

House Study Bill 541 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to the costs of litigation in administrative
2 hearings or court proceedings involving the collection of
3 tax penalties and interest by the department of revenue.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 421.60, subsection 4, paragraph a, Code
2 2024, is amended by striking the paragraph and inserting in
3 lieu thereof the following:

4 a. (1) A prevailing taxpayer in an administrative hearing
5 or a court proceeding related to the determination, collection,
6 or refund of a tax, penalty, or interest may be awarded
7 reasonable litigation costs by the department or a court that
8 are incurred subsequent to the issuance of the notice of
9 assessment or denial of claim for refund in the proceeding,
10 based upon the following:

11 (a) Reasonable court costs.

12 (b) Reasonable prevailing market rates based upon the
13 services provided including but not limited to:

14 (i) Expert witnesses.

15 (ii) The cost of a study, engineering report, test,
16 analysis, or project that is found by the director of revenue
17 or court to be necessary for the preparation of the case of the
18 taxpayer.

19 (iii) Fees paid or incurred by the taxpayer for the services
20 of an independent attorney or accountant including fees paid or
21 incurred in obtaining costs under this subsection.

22 (2) The dollar amount of the award for reasonable litigation
23 costs shall be determined by the director of revenue or the
24 court within its discretion.

25 Sec. 2. Section 421.60, subsection 4, paragraph c, Code
26 2024, is amended to read as follows:

27 c. For purposes of [this section](#), "*prevailing taxpayer*" means
28 a taxpayer ~~who establishes that the position of the state was~~
29 ~~not substantially~~ justified and who has substantially prevailed
30 with respect to the amount in controversy or has substantially
31 prevailed with respect to the most significant issue or set of
32 issues presented. The determination of whether a taxpayer is
33 a prevailing taxpayer is to be determined in accordance with
34 chapter 17A. If the taxpayer establishes that the taxpayer
35 has substantially prevailed with respect to the amount in

1 controversy or has substantially prevailed with respect to the
2 most significant issue set of issues presented, the burden of
3 proof shifts to the department of revenue to prove that the
4 position taken by the department was substantially justified.
5 If the department meets the burden by proving the position of
6 the department was substantially justified, the taxpayer shall
7 not be considered a prevailing taxpayer.

8

EXPLANATION

9

The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11

This bill relates to the costs of litigation in
12 administrative hearings or court proceedings involving the
13 collection of tax penalties and interest (dispute) by the
14 department of revenue (department).

15 The bill changes the costs allowed to be recovered in the
16 dispute. The costs allowed to be recovered under the bill
17 include reasonable court costs; reasonable prevailing market
18 rates for expert witnesses, studies, tests, analysis, or
19 special projects; and reasonable attorney or accountant fees
20 including fees related to the recovery of costs allowed under
21 the bill.

22 The bill strikes the current \$25,000 cap recoverable by a
23 taxpayer in a dispute and provides that the dollar amount of an
24 award in a dispute be determined within the discretion of the
25 director of revenue or court, as applicable.

26 Under the bill, if the taxpayer substantially prevails in
27 the dispute relating to the amount in controversy or issues
28 involved, the burden of proof shifts to the department to
29 prove that the position of the department was substantially
30 justified. If the department proves the position of the
31 department was substantially justified, the bill prohibits
32 the taxpayer from recovering an award in the dispute. Under
33 current law, the taxpayer must prove the position of the
34 department was not substantially justified in addition to the
35 amount in controversy and issues involved.