

JAN 31 1997
WAYS AND MEANS

HOUSE FILE 131

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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 131

1 Section 1. Section 422.73, Code 1997, 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 October 31, 1997, if the taxpayer's claim is the result
8 of 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. The claim for refund
14 shall be filed separate from any income tax return and shall
15 not be allowed as a credit for income taxes owed. A claim
16 shall be filed between the effective date of this Act and
17 October 31, 1997. 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.

21 The claim for refund shall be made on claim forms to be
22 made available by the department. In order for a taxpayer to
23 have a valid refund claim, the taxpayer must supply legible
24 copies of documents the director deems necessary to show
25 entitlement to the refund, including but not limited to income
26 tax forms and W-2P forms, which will establish the state
27 income tax that was paid on the federal pension benefits for
28 the tax years in question. The burden of proof is on the
29 taxpayer to show that the claim for refund is valid. Estates
30 are not entitled to file a claim for refund under this
31 subsection, except a spouse of a deceased taxpayer who was the
32 spouse of the taxpayer when the unconstitutional tax was
33 imposed may file a claim for refund without reopening the
34 deceased taxpayer's estate. If a taxpayer has filed a claim
35 under this subsection and subsequently dies before receipt of

1 the refund, the taxpayer's estate is entitled to receipt of
2 any valid refund claim.

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

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

8 EXPLANATION

9 A 1993 Iowa supreme court decision held that retired
10 federal employees could retroactively receive a refund of
11 state individual income taxes unlawfully imposed on their
12 pensions if the refund claim was timely filed. This bill
13 provides that a claim filed by October 31, 1997, is timely
14 filed for taxes imposed for the 1985, 1986, 1987, and 1988 tax
15 years. The taxpayer is entitled to 100 percent of the refund
16 without interest. To claim a refund, the taxpayer must submit
17 adequate evidence, as designated by the director of revenue
18 and finance, showing the taxpayer's entitlement to the refund.
19 The claim is to be filed separately from any state income tax
20 return and no credit for income taxes owed is allowed. The
21 department shall attempt to notify individuals who are
22 entitled to a refund.

23 The bill takes effect upon enactment.

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