

Referred to in §§422.59, 423.23

#### **422.69 Funds.**

1. All fees, taxes, interest, and penalties imposed under this chapter shall be paid to the department of revenue in the form of remittances payable to the state treasurer and the department of revenue shall transmit each payment daily to the state treasurer.

2. Annually on November 1 of each year, the state treasurer shall transfer one million two hundred thousand dollars to the division of motor vehicle registration of the department of public safety, for the purpose of purchasing supplies and materials, and for the cost of manufacture of motor vehicle registration plates at the prison industries. If only one plate is authorized by law, the amount transferred shall be eight hundred thousand dollars. All motor vehicle registration plates shall be treated with a reflective material according to specifications prescribed by the commissioner of public safety. On October 31 of each year, the unexpended balance of the funds transferred to the department of public safety for registration plates shall be transferred to the road use tax fund.

3. Unless otherwise provided the fees, taxes, interest, and penalties collected under this chapter shall, for the first three quarters of each fiscal year, be credited to the general fund.

4. During the last quarter of each fiscal year an amount equal to ten percent of the net receipts from two-thirds of the sales tax collected under division IV of this chapter for the fiscal year, less the amount transferred during such fiscal year for motor vehicle registration plates, shall be transferred to the road use tax fund created by section 312.1. The remainder of the net receipts from the sales tax shall be credited to the general fund. [C35,§6943-f56; C39,§§6943.093, 6943.101; C46, §§422.62, 422.70; C50, 54, 58, 62, 66,§422.62; 62GA, ch 342,§110(1-3), ch 348,§50; 63GA, ch 249,§1; ch 1205,§1, ch 1206,§1]

Referred to in §§422.59, 423.23

Temporary suspension of subsections 2 and 4 for the biennium July 1, 1971, to June 30, 1973, see 64GA, ch 213,§.....

#### **422.70 General powers—hearings.**

1. The director, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income and/or receipts of any taxpayer, shall have power: To examine or cause to be examined by any agent or representative designated by the director, books, papers, records, or memoranda, such an examination not to include any transaction completed five years or more prior to such an examination, provided, however, that the director may, by rules, provide for a limitation of time of any number of years less than five; to require by subpoena the attendance and testimony of witnesses; to issue and sign subpoenas; to administer oaths, to examine witnesses and receive evidence; to compel witnesses to produce for examination books, papers, records, and documents relating to any matter which the director shall have the authority to investigate or determine.

2. Where the director finds the taxpayer has made a fraudulent return, the costs of said hearing shall be taxed to the taxpayer. In all other cases the costs shall be paid by the state.

3. The fees and mileage to be paid witnesses and taxed as costs shall be the same as prescribed by law in proceedings in the district court of this state in civil cases. All costs shall be taxed in the manner provided by law in proceedings in civil cases. Where the costs are taxed to the taxpayer they shall be added to the taxes assessed against said taxpayer and shall be collected in the same manner. Costs taxed to the state shall be certified by the director to the state comptroller who shall issue warrant on the state treasurer for the amount of said costs, to be paid out of the proceeds of the taxes collected under this chapter.

4. In case of disobedience to a subpoena the director may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and production of records, books, papers, and documents, and such court may issue an order requiring the person to appear before the director and give evidence or produce records, books, papers, and documents, as the case may be, and any failure to obey such order of court may be punished by the court as a contempt thereof.

5. Testimony on hearings before the director may be taken by a deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided. [C35,§6943-f57; C39, §6943.094; C46, 50, 54, 58, 62, 66,§422.63; 62GA, ch 342,§111(1-9)]

Referred to in §§421.1(7), 422.59, 423.23  
Contempts, ch 665

**422.71 Assistants — salaries — expenses — bonds.**

1. The director may appoint and remove such agents, auditors, clerks, and employees as the director may deem necessary, such persons to have such duties and powers as the director may, from time to time, prescribe.

2. The salaries of all assistants, agents, and employees shall be fixed by the director in a budget to be submitted to the comptroller and approved by the legislature.

3. All such agents and employees shall be allowed such reasonable and necessary traveling and other expenses as may be incurred in the performance of their duties.

4. The director may require certain officers, agents, and employees to give bond for the faithful performance of the duties in such sum and with such sureties as the director may determine and the state shall pay, out of the proceeds of the taxes collected under the provisions of this chapter, the premiums on such bonds.

5. The director may utilize the office of treasurer of the various counties in order to administer this chapter and effectuate its purposes, and may appoint the treasurers of the various counties as agents to collect any or all of the taxes imposed by this chapter, provided, however, that no additional compensation shall be paid to said treasurer by reason thereof. [C35,§6943-f58; C39,§6943.095; C46, 50, 54, 58, 62, 66,§422.64; 62GA, ch 342,§112 (1-9)]

Referred to in §§422.59, 423.23

**422.72 Information deemed confidential.**

1. It shall be unlawful for the director, or any person having an administrative duty under this chapter, to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any person or corporation visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; provided, however, that the director may authorize examination of such returns by other state officers, or, if a reciprocal arrangement exists, by tax officers of another state, or the federal government. This subsection shall prevail over the provisions of any general law of this state relating to public records.

2. Any person violating the provisions of subsection 1 of this section shall be guilty of a misdemeanor and punishable by a fine not to exceed one thousand dollars. [C35,§6943-f59;

C39,§6943.096; C46, 50, 54, 58, 62, 66,§422.65; 62GA, ch 106,§10, ch 342,§113(1, 2)]

Referred to in §§421.1(5), 422.56, 422.59, 423.23, 425.1[5, d]

**422.73 Correction of errors.** If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this chapter, then such amount shall be credited against any tax due, or to become due, under this chapter from the person who made the erroneous payment, or such amount shall be refunded to such person by the department. No claim for refund or credit that has not been filed with the department within five years after the tax payment upon which a refund or credit is claimed became due, or one year after such tax payment was made, whichever time is the later, shall be allowed by the director. Notwithstanding the period of limitation specified, the taxpayer shall have six months from the day of final disposition of any income tax controversy between the taxpayer and the internal revenue service with respect to the particular tax year or years to claim an income tax refund or credit, provided the taxpayer has notified the department of revenue of the existence of said income tax controversy within the five-year limitation period. [C35,§6943-f60; C39,§6943.097; C46, 50, 54, 58, 62, 66,§422.66; 62GA, ch 342,§114(1-3); 63GA, ch 1207,§1]

Referred to in §§422.59, 423.23, 424.12

**422.74 Certification of refund.** Wherever in any division of this chapter a refund is authorized, the director shall certify the amount of the refund and the name of the payee to the state comptroller. Upon certification from the director, the state comptroller shall draw his warrant on the state general fund in the amount specified payable to the named payee, and the state treasurer shall pay the same. [C35,§6943-f61; C39,§6943.098; C46, 50, 54, 58, 62, 66,§422.67; 62GA, ch 342,§115(1, 2)]

Referred to in §§422.16, subsections 9 and 11(e), 422.59, 423.23, 424.12

**422.75 Statistics—publication of.** The department shall prepare and publish annually statistics reasonably available, with respect to the operation of this chapter, including amounts collected, classification of taxpayers, and such other facts as are deemed pertinent and valuable. [C35,§6943-f62; C39,§6943.099; C46, 50, 54, 58, 62, 66,§422.68; 62GA, ch 342,§116]

Referred to in §§422.59, 423.23

Annual report, §17.4

DIVISION VII  
ALLOCATION OF REVENUES

Referred to in §422.2

**422.76** Repealed by 52GA, ch 230,§3. See §§249.36 and 425.1.

**422.77** Repealed by 53GA, ch 192,§1. See §422.62.

Constitutionality, 45ExGA, ch 82,§64; 48GA, ch 178,§4; 56GA, ch 208,§22; 58GA, ch 295,§5; 59GA, ch 226,§1(5)

Omnibus repeal, 45ExGA, ch 82,§65

Ratio and manner of distribution, see §425.1

**422.78 Allocation to moneys and credits replacement fund in each county.** There is created a permanent fund in the office of the treasurer of state to be known as the "moneys and credits replacement fund." The director shall determine the percentage which the aggregate taxable value for the year 1965 of the property described in and subject to taxation under section 429.2, Code 1966, owned or held by individuals, administrators, executors, guardians, conservators, trustees or an agent or nominee thereof, and the aggregate taxable value for the year 1965 of the property described in and subject to taxation under section 431.1, Code 1966, for the year 1965 but not subject to taxation under said section for the year 1966, in each county bears to the total aggregate taxable value of such property reported from all of the counties in the state and shall certify the percentage for each county to the state comptroller prior to January 1, 1967. In January of each year the state comptroller shall apply said percentage to the money which shall have accumulated in the moneys and credits tax replacement fund prior to such January and thereby determine the amount thereof due to each county. The state comptroller shall draw warrants on the moneys and credits tax replacement fund in such amounts payable to the county treasurer of each county and transmit them. The county treasurer shall apportion these amounts as follows: For the amounts received in January 1972, and all previously collected amounts, twenty percent to the county general fund, fifty percent to the school general fund, and the remaining thirty percent to cities and towns in the proportion that the taxable values for each city and town for 1965 of property subject to taxation in 1965 under sections 429.2, Code 1966, and 431.1, Code 1966, is to the total of such taxable values for all cities and towns within the county; for the amounts received in January 1973, and all subsequently collected amounts, forty percent to the county general fund, and the remaining sixty percent to cities and towns in the proportion that the taxable values for each city and town for the year 1965 under sections 429.2 and 431.1 is to the total of such taxable values for all the cities and towns within the county. [C66§422.71; 62GA, ch 342,§117; 63GA, ch 1204, §10]

## CHAPTER 423

### USE TAX

Referred to in §§312.1, subsection 3, 321F.9, 422.45  
Refunds to governmental bodies, §422.45

- 423.1 Definitions.
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- 423.21 Books—examination.
- 423.22 Revoking permits.
- 423.23 Statutes applicable.
- 423.24 Deposit of revenue.
- 423.25 Taxation in another state.

**423.1 Definitions.** The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section:

1. "Use" means and includes the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing, or the sale of that property in the regular course of business. Property used in "processing" within the meaning of this subsection shall mean and include (a) any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing, or germination, become an integral part of other tangible personal property intended to be sold ultimately at retail, (b) fuel which is consumed in creating power, heat, or steam for processing or for generating electric current, or (c) chemicals, solvents, sorbents, or reagents, which are directly used and are consumed, dissipated, or depleted in processing personal property, which is intended to be sold ultimately at retail, and which may not become a component or integral part of the finished product.

Notwithstanding the foregoing provisions of this subsection, the purchase of newsprint and ink delivered after the effective date of this Act\* to any person, firm or corporation



to be incorporated in or used in the printing of any newspaper, free newspaper or shoppers guide for publication in this state shall be subject to the use tax imposed by this chapter.

\*Chapter 1201, §5, Acts 63 GA, Second Session

2. "Purchase" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

3. "Purchase price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise; provided that cash discounts and trade-in allowances taken on sales shall not be included.

4. "Tangible personal property" means tangible goods, wares, and merchandise, and gas, electricity, and water when furnished or delivered to consumers or users within this state.

5. "Retailer" means and includes every person engaged in the business of selling tangible personal property for use within the meaning of this chapter; provided, however, that when in the opinion of the director it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the director may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for purposes of this chapter.

6. "Retailer maintaining a place of business in this state" or any like term, shall mean and 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 agent operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such retailer or subsidiary is admitted to do business within this state pursuant to chapter 494.

7. "Vehicles subject to registration" means any vehicle subject to registration pursuant to section 321.18.

8. "Person" and "taxpayer" shall have the same meaning as defined in section 422.42.

9. "Trailer" shall mean every trailer, as is now or may be hereafter so defined by the motor vehicle law of this state, which is required to be registered under such motor vehicle law.

10. Definitions contained in section 422.42 shall apply to the provisions of this chapter according to their context.

11. "Street railways" shall mean and include urban transportation systems.

12. "Department" and "director" shall have the same meaning as defined in section 422.3. [C39,§6943.102; C46, 50, 54, 58, 62, 66,§423.1; 62GA, ch 342,§118(1-4), ch 348,§§33, 34; 63GA, ch 246,§4, ch 1201,§3]

Amendment to subsection 1 retroactive to January 1, 1970  
See 53GA, ch 193,§3

**423.2 Imposition of tax.** An excise tax is hereby imposed on the use in this state of tangible personal property purchased for use in this state, at the rate of three percent of the purchase price of such property. Said tax is hereby imposed upon every person using such property within this state until such tax has been paid directly to the county treasurer or department of public safety to a retailer, or to the department as hereinafter provided. An excise tax is hereby imposed on the use in this state of services enumerated in section 422.43 at the rate of three percent. Said tax shall be applicable where services are rendered, furnished, or performed in this state or where the product or result of such service is used in this state. Such tax is imposed on every person using such services or the product of such services in this state until such user has paid such tax either to an Iowa use tax permit holder or has paid such tax to the department of revenue. [C39,§6943.103; C46, 50, 54, 58, 62, 66,§423.2; 62GA, ch 342,§119, ch 348,§§35, 36; 63GA, ch 111,§14, ch 250,§1]

Referred to in §§29C.11, 423.3, 423.6, subsection 4

**423.3 Tax on surplus war material.** Purchases of tangible personal property made from the government of the United States or any of its agencies by ultimate consumers shall be subject to the tax imposed by section 423.2. Services purchased from the same source or sources shall be subject to service tax imposed by this chapter and apply to the user thereof.

This section shall not apply to purchases made by counties or municipal corporations. [C46, 50, 54, 58, 62, 66,§423.3; 62GA, ch 348,§39]

**423.4 Exemptions.** The use in this state of the following tangible personal property is hereby specifically exempted from the tax imposed by this chapter:

1. Tangible personal property, the gross receipts from the sale of which are required to be included in the measure of the tax imposed by division IV of chapter 422, and any amendments made or which may hereafter be made thereto. This exemption does not include vehicles subject to registration.

2. Tangible personal property used in interstate transportation or interstate commerce.

3. Tangible personal property other than airplanes, or to the sale at retail of beer and cigarettes, upon which the state now imposes and collects a special tax, whether in the form of a license tax, stamp tax, or otherwise.

4. All articles of tangible personal property brought into the state of Iowa by a nonresident individual thereof for his or her use or enjoyment while within the state.

5. Services exempt from taxation by provisions of section 422.45.

6. Tangible personal property, the gross receipts from the sale of which are exempted from the retail sales tax by the terms of section 422.45, except subsection 4 and subsection 6 of section 422.45 as it relates to the sale of vehicles subject to registration.

7. Advertisement and promotional material and matter, seed catalogs, envelopes for same, and other similar material temporarily stored in this state which are acquired outside of Iowa and which, subsequent to being brought into this state, are sent outside of Iowa, either singly or physically attached to other tangible personal property sent outside of Iowa.

8. Tangible personal property used or to be used as railroad rolling stock for transporting persons or property, or as materials or parts therefor. [C39, §6943.104; C46, 50, 54, 58, 62, 66, §423.4; 62GA, ch 348, §37; 63GA, ch 111, §15, ch 248, §13]

Referred to in §423.9

Tax paid in another state, §423.25

**423.5 Evidence of use.** For the purpose of the proper administration of this chapter and to prevent evasion of the tax, evidence that tangible personal property was sold by any person for delivery in this state shall be prima-facie evidence that such tangible personal property was sold for use in this state. [C39, §6943.105; C46, 50, 54, 58, 62, 66, §423.5]

**423.6 How collected.** The tax herein imposed shall be collected in the following manner:

1. The tax upon the use of all vehicles subject to registration shall be collected by the county treasurer who shall retain twenty-five cents from each tax payment collected for use and benefit of the county general fund or department of public safety pursuant to the provisions of section 423.7.

2. The tax upon the use of all tangible personal property other than that enumerated in subsection 1 hereof, which is sold by a retailer maintaining a place of business in this state, or by such other retailer as the director shall authorize pursuant to section 423.10, shall be

collected by such retailer and remitted to the department, pursuant to the provisions of sections 423.9 to 423.13, inclusive.

3. The tax upon the use of all tangible personal property not paid pursuant to subsections 1 and 2 hereof shall be paid to the department directly by any person using such property within this state, pursuant to the provisions of section 423.14.

4. The tax on services imposed in section 423.2 shall be collected, remitted, and paid to the department of revenue of this state in the corresponding manner as use tax on tangible personal property is collected, remitted and paid under provisions of this chapter. [C39, §6943.106; C46, 50, 54, 58, 62, 66, §423.6; 62GA, ch 342, §120(1-3), ch 348, §38; 63GA, ch 250, §2]

**423.7 Vehicles subject to registration.** The tax hereby imposed upon the use of vehicles subject to registration shall be paid by the owner thereof to the county treasurer or department of public safety from whom the registration receipt is obtained. No registration receipt for any vehicle subject to registration shall be issued until said tax has been so paid. The county treasurer or department of public safety shall require every applicant for a registration receipt for any vehicle subject to registration to supply such information as he or the director may deem necessary as to the time of purchase, the purchase price, and other information relative to the purchase of said vehicle subject to registration. On or before the tenth day of each month the county treasurer or department of public safety shall remit to the department the amount of the taxes so collected during the preceding month, accompanied by a copy of each registration receipt issued in conjunction with the certificate of title issued for each vehicle subject to registration. [C39, §6943.107; C46, 50, 54, 58, 62, 66, §423.7; 62GA, ch 342, §121(1-4); 63GA, ch 250, §3(1-3)]

Referred to in §§312.1, subsection 3, 423.6, subsection 1, 423.9, 423.24

Motor vehicles from other states, §423.25

**423.8 Sales tax report — deduction.** Motor vehicle or trailer dealers, in making their reports and returns to the department for the purpose of paying the retail sales tax imposed by division IV of chapter 422, shall be permitted to deduct all gross receipts from retail sales of vehicles subject to registration. Gross receipts from such sales of vehicles subject to registration are hereby expressly exempted from the tax imposed by said division IV, but, if required by the director, such gross receipts shall be included in the returns made by motor vehicle or trailer or trailer dealers under said division IV, and proper deductions taken pursuant to this section. [C39, §6943.108; C46, 50, 54, 58, 62, 66, §423.8; 62GA, ch 342, §122(1, 2)]

**423.9 Collection by retailer.** Every retailer maintaining a place of business in this state and making sales of tangible personal property for use in this state, not exempted under the provisions of section 423.4 nor collectible under the provisions of section 423.7, shall at the time of making such sales, whether within or without the state, collect the tax imposed by this chapter from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the director, if the director shall, by regulation, require such receipt. Each such retailer shall list with the department the name and address of all his agents operating in this state, and the location of any and all his distribution or sales houses or offices or other places of business in this state.

Every person rendering, furnishing, or performing services enumerated in section 422.43, maintaining a place of business in this state shall be subject to the provisions of the preceding paragraph. [C39,§6943.109; C46, 50, 54, 58, 62, 66,§423.9; 62GA, ch 342,§123(1-3), ch 348,§42]

Referred to in §§423.6, subsection 2, 423.12, 423.13, 423.15

**423.10 Foreign retailers.** The director may, upon application authorize the collection of the tax herein imposed by any retailer not maintaining a place of business within this state, who, to the satisfaction of the director furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax in such manner, and subject to such regulations and agreements as the director shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible personal property sold to his knowledge for use within this state, in the same manner and subject to the same requirements as a retailer maintaining a place of business within this state. Such authority and permit may be canceled when, at any time, the director considers the security inadequate, or that such tax can more effectively be collected from the person using such property in this state.

The discretionary power granted therein is extended to apply in the case of persons rendering, furnishing or performing services enumerated in section 422.43. [C39,§6943.110; C46, 50, 54, 58, 62, 66,§423.10; 62GA, ch 342,§124(1-4), ch 348,§43]

Referred to in §§423.6, subsection 2, 423.12, 423.13, 423.15, 423.22

**423.11 Absorbing tax prohibited.** It shall be unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by this

chapter will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded. The director shall have the power to adopt and promulgate rules and regulations for adding such tax, or the average equivalent thereof, by providing different methods applying uniformly to retailers within the same general classification for the purpose of enabling such retailers to add and collect, as far as practicable, the amount of such tax. Any person violating any of the provisions of this section within this state shall be guilty of a misdemeanor and subject to the penalties provided in section 423.20. [C39,§6943.111; C46, 50, 54, 58, 62, 66, §423.11; 62GA, ch 342,§125]

Referred to in §423.6, subsection 2

**423.12 Tax as debt.** The tax herein required to be collected by any retailer pursuant to sections 423.9 or 423.10, and any tax collected by any retailer pursuant to said sections, shall constitute a debt owed by the retailer to this state. [C39,§6943.112; C46, 50, 54, 58, 62, 66, §423.12]

Referred to in §423.6, subsection 2

**423.13 Payment to department.** Each permit holder required or authorized, pursuant to sections 423.9 or 423.10, to collect the tax herein imposed, shall be required to pay to the department the amount of such tax, on or before the last day of the month next succeeding each quarterly period. At such time, each such retailer shall file with the department a return for the preceding quarterly period in such form as may be prescribed by the director showing the sales price of any or all tangible personal property sold by the retailer during such preceding quarterly period, the use of which is subject to the tax imposed by this chapter, and such other information as the director may deem necessary for the proper administration of this chapter. The return shall be accompanied by a remittance of the amount of such tax, for the period covered by the return. If necessary in order to insure payment to the state of the amount of such tax, the director may in any or all cases require returns and payments of such amount to be made for other than quarterly periods. The director may, upon request and a proper showing of the necessity therefor, grant an extension of time not to exceed thirty days for making any return and payment. Returns shall be signed by the retailer or his duly authorized agent, and must be certified by him to be correct. [C39,§6943.113; C46, 50, 54, 58, 62, 66,§423.13; 62GA, ch 342,§126(1-7), ch 348,§§40, 41; 63GA, ch 111,§16, ch 246,§6]

Referred to in §§423.6, subsection 2, 423.14

**423.14 Liability of user.** Any person who uses any property or services enumerated in section 422.43 upon which the tax herein imposed has not been paid, either to the county treasurer or to a retailer or direct to the department as herein provided, shall be liable therefor, and shall on or before the last day of the month next succeeding each quarterly period pay the tax herein imposed upon all such property used by him during the preceding quarterly period in such manner and accompanied by such returns as the director shall prescribe. All of the provisions of section 423.13 with reference to such returns and payments shall be applicable to the returns and payments herein required. [C39,§6943.114; C46, ch 54, 58, 62, 66,§423.14; 62GA, ch 342,§127(1, 2), ch 348,§44; 63GA, ch 111,§3]

Referred to in §423.6, subsection 3

**423.15 Bond to secure payment.** The director may, when necessary and advisable in order to secure the collection of the tax levied under this chapter, authorize any person subject to such tax, and any permit holder required or authorized to collect such tax pursuant to the provisions of sections 423.9 and 423.10, to file with the department a bond, issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility, in such amount as the director may fix, to secure the payment of any tax, amount, and/or penalties due or which may become due from such person. In lieu of such bond, securities approved by the director, in such amount as the director may prescribe, may be deposited with the department, which securities shall be kept in the custody of the department and may be sold by the director at public or private sale, without notice to the depositor thereof, if it becomes necessary to do so in order to recover any tax and/or penalties due. Upon any such sale, the surplus, if any, above the amounts due under this chapter shall be returned to the person who deposited the securities. [C39,§6943.115; C46, 50, 54, 58, 62, ch 66,§423.15; 62GA, ch 342,§128(1-9), ch 348,§45]

**423.16 Determination by department.** If any return required by this chapter is not filed, or if any return when filed is incorrect or insufficient, and the maker or person from whom the tax is due fails to file a corrected or sufficient return within twenty days after the same is required by notice from the department, the department shall have the same power to determine the amount due, as is vested in the department by sections 422.54, 422.55, and 422.57, subject to all of the provisions, and restrictions, and rights of appeal provided in said sections. Where a return required by this chapter has been filed, the five-year period of

limitation specified in subsection 1 of section 422.54 shall apply to the making of a determination by the department of the amount of tax due hereunder and to the giving of notice to the taxpayer of such determination. [C39, §6943.116; C46, 50, 54, 58, 62, 66, §423.16; 62GA, ch 342, §129(1-3)]

**423.17 Lien of tax—penalties.** All of the provisions of sections 422.56 and 422.57 shall apply in respect to the procedure, taxes, amounts required to be paid, and/or penalties imposed, as provided by this chapter. [C39, §6943.117; C46, 50, 54, 58, 62, 66, §423.17]

**423.18 Failure to pay—penalties.** Any person failing to file a return or corrected return or to pay any tax and/or amount required to be paid by this chapter within the time required by this chapter, shall be subject to an interest penalty of five percent of the amount due, plus one-half of one percent of such amount for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax or amount became due, and excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due; but the director, if satisfied that the delay was excusable, may remit all or any part of such interest penalty. Such interest penalty shall be paid to the department and disposed of in the same manner as other receipts under this chapter. Unpaid interest penalties may be enforced in the same manner as the tax imposed by this chapter. The certificate of the director to the effect that a tax and/or amount required to be paid by this chapter has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this chapter, shall be prima-facie evidence thereof. [C39, §6943.118; C46, 50, 54, 58, 62, 66, §423.18; 62GA, ch 342, §130(1-3)]

**423.19 Fraud.** Any person required to make, render, sign, or certify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the tax, and/or amount required to be paid by this chapter, shall be guilty of a felony and shall, for each such offense, be fined not less than five hundred dollars and not more than five thousand dollars, or be imprisoned not exceeding one year, or be subject to both such fine and imprisonment, in the discretion of the court. [C39, §6943.119; C46, 50, 54, 58, 62, 66, §423.19]

**423.20 Penalty.** Any retailer or other person failing or refusing to furnish any return herein required to be made, or failing or re-



fusing to furnish a supplemental return or other data required by the director, shall be guilty of a misdemeanor and subject to a fine of not to exceed one hundred dollars for each such offense, or to imprisonment for not to exceed thirty days, or to both such fine and imprisonment, in the discretion of the court. [C39,§6943.120; C46, 50, 54, 58, 62, 66,§423.20; 62GA, ch 342,§131]

Referred to in §423.11

**423.21 Books—examination.** Every retailer required or authorized to collect taxes imposed by this chapter and every person using in this state tangible personal property shall keep such records, receipts, invoices, and other pertinent papers as the director shall require, in such form as the director shall require. The director or any duly authorized agent of the department may examine the books, papers, records, and equipment of any person either selling tangible personal property or liable for the tax imposed by this chapter, and investigate the character of the business of any such person in order to verify the accuracy of any return made, or if no return was made by such person, ascertain and determine the amount due under the provisions of this chapter. Any such books, papers, and records shall be made available within this state for such examination upon reasonable notice when the director shall deem it advisable and shall so order. The preceding requirements shall likewise apply to users and persons rendering, furnishing, or performing service enumerated in section 422.43. [C39,§6943.121; C46, 50, 54, 58, 62, 66,§423.21; 62GA, ch 342,§132(1-6), ch 348,§46; 63GA, ch 111,§17]

**423.22 Revoking permits.** Whenever any retailer maintaining a place of business in this state, or authorized to collect the tax herein imposed pursuant to section 423.10, fails to comply with any of the provisions of this chapter or any orders, rules or regulations prescribed and adopted under this chapter, the director may, upon notice and hearing as hereinafter provided, by order revoke the permit, if any, issued to such retailer under section 422.53, or if such retailer is a corporation authorized to do business in this state under chapter 494, may certify to the secretary of state a copy of an order finding that such retailer has failed to comply with certain specified provisions, orders, rules, or regulations. The secretary of state shall, upon receipt of such certified copy, revoke the permit authorizing said corporation to do business in this state, and shall issue a new permit only when such corporation shall have obtained from the director an order finding that such corporation has complied with its obligations under this chapter. No order authorized in this section

shall be made until the retailer is given an opportunity to be heard and to show cause why such order should not be made, and he shall be given ten days' notice of the time, place, and purpose of such hearing. The director may issue a new permit pursuant to section 422.53 after such revocation. The preceding provision shall apply to users and persons supplying services enumerated in section 422.43. [C39,§6943.122; C46, 50, 54, 58, 62, 66,§423.22; 62GA, ch 342,§133(1-4), ch 348,§47]

**423.23 Statutes applicable.** The director is hereby charged with the enforcement of the provisions of this chapter, and the director and employees of the department shall administer this chapter and the taxes imposed by this chapter in the same manner and subject to all of the provisions of, and all of the powers, duties, authority, and restrictions contained in section 422.30 and sections 422.67 to 422.75, inclusive, or any amendments which may hereafter be made thereto, all of which sections are by this reference incorporated herein. [C39,§6943.123; C46, 50, 54, 58, 62, 66, §423.23; 62GA, ch 342,§134(1, 2)]

**423.24 Deposit of revenue.** All revenue arising under the operation of this chapter, derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment, as same may be collected as provided by section 423.7 shall be credited to the road use tax fund. All other revenue arising under the operation of this chapter shall be credited to the general fund of the state. [C39, §6943.124; C46, 50, 54, 58, 62, 66,§423.24]

Road use tax fund, §312.1

**423.25 Taxation in another state.** If any person who causes tangible personal property to be brought into this state has already paid a tax in another state in respect to the sale or use of such property, or an occupation tax in respect thereto, in an amount less than the tax imposed by this title, the provisions of this title shall apply, but at a rate measured by the difference only between the rate herein fixed and the rate by which the previous tax on the sale or use, or the occupation tax, was computed. If such tax imposed and paid in such other state is equal to or more than the tax imposed by this title, then no tax shall be due in this state on such personal property. [C39, §6943.125; C46, 50, 54, 58, 62, 66,§423.25]

Constitutionality, 47GA, ch 198,§27

**423.26 Penalty for false statement.** Any person who willfully makes any false statement in regard to the purchase price of a vehicle subject to taxation under section 423.7 is guilty of a misdemeanor.

LAWS OF THE 64TH  
GENERAL ASSEMBLY, FIRST SESSION

CHAPTER 214

DISCLOSURE OF INFORMATION IN  
PREPARATION OF TAX RETURNS

**Section 1. Definition.** As used in this Act, unless the context otherwise requires:

1. "Person" means any person, firm, corporation, association, partnership or an employee or agent of one of these.

2. "Tax return" means any federal, state, or local form required to be filled out, by or for a taxpayer, incident to the collection or refund of a tax.

3. "Information" for the purpose of this Act shall include but not be limited to the name, address and statistical data of the taxpayer.

**Sec. 2. Disclosure prohibited.** A person who obtains any information in the course of or arising out of the business of preparing or assisting in the preparation of a tax return of another person, shall not disclose any of the information obtained unless the disclosure is within any of the following:

1. Consented to in writing by the taxpayer in a separate document.

2. Expressly authorized by state or federal law.

3. Necessary to the preparation of the return.

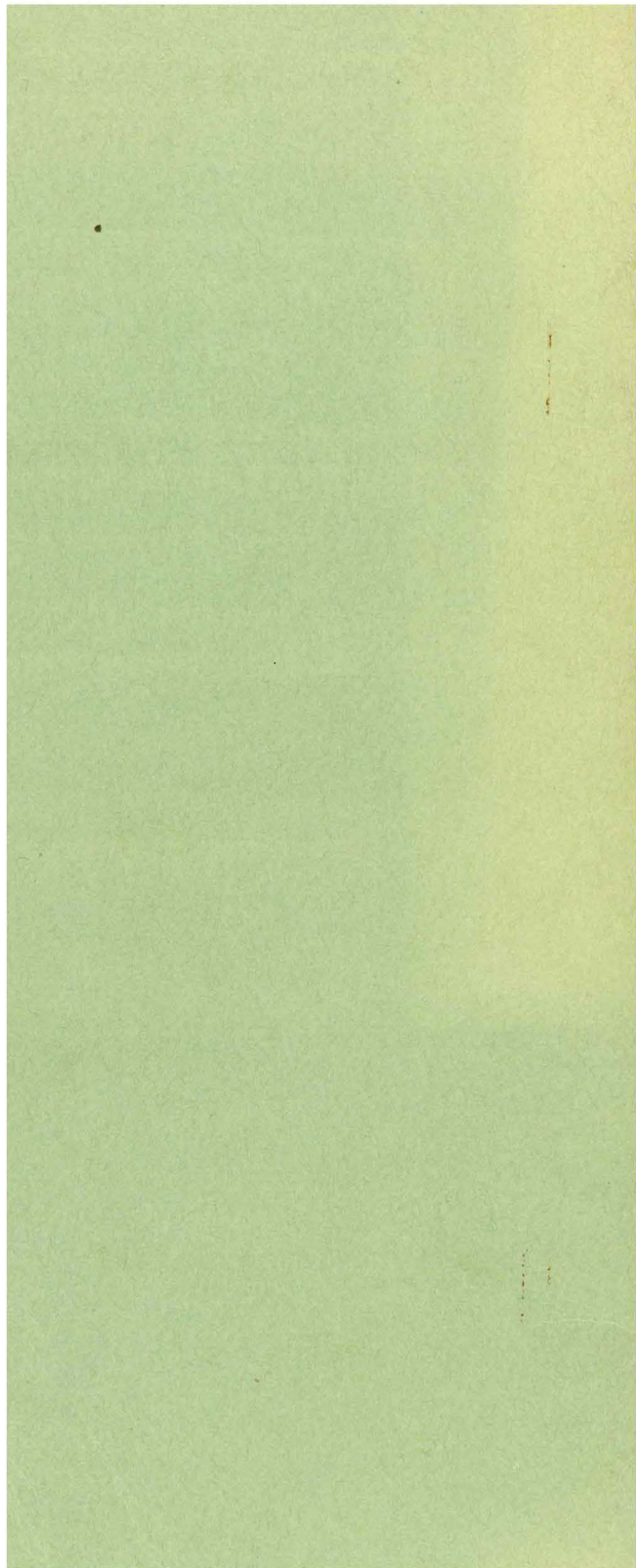
4. Pursuant to court order.

**Sec. 3. Engaged in business.** A person is engaged in the business of preparing income tax returns or assisting in preparing of returns if he does any of the following:

1. Advertises, or gives publicity to the effect that he prepares or assists others in the preparation of tax returns.

2. Prepares or assists others in the preparation of tax returns for compensation.

**Sec. 4. Penalty.** A person who violates the provisions of this Act shall upon conviction be punished by imprisonment in the county jail for not more than one year or be fined not more than ten thousand dollars or punished by both such imprisonment and fine.



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