

FEB 1 1996

WAYS & MEANS CALENDAR

HOUSE FILE 2137
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2105)

(P. 299)
Passed House, Date 2/8/96 Passed Senate, Date _____
Vote: Ayes 95 Nays 0 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 2137

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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**HOUSE FILE 2137
FISCAL NOTE**

A fiscal note for **House File 2137** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2137 addresses a ruling by the Iowa Supreme Court in *Hagge v. Iowa Department of Revenue and Finance (DRF)*. In *Hagge*, the Court ruled that refunds had to be paid to individuals who filed claims against income taxes paid on federal pensions from 1985 to 1988. The ruling required the State to pay approximately \$33.7 million in refunded tax and interest. Under current law, those individuals who paid tax on federal pensions between 1985 and 1988, and have not filed claims, are no longer eligible for refunds. House File 2137 would extend the time these individuals may file through July 1, 1996. Taxpayers would be eligible for 100.0% of the refund minus a \$5.00 filing fee.

ASSUMPTIONS

1. Approximately 13,000 federal retirees filed timely refund claims. Not all of these individuals filed claims for all 4 years. There were an average of 8,625 individuals who filed claims each of the 4 years.
2. The average claim for each individual in each year was approximately \$600. Due to the fact that those individuals with the most to gain filed early, and those with the least to gain filed late, this estimate assumes that average claims due to this bill will be approximately \$450 for each affected year.
3. Approximately 5,800 additional claims will be received. This is based on the original percentage of 35.0% participation each year. Although additional individuals may file due to added publicity, there will also be individuals who don't file due to the fact that a number of affected retirees are deceased. Currently, there are no reliable estimates of either of these two effects.
4. This estimate assumes that all refunds will be paid prior to July 1, 1996.

FISCAL IMPACT

House File 2137 is expected to result in a decrease to the General Fund of approximately \$10.3 million in FY 1996. The \$5.00 filing fee is expected to generate \$29,000 to be applied to the costs of processing claims.

SOURCES Department of Revenue

(LSB 3533hv, JAM)

FILED FEBRUARY 6, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2137

H-5043

- 1 Amend House File 2137 as follows:
 2 1. Page 1, line 7, by striking the word and
 3 figures "July 1, 1996" and inserting the following:
 A 4 "October 31, 1996".
 5 2. Page 1, line 13, by striking the words
 B 6 "without interest" and inserting the following: "with
 7 interest calculated to January 31, 1996".
 8 3. Page 1, line 13, by striking the words ", less
 9 five dollars to".
 10 4. Page 1, by striking lines 14 and 15 and
 11 inserting the following: ". The claim for".
 12 5. Page 1, line 19, by striking the word and
 A 13 figures "July 1, 1996" and inserting the following:
 14 "October 31, 1996".

By O'BRIEN of Boone
MAY of Worth

H-5043 FILED FEBRUARY 5, 1996

(P. 297) A- adopted 2/8
(P. 298) B. lost 2/8

HOUSE FILE 2137

H-5049

- 1 Amend House File 2137 as follows:
 2 1. Page 1, line 31, by striking the word
 3 "Estates".
 4 2. By striking page 1, line 32, through page 2,
 5 line 1, and inserting the following: "A spouse of a
 6 decedent taxpayer who was the spouse of the taxpayer
 7 when the unconstitutional tax was imposed may file a
 8 claim for refund without having to reopen the estate."

By KREIMAN of Davis

H-5049 FILED FEBRUARY 5, 1996

lost 2/8
(P. 298)

HOUSE FILE 2137

H-5061

- 1 Amend amendment, H-5043, to House File 2137 as
 2 follows:
 3 1. Page 1, by inserting after line 14 the
 4 following:
 5 "____. Page 2, by inserting after line 4 the
 6 following:
 7 "Sec. _____. There is appropriated from the general
 8 fund of the state to the department of revenue and
 9 finance for the fiscal year beginning July 1, 1995,
 10 and ending June 30, 1996, an amount estimated by the
 11 department to be sufficient to pay all refund claims
 12 timely filed pursuant to section 422.73, subsection 3,
 13 and to pay up to \$30,000 for processing such claims.
 14 Notwithstanding section 8.33, moneys appropriated
 15 in this section which remain unexpended or unobligated
 16 at the close of the fiscal year shall not revert to
 17 the general fund of the state but shall remain
 18 available for expenditure in the succeeding fiscal
 19 year for the purposes of paying refund claims and
 20 processing costs as provided and the moneys are not
 21 subject to transfer under section 8.39."
 22 _____. Title page, line 4, by inserting after the
 23 word "pensions" the following: "and appropriating
 24 moneys to pay refund claims"."

Adopted 2/8/96 (P. 297) By O'BRIEN of Boone
H-5061 FILED FEBRUARY 8, 1996

HOUSE FILE 2137
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2105)

(As Amended and Passed by the House February 8, 1996)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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2 for refund under the state individual income tax by retired
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4 of federal pensions and appropriating moneys to pay refund
5 claims and providing an effective date.

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House Amendments _____

Deleted Language *

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16 shall be filed between the effective date of this subsection
17 and October 31, 1996. An extension for filing shall not be
18 allowed and claims disallowed on the basis of timeliness shall
19 not be allowed upon appeal to any other state agency
20 notwithstanding any other provision of law.

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7 refund claims timely filed pursuant to section 422.73,
8 subsection 3, and to pay up to \$30,000 for processing such
9 claims.

10 Notwithstanding section 8.33, moneys appropriated in this
11 section which remain unexpended or unobligated at the close of
12 the fiscal year shall not revert to the general fund of the
13 state but shall remain available for expenditure in the
14 succeeding fiscal year for the purposes of paying refund
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