

February 28, 1963.
Placed on Calendar.

House File 401

By COMMITTEE ON WAYS AND MEANS.

Passed House, Date 3-22-63

Passed Senate, Date 4-24-63

Vote: Ayes 91 Nays 4

Vote: Ayes 49 Nays 0

Approved 4-29-63

*Passed on file 3/25
Ways & Means 3/26
Pass 4/23
Vote 4/24
ays 49 nays 0*

A BILL FOR

An Act relating to penalties for failure to file a sales or use tax return or failure to pay sales or use tax within the time required.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Section four hundred twenty-two point fifty-four
2 (422.54), Code 1962, is hereby amended by adding to the beginning
3 of said section the following:

4 "1. As soon as practicable after a return is filed and in any
5 event within three years after the return is filed the commission
6 shall examine it, determine the tax due if the return is found to
7 be incorrect and give notice to the taxpayer of such
8 determination as provided in subsection two (2) hereof."

9 Further amend said section by inserting before the word "If"
10 in line one (1) the figure "2."

1 Sec. 2. Section four hundred twenty-two point fifty-seven
2 (422.57), Code 1962, is hereby amended by striking therefrom all
3 of subsection two (2).

1 Sec. 3. Section four hundred twenty-two point fifty-eight
2 (422.58), Code 1962, is hereby amended by striking all of
3 subsection one (1) and inserting in lieu thereof the following:

4 "1. Any person failing to file a return, or filing a
5 fraudulent return, as referred to in subsection three (3) of this
6 section, shall be subject to a penalty of five percent (5%) of
7 the amount of tax due. Whenever the commission, acting under

8 the provisions of section four hundred twenty-two point fifty-four
9 (422.54) of the Code, determines that an amount of tax is
10 due, an interest penalty of one-half percent ($1\frac{1}{2}\%$) per month
11 of the amount due shall be imposed upon the taxpayer for
12 each month of delay or fraction thereof from the date that
13 the commission gives notice to the taxpayer of a determination
14 of the amount due as provided in said section four hundred
15 twenty-two point fifty-four (422.54). The commission, if
16 satisfied that a failure to file a return or a delay in
17 payment of tax was excusable, may remit all or any part of
18 such penalty or interest. Such penalty and interest shall be
19 paid to the commission and disposed of in the same manner as
20 other receipts under this division. Unpaid penalties and
21 interest may be enforced in the same manner as the tax
22 imposed by this division.”

1 Sec. 4. Section four hundred twenty-three point
2 sixteen (423.16), Code 1962, is hereby amended by adding
3 thereto the following:

4 “Where a return required by this chapter has been filed,
5 the three-year period of limitation specified in subsection
6 one (1) of section four hundred twenty-two point fifty-four
7 (422.54) shall apply to the making of a determination by
8 the commission of the amount of tax due hereunder and to
9 the giving of notice to the taxpayer of such determination.”

1 Sec. 5. Section four hundred twenty-three point
2 eighteen (423.18), Code 1962, is hereby amended by
3 striking lines one (1) through fifteen (15) and inserting
4 in lieu thereof the following:

5 “Any person failing to file a return or filing a

6 fraudulent return, as referred to in section four hundred
7 twenty-three point nineteen (423.19), shall be subject to a
8 penalty of five percent (5%) of the amount of tax due.
9 Whenever the commission, acting under the provisions of
10 section four hundred twenty-three point sixteen (423.16),
11 determines that an amount of tax is due, an interest penalty
12 of one-half percent ($1\frac{1}{2}\%$) per month of the amount due shall
13 be imposed upon the taxpayer for each month of delay or
14 fraction thereof from the date that the commission gives
15 notice to the taxpayer of a determination of the amount due
16 as provided in said section four hundred twenty-three point
17 sixteen (423.16). The commission, if satisfied that a failure
18 to file a return or a delay in payment was excusable, may remit
19 all or any part of such penalty or interest. Such penalty
20 and interest shall be paid to the commission and disposed of
21 in the same manner as other receipts under this division.
22 Unpaid penalties and interest”.

EXPLANATION OF HOUSE FILE 401

The interval between tax commission audits of a taxpayer's records may be as much as five years. If an audit shows a tax was due several years ago, a penalty is now computed from the time the tax was first due until it is paid. This bill provides that the penalty shall be computed from the time the commission determined by audit that a tax was due until it is paid. The bill would also limit the time the commission has to collect delinquent sales and use taxes.

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- 1 Amend House File 401 as follows:
 2 1. Amend section one (1) as follows:
 3 a. By striking from line five (5) the word "three" and
 4 inserting in lieu thereof the word "five".
 5 b. By inserting after the comma in line six (6) the words
 6 "assess and".
 7 c. By adding after the word "such" in line seven (7) the
 8 words "assessment and".
 9 d. By adding after the word "hereof." in line eight (8)
 10 the following:
 11 "If the determination that a return is incorrect is the result
 12 of an audit of the books and records of the taxpayer, the tax, or
 13 additional tax, if any is found due, shall be assessed and
 14 determined and the aforesaid notice to the taxpayer shall be
 15 given by the commission within one year after the completion of
 16 the examination of said books and records."
 17 2. By striking all of section two (2).
 18 3. By striking all of section three (3) and inserting in lieu
 19 thereof the following:
 20 "Section four hundred twenty-two point fifty-eight (422.58),
 21 Code 1962, is hereby amended as follows:
 22 a. By striking the word 'a' in line four (4) and inserting in
 23 lieu thereof the words 'an interest'.
 24 b. By inserting after the word 'plus' in line five (5) the
 25 words 'one-half of'.
 26 c. By inserting after the word 'due' in line eight (8) the
 27 following:
 28 ', and expecting the period between the completion of an
 29 examination of the books and records of a taxpayer and the giving
 30 of notice to the taxpayer that a tax or additional tax is due'.
 31 d. By inserting after the word 'such' in line ten (10) the
 32 word 'interest'.
 33 e. By inserting after the word 'Such' in line eleven (11) the
 34 word 'interest'.
 35 f. By inserting after the word 'Unpaid' in line thirteen (13)
 36 the word 'interest'.
 37 4. By striking from section four (4), line five (5) the word
 38 "three" and inserting in lieu thereof the word "five".
 39 5. By striking all of section five (5) and inserting in lieu
 40 thereof the following:
 41 "Section four hundred twenty-three point eighteen (423.18),
 42 Code 1962, is hereby amended as follows:
 43 a. By striking the word 'a' in line five (5) and inserting
 44 in lieu thereof the words 'an interest'.
 45 b. By inserting after the word 'plus' in line six (6) the
 46 words 'one-half of'.
 47 c. By inserting after the word 'due' in line ten (10) the
 48 following:
 49 ', and excepting the period between the completion of an
 50 examination of the books and records of a taxpayer and the giving
 51 of notice to the taxpayer that a tax or additional tax is due'.
 52 d. By inserting after the word 'such' in line twelve (12) the
 53 word 'interest'.
 54 e. By inserting after the word 'Such' in line thirteen (13)
 55 the word 'interest'.
 56 f. By inserting after the word 'Unpaid' in line fifteen (15)
 57 the word 'interest'."

*filed 3/19
Kreager*

*adopted
3/22*

Filed
March 19, 1963.

KREAGER of Jasper.

HOUSE FILE 401

- 1 Amend the amendment to House File 401 filed March 19,
 2 by Kreager of Jasper, by adding thereto the following
 3 division:
 4 6. By renumbering all sections following section 1 in
 5 accordance with this amendment.

Filed and adopted
March 22, 1963.

KREAGER of Jasper.