

REPRINTED

FILED FEB 26 1996

SENATE FILE 2298
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 2190)

Passed Senate, ^(P.909) Date 3-20-96 Passed House, Date _____
Vote: Ayes 50 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the awarding of costs to a prevailing taxpayer
2 in a proceeding against the department of revenue and finance
3 under the state tax procedures and practices Act and providing
4 an effective date.

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

6
7
8
9

SENATE FILE 2298

S-5175

10 Amend Senate File 2298 as follows:
11 1. Page 1, lines 4 and 5, by striking the words
12 3 "~~an administrative hearing a contested case~~" and
13 4 inserting the following: "an administrative hearing".
14 2. Page 1, line 8, by striking the word "incurred",
15 6 "incurred" and inserting the following: "7.
16 7 "Reasonable litigation costs" are those costs
17 8 "incurred".

By TOM VILSACK

S-5175 FILED MARCH 5, 1996

Adopted 3/20/96 (P.909)

18
19
20
21
22
23
24

S.F. 2298

1 Section 1. Section 421.60, subsection 4, paragraph a,
2 unnumbered paragraph 1, Code Supplement 1995, is amended to
3 read as follows:

4 A prevailing taxpayer in ~~an administrative hearing~~ a
5 contested case proceeding or a court proceeding related to the
6 determination, collection, or refund of a tax, penalty, or
7 interest may be awarded reasonable litigation costs by the
8 department, state board of tax review, or a court, incurred
9 subsequent to the issuance of the notice of assessment or
10 denial of claim for refund in the proceeding, based upon the
11 following:

12 Sec. 2. This Act, being deemed of immediate importance,
13 takes effect upon enactment.

14 EXPLANATION

15 The bill specifies that a prevailing taxpayer may be
16 awarded reasonable litigation costs incurred subsequent to the
17 contested case proceeding or court proceeding involving
18 certain state tax matters. Present law allows such costs
19 incurred subsequent to an administrative hearing or court
20 proceeding.

21 The bill takes effect upon enactment.

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

1 Section 1. Section 421.60, subsection 4, paragraph a,
2 unnumbered paragraph 1, Code Supplement 1995, is amended to
3 read as follows:

4 A prevailing taxpayer in an administrative hearing
5 proceeding or a court proceeding related to the determination,
6 collection, or refund of a tax, penalty, or interest may be
7 awarded reasonable litigation costs by the department, state
8 board of tax review, or a court⁷. "Reasonable litigation
9 costs" are those costs incurred subsequent to the issuance of
10 the notice of assessment or denial of claim for refund in the
11 proceeding, based upon the following:

12 Sec. 2. This Act, being deemed of immediate importance,
13 takes effect upon enactment.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 2298

H-5894

1 Amend Senate File 2298, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 11 the
4 following:

5 "Sec. ____ . Section 421.60, Code Supplement 1995,
6 is amended by adding the following new subsection:
7 NEW SUBSECTION. 11. SANCTIONS.

8 a. The department may be awarded in an
9 administrative proceeding, contested case proceeding,
10 or court proceeding related to the determination or
11 collection of a tax, penalty, or interest, a penalty
12 not in excess of twenty-five thousand dollars by the
13 department, state board of tax review, or a court,
14 based upon any of the following:

15 (1) The proceeding has been instituted or caused
16 by the taxpayer primarily for delay.

17 (2) The taxpayer's position in the proceeding is
18 frivolous or groundless.

19 b. All of the provisions of section 422.26 shall
20 apply in respect to the penalty awarded by the
21 department or state board of tax review. The lien for
22 the penalty shall attach on the date of recordation
23 and shall continue for ten years unless sooner
24 released or discharged. The lien may be extended by
25 filing for record a notice and from the time of that
26 filing, the lien shall be extended to the property in
27 the county for ten years, unless sooner released or
28 otherwise discharged, with no limit on the number of
29 extensions. The lien shall be recorded by the county
30 recorder in the book associated with tax, penalty, or
31 interest for which the penalty was awarded.

32 c. All penalties paid or collected shall be
33 deposited in the general fund of the state."

34 2. Title page, line 1, by striking the words "to
35 a prevailing taxpayer" and inserting the following:
36 "or penalty to a prevailing party".

By COMMITTEE ON WAYS AND MEANS
HALVORSON of Clayton, Chairperson

H-5894 FILED APRIL 9, 1996

re drafted

4/12/96

(P.1599)

HOUSE AMENDMENT TO
SENATE FILE 2298

S-5744

1 Amend Senate File 2298, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, by inserting after line 11 the
4 following:
5 "Sec. ____ . Section 421.60, Code Supplement 1995,
6 is amended by adding the following new subsection:
7 NEW SUBSECTION. 11. SANCTIONS.
8 a. The department may be awarded in an
9 administrative proceeding, contested case proceeding,
10 or court proceeding related to the determination or
11 collection of a tax, penalty, or interest, a penalty
12 not in excess of twenty-five thousand dollars by the
13 department, state board of tax review, or a court,
14 based upon any of the following:
15 (1) The proceeding has been instituted or caused
16 by the taxpayer primarily for delay.
17 (2) The taxpayer's position in the proceeding is
18 frivolous or groundless.
19 b. All of the provisions of section 422.26 shall
20 apply in respect to the penalty awarded by the
21 department or state board of tax review. The lien for
22 the penalty shall attach on the date of recordation
23 and shall continue for ten years unless sooner
24 released or discharged. The lien may be extended by
25 filing for record a notice and from the time of that
26 filing, the lien shall be extended to the property in
27 the county for ten years, unless sooner released or
28 otherwise discharged, with no limit on the number of
29 extensions. The lien shall be recorded by the county
30 recorder in the book associated with tax, penalty, or
31 interest for which the penalty was awarded.
32 c. All penalties paid or collected shall be
33 deposited in the general fund of the state."
34 2. Title page line 1, by striking the words "to
35 a prevailing taxpayer" and inserting the following:
36 "or penalty to a prevailing party".

RECEIVED FROM THE HOUSE

S-5744 FILED APRIL 12, 1996

Senate Refused to Concur
4-17-96

(P. 1419)

Vilsack
Connolly
Drake

SSB-2190

Ways & Means
Succeeded By
SF/HF 2298

SENATE FILE
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL
BY CHAIRPERSON PALMER)

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

A BILL FOR

1 An Act relating to the awarding of costs to a prevailing taxpayer
2 in a proceeding against the department of revenue and finance
3 under the state tax procedures and practices Act and providing
4 an effective date.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 Section 1. Section 421.60, subsection 4, paragraph a,
2 unnumbered paragraph 1, Code Supplement 1995, is amended to
3 read as follows:

4 A prevailing taxpayer in ~~an administrative hearing~~ a
5 contested case proceeding or a court proceeding related to the
6 determination, collection, or refund of a tax, penalty, or
7 interest may be awarded reasonable litigation costs by the
8 department, state board of tax review, or a court, incurred
9 subsequent to the issuance of the notice of assessment or
10 denial of claim for refund in the proceeding, based upon the
11 following:

12 Sec. 2. This Act, being deemed of immediate importance,
13 takes effect upon enactment.

14 EXPLANATION

15 The bill specifies that a prevailing taxpayer may be
16 awarded reasonable litigation costs incurred subsequent to the
17 contested case proceeding or court proceeding involving
18 certain state tax matters. Present law allows such costs
19 incurred subsequent to an administrative hearing or court
20 proceeding.

21 The bill takes effect upon enactment.

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