

FEB 6 1978

WAYS & MEANS CALENDAR

HOUSE FILE 2132

By COMMITTEE ON WAYS AND MEANS  
(Formerly Study Bill 331)

*Substituted for S.F. 2132 2/27*

Passed House, Date 2-22-78 (p. 597) Passed Senate, Date 2-27-78 (p. 401)

Vote: Ayes 92 Nays 0 Vote: Ayes 44 Nays 0

Approved March 17, 1978

## A BILL FOR

1 An Act relating to the period of limitations during which  
2 determination of income tax due can be made and refunds  
3 can be claimed.

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  
20  
21  
22  
23  
24  
25

1 Section 1. Section four hundred twenty-two point twenty-  
2 five (422.25), subsection one (1), Code 1977, is amended to  
3 read as follows:

4 1. ~~As soon as practicable and in any event within~~ Within  
5 three years after the return is filed or within three years  
6 after the return became due, including any extensions of time  
7 for filing, whichever time is the later, the department shall  
8 examine it and determine the correct amount of tax, and the  
9 amount so determined by the department shall be the tax;  
10 provided that if the taxpayer omits from income such an amount  
11 as will, under the Internal Revenue Code of 1954, extend the  
12 statute of limitations for assessment of federal tax to six  
13 years under said Code, the period for examination and  
14 determination shall be six years, ~~and provided further that~~  
15 ~~the period for examination and determination shall be unlimited~~  
16 ~~in the case of a false or fraudulent return with intent to~~  
17 ~~evade tax or in the case of failure to file a return.~~  
18 Notwithstanding the periods of limitation for examination  
19 and determination heretofore specified, the department shall  
20 have six months to make an examination and determination from  
21 the date of receipt by the department of written notice from  
22 the taxpayer of the final disposition of any matter which  
23 occurred after the expiration of the applicable period of  
24 limitation specified in this section between the taxpayer  
25 and the internal revenue service with respect to the particular  
26 tax year. In order to begin the running of the six-months'  
27 period, the notice shall be in writing in any form sufficient  
28 to inform the department of such final disposition with respect  
29 to such year, and a copy of the federal document showing the  
30 final disposition or final federal adjustments shall be  
31 attached to the notice. The period for examination and  
32 determination of correct amount of tax shall be unlimited  
33 in the case of a false or fraudulent return made with the  
34 intent to evade tax or in the case of a failure to file a  
35 return. In lieu of the period of limitation for any prior

1 year for which an overpayment of tax or an elimination or  
2 reduction of an underpayment of tax due for that prior year  
3 results from the carryback to such prior year of a net  
4 operating loss or net capital loss, the period shall be the  
5 period of limitation for the taxable year of the net operating  
6 loss or net capital loss which results in such carryback.

7 The burden of proof of additional tax owing under the six-  
8 year period, or unlimited period, shall be on the department.

9 If the tax found due is greater than the amount paid, the  
10 department shall compute the amount due, together with interest  
11 and penalties as provided in subsection 2, and shall notify  
12 the taxpayer by certified mail of the total, which shall be  
13 a sum certain if paid on or before the last day of the month  
14 in which the notice is postmarked, or on or before the last  
15 day of the following month if the notice is postmarked after  
16 the twentieth day of any month. The notice shall also inform  
17 the taxpayer of the additional interest and penalty which  
18 will be added to the total due if not paid on or before the  
19 last day of the applicable month.

20 Sec. 2. Section four hundred twenty-two point seventy-  
21 three (422.73), Code 1977, is amended to read as follows:

22 422.73 CORRECTION OF ERRORS.

23 1. If it shall appear that, as a result of mistake, an  
24 amount of tax, penalty, or interest has been paid which was  
25 not due under the provisions of division four (IV) of this  
26 chapter or chapter four hundred twenty-three (423) of the  
27 Code, then such amount shall be credited against any tax due,  
28 or to become due, under this chapter from the person who made  
29 the erroneous payment, or such amount shall be refunded to  
30 such person by the department. No A claim for refund or  
31 credit that has not been filed with the department within  
32 five years after the tax payment upon which a refund or credit  
33 is claimed became due, or one year after such tax payment  
34 was made, whichever time is the later, shall not be allowed  
35 by the director. ~~Notwithstanding the period of limitation~~

1 ~~specified, the taxpayer shall have six months from the day~~  
2 ~~of final disposition of any income tax controversy between~~  
3 ~~the taxpayer and the internal revenue service with respect~~  
4 ~~to the particular tax year or years to claim an income tax~~  
5 ~~refund or credit, provided the taxpayer has notified the~~  
6 ~~department of revenue of the existence of said income tax~~  
7 ~~controversy within the five-year limitation period.~~

8 2. If it shall appear that, as a result of mistake, an  
9 amount of tax, penalty, or interest has been paid which was  
10 not due under the provisions of divisions two (II), three  
11 (III) or five (V) of this chapter, then such amount shall  
12 be credited against any tax due, or to become due, under this  
13 chapter from the person who made the erroneous payment, or  
14 such amount shall be refunded to such person by the department.  
15 A claim for refund or credit that has not been filed with  
16 the department within three years after the return upon which  
17 a refund or credit claimed became due, or within one year  
18 after the payment of the tax upon which a refund or credit  
19 is claimed was made, whichever time is the later, shall not  
20 be allowed by the director; if, as a result of a carryback  
21 of a net operating loss or a net capital loss, the amount  
22 of tax in a prior period is reduced and an overpayment results,  
23 the claim for refund or credit of the overpayment shall be  
24 filed with the department within the three years after the  
25 return for the taxable year of the net operating loss or net  
26 capital loss became due. Notwithstanding the period of  
27 limitation specified, the taxpayer shall have six months from  
28 the day of final disposition of any income tax matter between  
29 the taxpayer and the internal revenue service with respect  
30 to the particular tax year or years to claim an income tax  
31 refund or credit, provided the taxpayer has notified the  
32 department of revenue in writing no later than six months  
33 after the expiration of the three-year limitations period  
34 of the existence of such income tax matter.

35 Sec. 3. This Act is effective January 1, 1979 for tax

1 years ending on or after January 1, 1979.

2 EXPLANATION

3 This bill more closely aligns the state and federal periods  
4 of limitations in regard to income taxes due. The basic  
5 period of limitation is still three years but is now measured  
6 from the later of the time the return is filed or when the  
7 return became due. Provision is made for the Department of  
8 Revenue to examine and determine the tax due up to six months  
9 after a final disposition of any income tax matter between  
10 the Internal Revenue Service and the taxpayer, provided the  
11 final disposition occurs after the appropriate period of  
12 limitations. In the case of operating loss or capital loss  
13 carrybacks to a prior year the Department can audit the prior  
14 year at any time before the expiration of the period of  
15 limitation for the taxable year in which the loss carrybacks  
16 occurred.

17 The bill also changes the time period for taxpayers to  
18 claim a refund or credit, which period is similar to the  
19 period in which the Department of Revenue can audit. Express  
20 provision is made for the time when refund claims as a result  
21 of loss carrybacks can be made.

22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

LSB 3361H  
mg/rh/8A

FISCAL NOTE  
HOUSE FILE 2132

Requested by Representative Norland  
February 2, 1978

In compliance with a written request there is hereby submitted  
a Fiscal Note for H.F. 2132, pursuant to Joint Rule 16:

LSB 3361H, An Act relating to the period of limitations during which determination of income tax due can be made and refunds can be claimed.

LSB 3361H makes changes in the statute of limitations relating to the periods in which taxpayers may file for a refund and the Department of Revenue in certain instances, may assess additional tax due. The purpose of the legislation is to provide for greater conformity between the state and federal audit and refund periods thereby eliminating inequities.

One effect of the proposal would be that taxpayers would be able to claim a refund resulting from the carryback of net operating and net capital losses if the claim were filed within three years after the return for the taxable year the loss became due. While an estimate of the increase in refunds from this provision cannot be provided due to the absence of information as to the amount of such refunds presently disallowed and those not claimed, the effect would be expected to be minimal.

The proposal also contains certain provisions relating to the period of time which the Department of Revenue has to complete an audit following completion of a federal audit. The proposal also provides the Department of Revenue with the authority to assess additional tax found to be due as the result of the disallowance of a net operating loss or net capital loss which had been carried back for tax years which now exceed the statute of limitations. The Department of Revenue does not maintain data as to the amount of assessments which are not allowable under existing statutes of limitations. While a specific estimate of the increase in revenues expected to occur cannot be made, the effect felt is minimal.

Source: Iowa Department of Revenue  
FILED GERRY D. RANKIN  
FEBRUARY 8, 1978 Legislative Fiscal Bureau

## HOUSE FILE 2132

## AN ACT

RELATING TO THE PERIOD OF LIMITATIONS DURING WHICH DETERMINATION OF INCOME TAX DUE CAN BE MADE AND REFUNDS CAN BE CLAIMED.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section four hundred twenty-two point twenty-five (422.25), subsection one (1), Code 1977, is amended to read as follows:

1. ~~As soon as practicable and in any event within~~ Within three years after the return is filed or within three years after the return became due, including any extensions of time for filing, whichever time is the later, 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 to make an examination and determination from the date of receipt by the department of written notice from the taxpayer of the final disposition of any matter which occurred after the expiration of the applicable period of limitation specified in this section between the taxpayer and the internal revenue service with respect to the particular tax year. In order to begin the running of the six-months'

period, the notice shall be in writing in any form sufficient to inform the department of such final disposition with respect to such year, and a copy of the federal document showing the final disposition or final federal adjustments shall be attached to the notice. The period for examination and determination of correct amount of tax shall be unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return. In lieu of the period of limitation for any prior year for which an overpayment of tax or an elimination or reduction of an underpayment of tax due for that prior year results from the carryback to such prior year of a net operating loss or net capital loss, the period shall be the period of limitation for the taxable year of the net operating loss or net capital loss which results in such carryback. 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, 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.

Sec. 2. Section four hundred twenty-two point seventy-three (422.73), Code 1977, is amended to read as follows:

422.73 CORRECTION OF ERRORS.

1. 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 division four (IV) of this chapter or chapter four hundred twenty-three (423) of the

Code, 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 A 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 not 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.~~

2. 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 divisions two (II), three (III) or five (V) 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. A claim for refund or credit that has not been filed with the department within three years after the return upon which a refund or credit claimed became due, or within one year after the payment of the tax upon which a refund or credit is claimed was made, whichever time is the later, shall not be allowed by the director; if, as a result of a carryback of a net operating loss or a net capital loss, the amount of tax in a prior period is reduced and an overpayment results, the claim for refund or credit of the overpayment shall be filed with the department within the three years after the return for the taxable year of the net operating loss or net capital loss became due. Notwithstanding the period of

limitation specified, the taxpayer shall have six months from the day of final disposition of any income tax matter 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 in writing no later than six months after the expiration of the three-year limitations period of the existence of such income tax matter.

Sec. 3. This Act is effective January 1, 1979 for tax years ending on or after January 1, 1979.

\_\_\_\_\_  
DALE M. COCHRAN  
Speaker of the House

\_\_\_\_\_  
ARTHUR A. NEU  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2132, Sixty-seventh General Assembly.

\_\_\_\_\_  
DAVID L. WRAY  
Chief Clerk of the House

Approved March 17, 1978

\_\_\_\_\_  
ROBERT D. RAY  
Governor