

Senate Study Bill 1005 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY CHAIRPERSON
SCHULTZ)

A BILL FOR

1 An Act relating to awarding the costs in administrative
2 hearings or court proceedings involving the collection of tax,
3 penalties, and interest by the department of revenue.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 421.60, subsection 4, paragraph a, Code
2 2025, is amended by striking the paragraph and inserting in lieu
3 thereof the following:

4 a. A prevailing taxpayer in an administrative hearing or a
5 court proceeding related to the determination, collection, or
6 refund of a tax, penalty, or interest shall be awarded reasonable
7 costs by the department or a court that are incurred subsequent
8 to the issuance of the notice of assessment or denial of claim
9 for refund in the proceeding, based upon the following:

10 (1) Reasonable court costs.

11 (2) Reasonable prevailing market rates based upon the
12 services provided including but not limited to:

13 (a) Expert witnesses.

14 (b) The cost of a study, engineering report, test, analysis,
15 or project that is found by the director of revenue or court to
16 be necessary for the preparation of the case of the taxpayer.

17 (c) Fees paid or incurred by the taxpayer for the services
18 of an independent attorney or accountant including fees paid or
19 incurred in obtaining costs under this subsection.

20 Sec. 2. Section 421.60, subsection 4, paragraph c, Code 2025,
21 is amended to read as follows:

22 c. For purposes of this section, "prevailing taxpayer" means
23 a taxpayer who ~~establishes that the position of the state was~~
24 ~~not substantially justified~~ and who has substantially prevailed
25 with respect to the amount in controversy or has substantially
26 prevailed with respect to the most significant issue or set of
27 issues presented. The determination of whether a taxpayer is
28 a prevailing taxpayer is to be determined in accordance with
29 chapter 17A. If the taxpayer establishes that the taxpayer
30 has substantially prevailed with respect to the amount in
31 controversy or has substantially prevailed with respect to the
32 most significant issue set of issues presented, the burden of
33 proof shifts to the department of revenue to prove that the
34 position taken by the department was substantially justified. If
35 the department meets the burden by proving the position of the

1 department was substantially justified, the taxpayer shall not be
2 considered a prevailing taxpayer.

3 EXPLANATION

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

6 This bill relates to the costs of litigation in administrative
7 hearings or court proceedings involving the collection of tax,
8 penalties, and interest (dispute) by the department of revenue
9 (department).

10 The bill changes the costs allowed to be recovered in the
11 dispute. The costs allowed to be recovered under the bill
12 include reasonable court costs; reasonable prevailing market
13 rates for expert witnesses, studies, tests, analysis, or special
14 projects; and reasonable attorney or accountant fees including
15 fees related to the recovery of costs allowed under the bill.

16 The bill strikes the current \$25,000 cap recoverable by a
17 taxpayer in a dispute.

18 Under the bill, if the taxpayer substantially prevails in
19 the dispute relating to the amount in controversy or issues
20 involved, the burden of proof shifts to the department to prove
21 that the position of the department was substantially justified.
22 If the department proves the position of the department was
23 substantially justified, the bill prohibits the taxpayer from
24 recovering an award in the dispute. If the taxpayer prevails,
25 the bill requires the department to pay the reasonable costs
26 described in the bill. Under current law, the taxpayer must
27 prove the position of the department was not substantially
28 justified in addition to the amount in controversy and issues
29 involved.