

House File 290 - Introduced

HOUSE FILE 290

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 19)

A BILL FOR

1 An Act prohibiting the deduction of amounts classified as
2 a penalty reimbursement for purposes of the individual
3 and corporate income tax and franchise tax, and including
4 retroactive applicability provisions.

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

1 Section 1. Section 422.7, Code 2017, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 51. *a.* Add, to the extent it reduced
4 federal adjusted gross income, any amount paid by the taxpayer
5 to the extent such payment is a penalty reimbursement.

6 *b.* A payment is presumed to be a penalty reimbursement if
7 the following conditions are met:

8 (1) The payment was made to a person, or an affiliate of a
9 person, who was the subject of a fine or similar penalty.

10 (2) The fine or similar penalty was in whole or in part
11 the result of the actions or inactions of the taxpayer while
12 employed by or associated with that person or affiliate of that
13 person.

14 (3) The payment was made on or after the date of the
15 taxpayer's actions or inactions that resulted in the fine or
16 similar penalty.

17 *c.* The presumption established in paragraph "b" may be
18 rebutted by a showing of proof that the payment was not
19 motivated by or related to the imposition of the fine or
20 similar penalty and that such payment would have been made in
21 the absence of such fine or similar penalty.

22 *d.* Payments shall not be considered a penalty reimbursement
23 to the extent they exceed, in the aggregate, the amount of the
24 fine or similar penalty.

25 *e.* For purposes of this subsection, unless the context
26 otherwise requires:

27 (1) "*Affiliate*" means a person that directly or indirectly
28 through one or more intermediaries controls, or is controlled
29 by, or is under common control with, another person.

30 (2) "*Fine or similar penalty*" means the same as defined in
31 26 C.F.R. §1.162-21, but shall also include amounts paid as a
32 fine or penalty imposed by the national collegiate athletic
33 association or an affiliate of the national collegiate athletic
34 association.

35 (3) "*Person*" means the same as defined in section 4.1.

1 Sec. 2. Section 422.9, subsection 2, Code 2017, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. *k.* (1) Subtract charitable contributions
4 under section 170 of the Internal Revenue Code to the extent
5 such contribution is a penalty reimbursement.

6 (2) A contribution is presumed to be a penalty reimbursement
7 if the following conditions are met:

8 (a) The contribution was made to a person, or an affiliate
9 of a person, who was the subject of a fine or similar penalty.

10 (b) The fine or similar penalty was in whole or in part
11 the result of the actions or inactions of the taxpayer while
12 employed by or associated with that person or affiliate of that
13 person.

14 (c) The contribution was made on or after the date of the
15 taxpayer's actions or inactions that resulted in the fine or
16 similar penalty.

17 (3) The presumption established in subparagraph (2) may
18 be rebutted by a showing of proof that the contribution was
19 not motivated by or related to the imposition of the fine or
20 similar penalty and that such contribution would have been made
21 in the absence of such fine or similar penalty.

22 (4) Contributions shall not be considered a penalty
23 reimbursement to the extent they exceed, in the aggregate, the
24 amount of the fine or similar penalty.

25 (5) For purposes of this paragraph, unless the context
26 otherwise requires:

27 (a) "*Affiliate*" means a person that directly or indirectly
28 through one or more intermediaries controls, or is controlled
29 by, or is under common control with, another person.

30 (b) "*Fine or similar penalty*" means the same as defined in
31 26 C.F.R. §1.162-21, but shall also include amounts paid as a
32 fine or penalty imposed by the national collegiate athletic
33 association or an affiliate of the national collegiate athletic
34 association.

35 (c) "*Person*" means the same as defined in section 4.1.

1 Sec. 3. Section 422.35, Code 2017, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 14. *a.* Add, to the extent it reduced
4 federal taxable income, any amount contributed under section
5 170 of the Internal Revenue Code or otherwise paid by the
6 taxpayer to the extent such contribution or payment is a
7 penalty reimbursement.

8 *b.* A contribution or payment is presumed to be a penalty
9 reimbursement if the following conditions are met:

10 (1) The contribution or payment was made to a person, or an
11 affiliate of a person, who was the subject of a fine or similar
12 penalty.

13 (2) The fine or similar penalty was in whole or in part
14 the result of the actions or inactions of the taxpayer while
15 associated with that person or affiliate of that person.

16 (3) The contribution or payment was made on or after the
17 date of the taxpayer's actions or inactions that resulted in
18 the fine or similar penalty.

19 *c.* The presumption established in paragraph "b" may be
20 rebutted by a showing of proof that the contribution or payment
21 was not motivated by or related to the imposition of the fine
22 or similar penalty and that such contribution or payment would
23 have been made in the absence of such fine or similar penalty.

24 *d.* Contributions and payments shall not be considered
25 a penalty reimbursement to the extent they exceed, in the
26 aggregate, the amount of the fine or similar penalty.

27 *e.* For purposes of this subsection, unless the context
28 otherwise requires:

29 (1) "*Affiliate*" means a person that directly or indirectly
30 through one or more intermediaries controls, or is controlled
31 by, or is under common control with, another person.

32 (2) "*Fine or similar penalty*" means the same as defined in
33 26 C.F.R. §1.162-21, but shall also include amounts paid as a
34 fine or penalty imposed by the national collegiate athletic
35 association or an affiliate of the national collegiate athletic

1 association.

2 (3) "Person" means the same as defined in section 4.1.

3 Sec. 4. RETROACTIVE APPLICABILITY. This Act applies
4 retroactively to January 1, 2017, for tax years beginning on
5 or after that date.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 BACKGROUND. Section 162(f) of the Internal Revenue Code
10 and Treasury Regulation §1.162-21 generally prohibit fines or
11 similar penalties paid to governmental entities from being
12 deducted as a business expense for federal tax purposes.

13 By operation of law, these fines and similar penalties are
14 prohibited from being deducted for Iowa tax purposes.

15 BILL CHANGES. This bill prohibits amounts classified as
16 a penalty reimbursement from being deducted for purposes of
17 the Iowa individual and corporate income tax and franchise
18 tax. The bill provides that charitable contributions and other
19 payments are presumed to be a penalty reimbursement if they
20 are made to a person, or an affiliate of a person, who was
21 the subject of a fine or similar penalty, if the taxpayer's
22 actions or inactions while employed by or associated with that
23 person or affiliate resulted in the fine or similar penalty,
24 and if the payment was made on or after the date those actions
25 or inactions occurred. This presumption may be rebutted by
26 a showing of proof that the payment was not motivated by or
27 related to the imposition of the fine or similar penalty and
28 would have been made in the absence of the fine or similar
29 penalty. Contributions or payments are not considered penalty
30 reimbursements to the extent they exceed, in the aggregate, the
31 amount of the fine or similar penalty.

32 "Fine or similar penalty" is defined in the bill to mean
33 the same as defined in 26 C.F.R. §1.162-21, but also includes
34 amounts paid as a fine or penalty imposed by the national
35 collegiate athletic association or its affiliate. The bill

H.F. 290

1 also defines "affiliate" and "person".

2 The bill applies retroactively to January 1, 2017, for tax

3 years beginning on or after that date.