

Sen. Ways & Means 5/1 Do Pass 5/1 (p. 1540)

MAY 1 1986

WAYS & MEANS CALENDAR

HOUSE FILE 2491

BY COMMITTEE ON WAYS AND MEANS

(Formerly House Study Bill 798)

Passed House, Date 5-1-86 (p. 1976) Passed Senate, Date 5-2-86 (p. 1544)

Vote: Ayes 96 Nays 1 Vote: Ayes 44 Nays 0

Approved May 28, 1986

*Repassed Senate 5-2-86 (p. 1575)  
44-1*

A BILL FOR

1 An Act relating to limiting the amount of taxes owed and  
2 excluding under certain conditions income or loss from certain  
3 transactions for purposes of determining the state individual  
4 income tax and providing a retroactive effective date.

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

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HF 2491

1 Section 1. Section 422.5, Code Supplement 1985, is amended  
2 by adding the following new subsection:

3 NEW SUBSECTION. The state income tax of a taxpayer whose  
4 net income includes the gain or loss from the forfeiture of an  
5 installment real estate contract, the transfer of real or  
6 personal property securing a debt to a creditor in  
7 cancellation of that debt, or from the sale or exchange of  
8 property as a result of actual notice of foreclosure where the  
9 fair market value of the taxpayer's assets exceeds the  
10 taxpayer's liabilities immediately before such forfeiture,  
11 transfer, or sale or exchange shall not be greater than such  
12 excess, including any asset transferred within one hundred  
13 twenty days prior to such forfeiture, transfer, or sale or  
14 exchange. For purposes of this subsection, in the case of  
15 married taxpayers, except in the case of a husband and wife  
16 who live apart at all times during the tax year, the assets  
17 and liabilities of both spouses shall be considered in  
18 determining if the fair market value of the taxpayer's assets  
19 exceed the taxpayer's liabilities.

20 Sec. 2. Section 422.7, Code Supplement 1985, is amended by  
21 adding the following new subsection:

22 NEW SUBSECTION. Subtract the income or loss resulting from  
23 the forfeiture of an installment real estate contract, the  
24 transfer of real or personal property securing a debt to a  
25 creditor in cancellation of that debt, or from the sale or  
26 exchange of property as a result of actual notice of  
27 foreclosure if all of the following conditions are met:

28 a. The forfeiture, transfer, or sale or exchange was done  
29 for the purpose of establishing a positive cash flow.

30 b. Immediately before the forfeiture, transfer, or sale or  
31 exchange, the taxpayer's debt to asset ratio exceeded ninety  
32 percent as computed under generally accepted accounting  
33 practices.

34 c. The taxpayer's net worth at the end of the tax year is  
35 less than seventy-five thousand dollars. In determining a

1 taxpayer's net worth at the end of the tax year a taxpayer  
2 shall include any asset transferred within one hundred twenty  
3 days prior to the end of the tax year without adequate and  
4 full consideration in money or money's worth. In determining  
5 the taxpayer's debt to asset ratio, the taxpayer shall include  
6 any asset transferred within one hundred twenty days prior to  
7 such forfeiture, transfer, or sale or exchange without  
8 adequate and full consideration in money or money's worth.  
9 For purposes of this subsection, actual notice of foreclosure  
10 includes, but is not limited to, bankruptcy or written notice  
11 from a creditor of the creditor's intent to foreclose where  
12 there is a reasonable belief that the creditor can force a  
13 sale of the asset. For purposes of this subsection, in the  
14 case of married taxpayers, except in the case of a husband and  
15 wife who live apart at all times during the tax year, the  
16 assets and liabilities of both spouses shall be considered for  
17 purposes of determining the taxpayer's net worth or the  
18 taxpayer's debt to asset ratio.

593819 Sec. 3. This Act is retroactive to January 1, 1986 for tax  
20 years beginning or after that date.

59: 21 EXPLANATION

22 The bill limits the state individual income tax of a  
23 taxpayer to the taxpayer's net worth if the taxpayer's net  
24 income includes the gain or loss from the forfeiture of an  
25 installment real estate contract, the transfer of real or  
26 personal property securing a debt to a creditor in  
27 cancellation of that debt, or from the sale or exchange of  
28 property as a result of actual notice of foreclosure where the  
29 fair market value of the taxpayer's assets exceeds the  
30 taxpayer's liabilities immediately before such forfeiture,  
31 transfer, or sale or exchange.

32 The bill also provides that in computing net income for  
33 state individual income tax purposes the gain or loss from the  
34 forfeiture of an installment real estate contract, the  
35 transfer of real or personal property securing a debt to a

1 creditor in cancellation of that debt or from the sale or  
2 exchange of property as a result of actual notice of  
3 foreclosure shall not be taken into account if such  
4 transaction was done for the purpose of establishing a  
5 positive cash flow, if immediately before the transaction the  
6 taxpayer's debt to asset ratio exceeded ninety percent, and if  
7 the taxpayer's net worth at the end of the tax year is less  
8 than \$75,000.

9 The bill is retroactive to January 1, 1986 for tax years  
10 beginning on or after that date.

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HOUSE FILE 2491

S-5938

1 Amend House File 2491 as passed by the House as  
2 follows:

3 1. Page 2, line 19, by striking the word "This"  
4 and inserting in lieu thereof the words "Except for  
5 section 100, this".

6 2. Page 2, by inserting after line 20 the  
7 following:

8 "Sec. 100. In computing the items of tax  
9 preference for purposes of the Iowa minimum tax for a  
10 tax year beginning in the 1983 calendar year, the gain  
11 or loss from the forfeiture of an installment real  
12 estate contract, the transfer of property to a  
13 creditor in cancellation of a debt, or the sale or  
14 exchange of property as a result of actual notice of  
15 foreclosure shall not be taken into account in  
16 computing net capital gain if, immediately before the  
17 forfeiture, transfer, or sale or exchange, the  
18 taxpayer's liabilities exceed the fair market value of  
19 the taxpayer's assets and the taxpayer's net worth at  
20 the end of the tax year is less than one hundred  
21 thousand dollars. For purposes of this section,  
22 actual notice of foreclosure includes, but is not  
23 limited to, bankruptcy or written notice from a  
24 creditor of the creditor's intent to foreclose where  
25 there is reasonable belief that the creditor can force  
26 a sale of the property. In computing the Iowa minimum  
27 tax for a tax year beginning in the 1983 calendar  
28 year, the Iowa minimum tax of a taxpayer whose items  
29 of tax preference include the gain or loss from the  
30 forfeiture of an installment real estate contract, the  
31 transfer of property to a creditor in cancellation of  
32 a debt, or the sale or exchange of property as a  
33 result of actual notice of foreclosure where the fair  
34 market value of the taxpayer's assets exceeds the  
35 taxpayer's liabilities immediately before the  
36 forfeiture, transfer, or sale or exchange shall not be  
37 greater than such excess. A taxpayer who has filed a  
38 state return for such tax year may file an amended  
39 state return for such tax year with the state minimum  
40 tax calculated on the basis of what the federal  
41 minimum tax would have been if such items had not been  
42 included in the federal minimum tax calculation of net  
43 capital gain or with the state minimum tax calculated  
44 on the basis of such limitation on the amount of state  
45 minimum tax. A taxpayer who has filed a state return  
46 for such tax year and wishes to file an amended state  
47 return for such tax year as a result of this Act has  
48 until July 1, 1987 to file such amended state return,  
49 notwithstanding any other provision of law.

50 Sec. 101. Section 100 of this Act is retroactive

S-5938 p. 2

1 to January 1, 1983 for tax years beginning on or after  
2 January 1, 1983 and beginning before January 1, 1984."

S-5938 Filed May 1, 1986

BY DIELEMAN

*Adopted 5/2 (p. 15-79)*

H-6127

1 Amend House File 2491 as passed by the House as  
2 follows:

3 1. Page 2, line 19, by striking the word "This"  
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Page Two

1 to January 1, 1983 for tax years beginning on or after  
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H-6127 FILED MAY 2, 1986  
REFUSED TO CONCUR (p. 2041)  
*Senate recorded 5/2 (p. 1575)*

RECEIVED FROM THE SENATE

now  
HF 2491

NSB 798

WAYS AND MEANS

HOUSE FILE 2491  
BY (PROPOSED COMMITTEE ON WAYS  
AND MEANS BILL)

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

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1 An Act relating to limiting the amount of taxes owed and  
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HOUSE FILE 2491

AN ACT

RELATING TO LIMITING THE AMOUNT OF TAXES OWED AND EXCLUDING UNDER CERTAIN CONDITIONS INCOME OR LOSS FROM CERTAIN TRANSACTIONS FOR PURPOSES OF DETERMINING THE STATE INDIVIDUAL INCOME TAX AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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

Section 1. Section 422.5, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. The state income tax of a taxpayer whose net income includes the gain or loss from the forfeiture of an installment real estate contract, the transfer of real or personal property securing a debt to a creditor in cancellation of that debt, or from the sale or exchange of property as a result of actual notice of foreclosure where the fair market value of the taxpayer's assets exceeds the taxpayer's liabilities immediately before such forfeiture, transfer, or sale or exchange shall not be greater than such excess, including any asset transferred within one hundred twenty days prior to such forfeiture, transfer, or sale or exchange. For purposes of this subsection, in the case of married taxpayers, except in the case of a husband and wife who live apart at all times during the tax year, the assets and liabilities of both spouses shall be considered in determining if the fair market value of the taxpayer's assets exceed the taxpayer's liabilities.

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- b. Immediately before the forfeiture, transfer, or sale or exchange, the taxpayer's debt to asset ratio exceeded ninety percent as computed under generally accepted accounting practices.
- c. The taxpayer's net worth at the end of the tax year is less than seventy-five thousand dollars. In determining a taxpayer's net worth at the end of the tax year a taxpayer shall include any asset transferred within one hundred twenty days prior to the end of the tax year without adequate and full consideration in money or money's worth. In determining the taxpayer's debt to asset ratio, the taxpayer shall include any asset transferred within one hundred twenty days prior to such forfeiture, transfer, or sale or exchange without adequate and full consideration in money or money's worth. For purposes of this subsection, actual notice of foreclosure includes, but is not limited to, bankruptcy or written notice from a creditor of the creditor's intent to foreclose where there is a reasonable belief that the creditor can force a sale of the asset. For purposes of this subsection, in the case of married taxpayers, except in the case of a husband and wife who live apart at all times during the tax year, the assets and liabilities of both spouses shall be considered for purposes of determining the taxpayer's net worth or the taxpayer's debt to asset ratio.

Sec. 3. This Act is retroactive to January 1, 1986 for tax years beginning or after that date.

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DONALD D. AVENSON  
Speaker of the House

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ROBERT T. ANDERSON  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2491, Seventy-first General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved May 28, 1986

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TERRY E. BRANSTAD  
Governor