

MAR 8 1999

WAYS AND MEANS

HOUSE FILE 535
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO HF 284)

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

A BILL FOR

1 An Act relating to the time limit when property omitted from
2 assessment may be assessed and when a taxpayer may receive a
3 refund for erroneous property taxes paid and including an
4 effective date provision.

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

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HF 535

1 Section 1. Section 440.1, Code 1999, is amended to read as
2 follows:

3 440.1 ASSESSMENT OF OMITTED PROPERTY.

4 When the director of revenue and finance is vested with the
5 power and duty to assess property and an assessment has, for
6 any reason, been omitted, the director shall proceed to assess
7 the property ~~for each of the omitted years~~ at any time within
8 two years from the date at which such assessment should have
9 been made. The omitted assessment ~~shall only~~ may apply to not
10 more than the assessment year in which the omitted assessment
11 is made and the ~~four~~ prior assessment ~~years~~ year. Chapter 429
12 shall apply to assessments of omitted property.

13 Sec. 2. Section 440.5, Code 1999, is amended to read as
14 follows:

15 440.5 PROCEDURE -- PENALTY.

16 If it is made to appear that ~~said~~ the property is
17 assessable by the director of revenue and finance as omitted
18 property, the director shall proceed in the manner in which
19 the director would have proceeded had the assessment not been
20 omitted, except that the director shall find the value of ~~such~~
21 the omitted property for each year during which it has been
22 omitted but for not more than the two previous assessment
23 years and shall add ten percent to each yearly value as a
24 penalty.

25 Sec. 3. Section 443.12, Code 1999, is amended to read as
26 follows:

27 443.12 CORRECTIONS BY TREASURER.

28 When property subject to taxation is withheld, overlooked,
29 or from any other cause is not listed and assessed, the county
30 treasurer shall, when apprised thereof, at any time within
31 ~~five~~ two years from the date at which such assessment should
32 have been made, demand of the person, firm, corporation, or
33 other party by whom the same should have been listed, or to
34 whom it should have been assessed, or of the administrator
35 thereof, the amount the property should have been taxed in

1 each year the same was so withheld or overlooked and not
2 listed and assessed, together with six percent interest
3 thereon from the time the taxes would have become due and
4 payable had such property been listed and assessed.

5 Sec. 4. Section 443.15, Code 1999, is amended to read as
6 follows:

7 443.15 TIME LIMIT.

8 ~~Such~~ The assessment shall be made within ~~four~~ two years
9 after the tax list shall have been delivered to the treasurer
10 for collection, and not afterwards, if the property is then
11 owned by the person who should have paid the tax.

12 Sec. 5. Section 443.17, Code 1999, is amended to read as
13 follows:

14 443.17 PRESUMPTION OF FIVE-YEAR TWO-YEAR OWNERSHIP.

15 In any action or proceeding, now pending or hereafter
16 brought, to recover taxes upon property not listed or assessed
17 for taxation during the lifetime of any decedent, it shall be
18 presumed that any property, any evidence of ownership of
19 property, and any evidence of a promise to pay, owned by a
20 decedent at the date of the decedent's death, had been
21 acquired and owned by such decedent more than ~~five~~ two years
22 before the date of the decedent's death; and the burden of
23 proving that any such property had been acquired by such
24 decedent less than ~~five~~ two years before the date of the
25 decedent's death shall be upon the heirs, legatees, and legal
26 representatives of any such decedent.

27 Sec. 6. Section 445.60, Code 1999, is amended to read as
28 follows:

29 445.60 REFUNDING ERRONEOUS TAX.

30 The board of supervisors shall direct the county treasurer
31 to refund to the taxpayer any tax or portion of a tax found to
32 have been erroneously or illegally paid, with all interest,
33 fees, and costs actually paid. A refund shall not be ordered
34 or made unless a claim for refund is presented to the board
35 within ~~one-year~~ two years of the date the tax was due, or if

1 appealed to the board of review, the state board of tax
2 review, or district court, within ~~one-year~~ two years of the
3 final decision.

4 Sec. 7. This Act, being deemed of immediate importance,
5 takes effect upon enactment.

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EXPLANATION

7 The bill limits the time for which the department of
8 revenue and finance and local officials may assess omitted
9 property to two years. Present law allows the department and
10 local officials to go back to up to five years to assess and
11 collect taxes that would have been levied if the omitted
12 property had been assessed.

13 The bill also permits a property taxpayer to receive a
14 refund for erroneous property taxes paid if applied for within
15 two years from the date the tax was due or, if appealed,
16 within two years of the final decision. Present law limits
17 the time to one year.

18 The bill is effective upon enactment.

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