

FEB 17 2000  
WAYS AND MEANS

HOUSE FILE **2335**  
BY KUHN, O'BRIEN, and JOCHUM

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 including an effective date.

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

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1 Section 1. Section 422.73, Code Supplement 1999, is  
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 4. 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, 2000, 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 must be filed separately from any income tax return and a  
15 refund shall not be allowed as a credit for income taxes owed.  
16 A claim must be filed between the effective date of this Act  
17 and October 31, 2000. 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 must be made on claim forms to be made  
22 available by the department. In order for a taxpayer to have  
23 a valid refund claim, the taxpayer must supply legible copies  
24 of documents the director deems necessary to show entitlement  
25 to the refund, including but not limited to income tax forms  
26 and W-2P forms, which will establish the state income tax that  
27 was paid on the federal pension benefits for the tax years in  
28 question. The burden of proof is on the taxpayer to show that  
29 the claim for refund is valid. Estates are not entitled to  
30 file a claim for refund under this subsection, except a spouse  
31 of a deceased taxpayer who was the spouse of the taxpayer when  
32 the unconstitutional tax was imposed may file a claim for  
33 refund without reopening the deceased taxpayer's estate. If a  
34 taxpayer has filed a claim under this subsection and  
35 subsequently dies before receipt of the refund, the taxpayer's

1 estate is entitled to receipt of any 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. EFFECTIVE DATE. This Act, being deemed of  
6 immediate importance, takes effect upon enactment.

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EXPLANATION

8 A 1993 Iowa supreme court decision held that retired  
9 federal employees could retroactively receive a refund of  
10 state individual income taxes unlawfully imposed on their  
11 pensions if the refund claim was timely filed. This bill  
12 provides that a claim filed by October 31, 2000, is timely  
13 filed for taxes imposed for the 1985, 1986, 1987, and 1988 tax  
14 years. The taxpayer is entitled to 100 percent of the refund  
15 without interest. To claim a refund, the taxpayer must submit  
16 adequate evidence, as designated by the director of revenue  
17 and finance, showing the taxpayer's entitlement to the refund.  
18 The claim is to be filed separately from any state income tax  
19 return and no credit for income taxes owed is allowed. The  
20 department shall attempt to notify individuals who are  
21 entitled to a refund.

22 The bill takes effect upon enactment.

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