

JAN 25 1996
WAYS AND MEANS

HOUSE FILE 2105
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Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the time and the criteria for filing of claims
2 for refund under the state individual income tax by retired
3 federal employees as a result of the unconstitutional taxation
4 of federal pensions and providing an effective date.

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

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HF 2105

1 Section 1. Section 422.73, Code 1995, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3. Notwithstanding subsection 2, a claim
4 for refund of individual income tax paid for any tax year
5 beginning on or after January 1, 1985, and before January 1,
6 1989, is considered timely if filed with the department on or
7 before July 1, 1996, if the taxpayer's claim is the result of
8 the unconstitutional taxation of federal pension benefits
9 based upon the decision in Davis v. Michigan Department of
10 Treasury, 489 U.S. 803, 109 S. Ct. 1500 (1989).

11 A taxpayer entitled to a refund of tax paid under this
12 subsection shall receive an amount equal to one hundred
13 percent of the refund without interest, less five dollars to
14 be retained by the department to defray costs of notification
15 and the cost of processing the refund claim. The claim for
16 refund shall be filed separate from any income tax return and
17 shall not be allowed as a credit for income taxes owed. A
18 claim shall be filed between the effective date of this
19 subsection and July 1, 1996. An extension for filing shall
20 not be allowed and claims disallowed on the basis of
21 timeliness shall not be allowed upon appeal to any other state
22 agency notwithstanding any other provision of law.

23 The claim for refund shall be made on claim forms to be
24 made available by the department. In order for a taxpayer to
25 have a valid refund claim, the taxpayer must supply legible
26 copies of documents the director deems necessary to show
27 entitlement to the refund, including but not limited to income
28 tax forms and W-2P forms, which will establish the state
29 income tax that was paid on the federal pension benefits for
30 the tax years in question. The burden of proof is on the
31 taxpayer to show that the claim for refund is valid. Estates
32 are not entitled to file a claim for refund under this
33 subsection. However, if a taxpayer has filed a claim under
34 this subsection and subsequently dies before receipt of the
35 refund, the taxpayer's estate is entitled to receipt of any

1 valid refund claim.

2 The department shall make a reasonable attempt to notify
3 individuals who are entitled to a refund under this
4 subsection.

5 Sec. 2. This Act, being deemed of immediate importance,
6 takes effect upon enactment.

7 EXPLANATION

8 A recent Iowa supreme court decision held that retired
9 federal employees could retroactively claim a refund of state
10 individual income taxes unlawfully imposed on their pensions
11 if the claim was timely filed. This bill provides that a
12 claim filed by July 1, 1996, is timely filed for taxes imposed
13 for the 1985, 1986, 1987, and 1988 tax years. The taxpayer is
14 entitled to 100 percent of the refund without interest. To
15 claim a refund, the taxpayer must submit adequate evidence, as
16 designated by the director of revenue and finance, showing the
17 taxpayer's entitlement to the refund. The claim is to be
18 filed separate from any state income tax return and no credit
19 for income taxes owed is allowed. The department shall
20 attempt to notify individuals who are entitled to a refund.

21 The bill takes effect upon enactment.

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