

Dr. P... 3/26/81 (p. 475)

Ways and Means
Priebe, Chairperson
Hester
Lura

FEB 23 1981

WAYS & MEANS CALENDAR

HOUSE FILE 470

BY COMMITTEE ON WAYS
AND MEANS

(Formerly Study Bill 121)

Passed House, Date 3-9-81 (p. 681) Passed Senate, Date 4-30-81 (p. 1500)

Vote: Ayes 90 Nays 0 Vote: Ayes 44 Nays 0

Approved May 11, 1981

A BILL FOR

1 An Act relating to the statute of limitations on assessment
2 of the income and franchise taxes.

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

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470

1 Section 1. Section 422.25, subsection 1, Code 1981, is
2 amended to read as follows:

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

1 loss or net capital loss, the period ~~shall-be~~ is the period
2 of limitation for the taxable year of the net operating loss
3 or net capital loss which results in ~~such~~ the carryback.
4 The burden of proof of additional tax owing under the six-
5 year period, or unlimited period, ~~shall-be~~ is on the
6 department. If the tax found due is greater than the amount
7 paid, the department shall compute the amount due, together
8 with interest and penalties as provided in subsection 2, and
9 shall notify the taxpayer by certified mail of the total,
10 which shall be computed as a sum certain if paid on or before
11 the last day of the month in which the notice is postmarked,
12 or on or before the last day of the following month if the
13 notice is postmarked after the twentieth day of any month.
14 The notice shall also inform the taxpayer of the additional
15 interest and penalty which will be added to the total due
16 if not paid on or before the last day of the applicable month.
17 Sec. 2. This Act is applicable for all tax years for which
18 a final disposition of a taxpayer's federal income tax
19 liability has not been resolved prior to the effective date
20 of this Act.

EXPLANATION

21
22 The bill corrects an oversight in House File 2132 which
23 was enacted in 1978. House File 2132 was enacted to more
24 closely align the state and federal periods of limitations
25 in regard to income taxes due. That bill as enacted gave
26 the department of revenue an extended period of limitation
27 to examine and determine the tax due of six months after a
28 final disposition of any income tax matter between the IRS
29 and the taxpayer, provided the final disposition occurred
30 after the applicable three or six-year period of limitation.
31 Because the additional six-month period of limitation is
32 available only if such final disposition occurs after the
33 applicable periods of limitation, the department of revenue
34 could have less than six months to audit after such final
35 disposition if it occurs within the three-year or six-year

1 period of limitation. This bill remedies this situation so
2 that the department will have at least six months to audit
3 a return involving a tax matter between the IRS and the
4 taxpayer.

5 The bill takes effect July 1 following its enactment and
6 applies to tax years for which a final disposition of a
7 taxpayer's federal income tax liability has not been resolved
8 prior to the effective date.

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HOUSE FILE 470

AN ACT

RELATING TO THE STATUTE OF LIMITATIONS ON ASSESSMENT OF THE
INCOME AND FRANCHISE TAXES.

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

Section 1. Section 422.25, subsection 1, Code 1981, is amended to read as follows:

1. 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.~~ However 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 federal law, the period for examination and determination ~~shall be is~~ six years. ~~Notwithstanding the periods in addition to the applicable period~~ in addition to the applicable period of limitation for examination and determination ~~heretofore specified~~, the department ~~shall have six months to~~ may make an examination and determination at any time within six months 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~~ the final disposition with respect to ~~such~~ that 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 the correct amount of tax ~~shall be is~~ 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~~ that prior year of a net operating loss or net capital loss, the period ~~shall be is~~ the period of limitation for the taxable year of the net operating loss or net capital loss which results in ~~such~~ the carryback. The burden of proof of additional tax owing under the six-year period, or unlimited period, ~~shall be is~~ 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 computed as 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. This Act is applicable for all tax years for which a final disposition of a taxpayer's federal income tax

liability has not been resolved prior to the effective date of this Act.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 470, Sixty-ninth General Assembly.

PAT H. HARPER
Chief Clerk of the House

Approved 5/11, 1981

ROBERT D. RAY
Governor