

Reprinted

FILED FEB 25 1991

SENATE FILE

234

BY RUNNING, HANNON, KIBBIE,  
SZYMONIAK, MILLER, VARN,  
DOYLE, STURGEON, MURPHY,  
GRONSTAL, WELSH, and HORN

Passed Senate, Date 3/21/91 (p 857) Passed House, Date \_\_\_\_\_  
Vote: Ayes 50 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

- 1 An Act relating to the creation of a taxpayers' bill of rights
- 2 and privileges, and an office of taxpayer ombudsman within the
- 3 department of revenue and finance.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 234

S-3148

- 1 Amend Senate File 234 as follows:
- 2 1. By striking page 1, line 23, through page 2,
- 3 line 16.
- 4 2. Page 2, by striking lines 30 and 31 and
- 5 inserting the following: "appeal must be filed."
- 6 3. By striking page 4, line 30, through page 5,
- 7 line 4, and inserting the following:
- 8 "Sec. \_\_\_\_ . Section 602G.9, Code 1991, is amended
- 9 by adding the following new subsection:
- 10 NEW SUBSECTION. 6. To the extent funds and
- 11 personnel are available, identify state tax forms,
- 12 procedures, laws, and regulations which are confusing
- 13 and lead to taxpayer error in order to recommend to
- 14 the department of revenue and finance or the general
- 15 assembly appropriate action to reduce confusion and
- 16 errors and may develop taxpayer education programs to
- 17 enable taxpayers to better deal with the state tax
- 18 forms, procedures, laws, and regulations."

By COMMITTEE ON STATE GOVERNMENT  
JOHN KIBBIE, Chairperson

Adopted 3/26 (p 857)  
S-3148 FILED MARCH 21, 1991

1 Section 1. NEW SECTION. 421.60 TAXPAYERS' BILL OF RIGHTS  
2 AND PRIVILEGES.

3 1. LEGISLATIVE DECLARATION. The general assembly finds  
4 and declares that taxes are the most sensitive point of  
5 contact between citizens and their government, and that there  
6 is a delicate balance between revenue collection and freedom  
7 from government oppression. It is the intent of the general  
8 assembly to place guarantees in Iowa law to ensure that the  
9 rights, privacy, and property of Iowa taxpayers are adequately  
10 protected during the process of the assessment and collection  
11 of taxes.

12 The general assembly further finds that the Iowa tax system  
13 is based largely on self-assessment, and the development of  
14 understandable tax laws and taxpayers informed of those laws  
15 will both improve self-assessment and the relationship between  
16 taxpayers and government. It is the further intent of the  
17 general assembly to promote improved taxpayer self-assessment  
18 by improving the clarity of tax laws and efforts to inform the  
19 public of the proper application of those laws.

20 2. APPLICABILITY. Unless otherwise specifically provided,  
21 this section applies to all taxes administered by the director  
22 of revenue and finance.

23 3. TAXPAYER OMBUDSMAN. There is created within the  
24 department of revenue and finance an office of taxpayer  
25 ombudsman. The taxpayer ombudsman shall be appointed by the  
26 governor subject to confirmation by the senate for a six-year  
27 term beginning and ending as provided in section 69.19. If a  
28 vacancy occurs, it shall be filled in the same manner as the  
29 original appointment for the unexpired term. The office of  
30 taxpayer ombudsman shall have a toll-free telephone number,  
31 shall investigate and facilitate the resolution of taxpayer  
32 complaints, and shall identify forms, procedures, laws, and  
33 regulations which are confusing and lead to taxpayer error in  
34 order to take appropriate action to reduce confusion and  
35 errors. The office shall develop taxpayer education programs

1 and may stay enforcement of collection actions by the  
2 department which might result in irreparable harm to a  
3 taxpayer. Such stay shall remain in effect only for a length  
4 of time sufficient to arrive at a reasonable installment  
5 payment agreement, other arrangements for payment, or other  
6 resolution of the matter. Any limitation of actions provision  
7 shall be tolled while such stay is in effect. The office  
8 shall have full access to all department books and records,  
9 subject to departmental confidentiality requirements.

10 The ombudsman may employ additional employees as necessary.  
11 Salaries of the ombudsman and employees and expenses of the  
12 office shall be paid from appropriations made to the  
13 department or from funds appropriated specifically to the  
14 office of taxpayer ombudsman.

15 Charges or fees shall not be assessed upon a taxpayer as a  
16 prerequisite to a presentation to the taxpayer ombudsman.

17 4. DEPARTMENT RESPONSIBILITIES. In addition to other  
18 responsibilities and duties relating to taxpayers and the  
19 collection of taxes under this chapter, chapter 422, and other  
20 provisions of law, the department of revenue and finance has  
21 the following responsibilities and duties to protect the  
22 rights of taxpayers:

3-49 23 a. To furnish each taxpayer with a written statement of  
24 rights whenever a taxpayer receives a protestable notice, a  
25 bill, a claim denial, or reduction regarding the tax. The  
26 statement shall explain the rights of the person and the  
27 obligations of the department during the audit, appeal,  
28 refund, and collection processes and shall inform the taxpayer  
29 of the taxpayer's right to appeal and the time period when an  
30 appeal must be filed. All written taxpayer contact shall  
31 include the telephone number of the taxpayer ombudsman.

32 b. To include on all tax notices an explanation of tax  
33 liabilities and penalties.

34 c. To abate taxes and penalties assessed based upon  
35 erroneous written information or advice given by the

1 department. A taxpayer who has received written advice from  
2 the department of revenue and finance concerning the  
3 taxability of transactions may rely on such advice when filing  
4 tax returns. The department shall not maintain a position  
5 against a taxpayer which is inconsistent with a prior written  
6 opinion issued to the same taxpayer which has not been  
7 rescinded.

8 d. To not cancel installment contracts unless the taxpayer  
9 fails to provide accurate financial information, fails to pay  
10 any tax, or does not respond to a department request for  
11 additional financial information.

12 e. To waive interest assessed against a taxpayer when it  
13 is determined by the director that the negligence of an  
14 employee of the department resulted in undue delay in either  
15 assessing tax or notifying the taxpayer of the liability owed.

16 f. To release any lien upon the property of a taxpayer  
17 upon payment of all tax, penalty, and interest within thirty  
18 days of payment. Liens filed in error shall be so noted on  
19 the satisfaction of judgment. The department shall be liable  
20 for any court costs associated with the release of such  
21 erroneous liens.

22 g. To place nonperishable property seized for taxes in  
23 escrow safekeeping for a period of twenty days to permit the  
24 taxpayer to correct any department error. If seized property  
25 is of a perishable nature and in danger of immediate waste or  
26 decay, the property need not be placed in escrow prior to  
27 sale.

28 h. To place seized taxpayer bank accounts in escrow with  
29 the bank for twenty days to permit the taxpayer to correct any  
30 department error.

31 i. To adopt regulations setting standards for setting  
32 times and places for taxpayer interviews and to permit any  
33 taxpayer to record the interviews.

34 j. To grant automatic extensions to taxpayers in filing  
35 income tax returns when the taxpayer has been granted an

1 extension in filing a federal tax return.

2 k. To annually perform a systematic identification of  
3 areas of recurrent taxpayer noncompliances with rules or  
4 guidelines and to report its findings and recommendations  
5 concerning the noncompliance to the general assembly in an  
6 annual report.

7 5. EMPLOYEE EVALUATIONS. It is unlawful to base a  
8 performance evaluation for an employee of the director of  
9 revenue and finance on the total amount of assessments issued  
10 by that employee.

11 6. TAXPAYER'S SUITS. Taxpayers have the right to sue the  
12 department of revenue and finance if the department  
13 intentionally or recklessly disregards tax laws or regulations  
14 in collecting taxes. The maximum recovery for damages in such  
15 a suit shall be one hundred thousand dollars. If a taxpayer's  
16 suit is determined by the court to be frivolous, the court may  
17 impose a penalty on the taxpayer not to exceed ten thousand  
18 dollars to be collected as a tax.

19 7. COSTS. The fees for an attorney or accountant to aid a  
20 taxpayer in an administrative hearing relating to the tax  
21 liability or in court are recoverable against the department  
22 of revenue and finance if the taxpayer prevails in an action  
23 under chapter 17A and the department has made an assessment or  
24 denied a claim without reasonable cause.

25 8. REVIEW OF LIENS. The department of revenue and finance  
26 shall establish an internal review process concerning liens  
27 against taxpayers and if the lien is determined to be improper  
28 the department shall publicly disclose this fact and correct  
29 the taxpayer's credit record.

30 <sup>3145</sup> Sec. 2. Section 601G.12, unnumbered paragraph 2, Code  
31 1991, is amended to read as follows:

32 The citizens' aide may decline to investigate a complaint,  
33 but shall not be prohibited from inquiring into the matter  
34 complained about or into related problems at some future time.  
35 A complaint involving a tax administered by the director of

1 revenue and finance shall be referred to the office of the  
2 taxpayer ombudsman created in section 421.60. The citizens'  
3 aide may assist the taxpayer ombudsman in investigating the  
4 complaint if so requested by the taxpayer ombudsman.

5 Sec. 3. This Act, being deemed of immediate importance, is  
6 effective upon enactment.

7 EXPLANATION

8 This bill creates a taxpayers' bill of rights and  
9 privileges and creates an office of taxpayer ombudsman within  
10 the department of revenue and finance to investigate and  
11 facilitate the resolution of taxpayer complaints. The  
12 taxpayer ombudsman is to identify forms, procedures, and laws  
13 which are confusing and could lead to taxpayer error in order  
14 to reduce confusion and error, is to develop taxpayer  
15 education programs, and has the power to stay the collection  
16 of taxes which may result in irreparable harm to the taxpayer.

17 The bill sets out responsibilities and duties of the  
18 department of revenue and finance to meet the rights of  
19 taxpayers which are in addition to those responsibilities and  
20 duties presently required of the department. These duties  
21 require informing the taxpayer of the taxpayer's rights, the  
22 obligations of the department with respect to notice of tax  
23 owed, denial of claim, or reduction in refund and the  
24 taxpayer's right to appeal and the time period when the appeal  
25 must be filed. In addition, a taxpayer who has received  
26 written advice from the department concerning the taxability  
27 of a transaction is allowed to rely on such advice and the  
28 department shall not maintain with regard to the taxpayer a  
29 position inconsistent with the advice unless the department  
30 first gives notice of the advice being rescinded. The bill  
31 makes it unlawful for the director of revenue and finance to  
32 base employee evaluation on the total amount of assessments  
33 issued by the employee. The bill requires the citizens' aide  
34 to refer taxpayer complaints received by the citizens' aide to  
35 the taxpayer ombudsman who may request the assistance of the

1 citizens' aide in investigating the complaint.

2 The bill takes effect upon enactment.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

SENATE FILE 234  
BY RUNNING, HANNON, KIBBIE,  
SZYMONIAK, MILLER, VARN,  
DOYLE, STURGEON, MURPHY,  
GRONSTAL, WELSH, and HORN

(AS AMENDED AND PASSED BY THE SENATE MARCH 26, 1991)

\_\_\_\_\_ - New Language by the Senate  
\* - Language Stricken by the Senate

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

- 1 An Act relating to the creation of a taxpayers' bill of rights
- 2 and privileges, and an office of taxpayer ombudsman within the
- 3 department of revenue and finance.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19

S.F. 234

1 Section 1. NEW SECTION. 421.60 TAXPAYERS' BILL OF RIGHTS  
2 AND PRIVILEGES.

3 1. LEGISLATIVE DECLARATION. The general assembly finds  
4 and declares that taxes are the most sensitive point of  
5 contact between citizens and their government, and that there  
6 is a delicate balance between revenue collection and freedom  
7 from government oppression. It is the intent of the general  
8 assembly to place guarantees in Iowa law to ensure that the  
9 rights, privacy, and property of Iowa taxpayers are adequately  
10 protected during the process of the assessment and collection  
11 of taxes.

12 The general assembly further finds that the Iowa tax system  
13 is based largely on self-assessment, and the development of  
14 understandable tax laws and taxpayers informed of those laws  
15 will both improve self-assessment and the relationship between  
16 taxpayers and government. It is the further intent of the  
17 general assembly to promote improved taxpayer self-assessment  
18 by improving the clarity of tax laws and efforts to inform the  
19 public of the proper application of those laws.

20 2. APPLICABILITY. Unless otherwise specifically provided,  
21 this section applies to all taxes administered by the director  
22 of revenue and finance.

\* 23 3. DEPARTMENT RESPONSIBILITIES. In addition to other  
24 responsibilities and duties relating to taxpayers and the  
25 collection of taxes under this chapter, chapter 422, and other  
26 provisions of law, the department of revenue and finance has  
27 the following responsibilities and duties to protect the  
28 rights of taxpayers:

29 a. To furnish each taxpayer with a written statement of  
30 rights whenever a taxpayer receives a protestable notice, a  
31 bill, a claim denial, or reduction regarding the tax. The  
32 statement shall explain the rights of the person and the  
33 obligations of the department during the audit, appeal,  
34 refund, and collection processes and shall inform the taxpayer  
35 of the taxpayer's right to appeal and the time period when an

1 appeal must be filed.

2 b. To include on all tax notices an explanation of tax  
3 liabilities and penalties.

4 c. To abate taxes and penalties assessed based upon  
5 erroneous written information or advice given by the  
6 department. A taxpayer who has received written advice from  
7 the department of revenue and finance concerning the  
8 taxability of transactions may rely on such advice when filing  
9 tax returns. The department shall not maintain a position  
10 against a taxpayer which is inconsistent with a prior written  
11 opinion issued to the same taxpayer which has not been  
12 rescinded.

13 d. To not cancel installment contracts unless the taxpayer  
14 fails to provide accurate financial information, fails to pay  
15 any tax, or does not respond to a department request for  
16 additional financial information.

17 e. To waive interest assessed against a taxpayer when it  
18 is determined by the director that the negligence of an  
19 employee of the department resulted in undue delay in either  
20 assessing tax or notifying the taxpayer of the liability owed.

21 f. To release any lien upon the property of a taxpayer  
22 upon payment of all tax, penalty, and interest within thirty  
23 days of payment. Liens filed in error shall be so noted on  
24 the satisfaction of judgment. The department shall be liable  
25 for any court costs associated with the release of such  
26 erroneous liens.

27 g. To place nonperishable property seized for taxes in  
28 escrow safekeeping for a period of twenty days to permit the  
29 taxpayer to correct any department error. If seized property  
30 is of a perishable nature and in danger of immediate waste or  
31 decay, the property need not be placed in escrow prior to  
32 sale.

33 h. To place seized taxpayer bank accounts in escrow with  
34 the bank for twenty days to permit the taxpayer to correct any  
35 department error.

1 i. To adopt regulations setting standards for setting  
2 times and places for taxpayer interviews and to permit any  
3 taxpayer to record the interviews.

4 j. To grant automatic extensions to taxpayers in filing  
5 income tax returns when the taxpayer has been granted an  
6 extension in filing a federal tax return.

7 k. To annually perform a systematic identification of  
8 areas of recurrent taxpayer noncompliances with rules or  
9 guidelines and to report its findings and recommendations  
10 concerning the noncompliance to the general assembly in an  
11 annual report.

12 4. EMPLOYEE EVALUATIONS. It is unlawful to base a  
13 performance evaluation for an employee of the director of  
14 revenue and finance on the total amount of assessments issued  
15 by that employee.

16 5. TAXPAYER'S SUITS. Taxpayers have the right to sue the  
17 department of revenue and finance if the department  
18 intentionally or recklessly disregards tax laws or regulations  
19 in collecting taxes. The maximum recovery for damages in such  
20 a suit shall be one hundred thousand dollars. If a taxpayer's  
21 suit is determined by the court to be frivolous, the court may  
22 impose a penalty on the taxpayer not to exceed ten thousand  
23 dollars to be collected as a tax.

24 6. COSTS. The fees for an attorney or accountant to aid a  
25 taxpayer in an administrative hearing relating to the tax  
26 liability or in court are recoverable against the department  
27 of revenue and finance if the taxpayer prevails in an action  
28 under chapter 17A and the department has made an assessment or  
29 denied a claim without reasonable cause.

30 7. REVIEW OF LIENS. The department of revenue and finance  
31 shall establish an internal review process concerning liens  
32 against taxpayers and if the lien is determined to be improper  
33 the department shall publicly disclose this fact and correct  
34 the taxpayer's credit record.

35 Sec. 2. Section 601G.9, Code 1991, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 6. To the extent funds and personnel are  
3 available, identify state tax forms, procedures, laws, and  
4 regulations which are confusing and lead to taxpayer error in  
5 order to recommend to the department of revenue and finance or  
6 the general assembly appropriate action to reduce confusion  
7 and errors and may develop taxpayer education programs to  
8 enable taxpayers to better deal with the state tax forms,  
9 procedures, laws, and regulations.

10 Sec. 3. This Act, being deemed of immediate importance, is  
11 effective upon enactment.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35