

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

|                       |               |       |
|-----------------------|---------------|-------|
| ADOPTED               | <u>      </u> | (Y/N) |
| ADOPTED AS AMENDED    | <u>      </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u>      </u> | (Y/N) |
| FAILED TO ADOPT       | <u>      </u> | (Y/N) |
| WITHDRAWN             | <u>      </u> | (Y/N) |
| OTHER                 | <u>      </u> |       |

1 Committee/Subcommittee hearing bill: Ways & Means Committee  
 2 Representative Overdorf offered the following:

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:  
 6 Section 1. Section 17.45, Florida Statutes, is created to  
 7 read:

8 17.45 Reimbursement for retaliatory taxation proceedings.—

9 (1) As used in this section, the term:

10 (a) "Domiciled in this state" means authorized to do  
 11 business in this state and located in this state.

12 (b) "Retaliatory" means any proceeding initiated in part  
 13 to discriminate against or target a taxpayer on the basis of his  
 14 or her political affiliation, ideology, or beliefs, as  
 15 determined by a court of competent jurisdiction.

16 (c) "Small business" means any business entity, regardless

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17 of corporate structure, that is domiciled in this state, that  
18 employs 50 or fewer employees, and that generated an average  
19 annual gross revenue of \$4 million or less per year for the  
20 preceding 2 years.

21 (d) "Trust fund" means The Internal Revenue Service Civil  
22 Liability Trust Fund created under s. 17.44.

23 (2) Any owner of a small business against which the  
24 Internal Revenue Service initiates proceedings in the United  
25 States Tax Court may submit an application to the department for  
26 reimbursement of reasonable attorney fees and costs necessarily  
27 incurred in the proceedings, provided that all of the following  
28 criteria have been satisfied:

29 (a) The small business owner is the prevailing party in  
30 the proceeding before the United States Tax Court.

31 (b) The United States Tax Court determines that the  
32 proceedings were retaliatory.

33 (c) The application is accompanied by a copy of the  
34 attorney's retainer agreement and fee or billing statements for  
35 the entire period of representation in the proceedings before  
36 the United States Tax Court.

37 (d) The application and accompanying documentation is  
38 submitted to the department within 90 days after receipt of a  
39 final order or other pleading concluding the proceedings before  
40 the United States Tax Court.

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41 (e) The small business owner has not been previously  
42 awarded attorney fees or costs related to the proceedings before  
43 the United States Tax Court.

44 (3) If the criteria in subsection (2) are met, the  
45 department shall certify the amount of the reimbursement and the  
46 name of the applicant to the Chief Financial Officer, who shall  
47 reimburse the applicant from the trust fund.

48 (4) For purposes of this section, the identity of a small  
49 business is not affected by a change in name or by a change in  
50 personnel.

51 (5) The department shall adopt rules to implement this  
52 section.

53 Section 2. Section 72.042, Florida Statutes, is created to  
54 read:

55 72.042 Tax liabilities arising under federal law;  
56 jurisdiction of circuit courts.-

57 (1) If, in connection with the collection of federal taxes  
58 concerning a taxpayer domiciled in this state, an action is  
59 brought in a federal district court of competent jurisdiction  
60 against any officer or employee of the Internal Revenue Service,  
61 or any independent contractor employed by the Internal Revenue  
62 Service, for a violation of:

63 (a) Title VI of the Civil Rights Act of 1964;

64 (b) Title VII of the Civil Rights Act of 1964;

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65        (c) Title 26 of the Internal Revenue Code of 1986, as  
66 amended;  
67        (d) The First Amendment to the United States Constitution;  
68        (e) The Fourth Amendment to the United States  
69 Constitution; or  
70        (f) The Fifth Amendment to the United States Constitution,  
71  
72 the taxpayer may bring an action in circuit court pursuant to  
73 subsection (2) or subsection (3).  
74        (2) In any action brought in a federal district court of  
75 competent jurisdiction pursuant to paragraph (1) (a), paragraph  
76 (1) (b), or paragraph (1) (c), upon a finding by the federal  
77 district court that a violation has occurred, the circuit court  
78 may award:  
79        (a) Actual damages sustained by the taxpayer, which, but  
80 for the actions of the Internal Revenue Service, would not have  
81 been sustained.  
82        (b) Attorney fees and costs.  
83        (3) In any action brought in a federal district court of  
84 competent jurisdiction pursuant to paragraph (1) (d), paragraph  
85 (1) (e), or paragraph (1) (f), upon a finding by the federal  
86 district court that a violation has occurred, the circuit court  
87 may award:

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88 (a) Actual damages sustained by the taxpayer, which, but  
89 for the actions of the Internal Revenue Service, would not have  
90 been sustained.

91 (b) Punitive damages, provided that the provisions of s.  
92 768.72 are met.

93 (c) Attorney fees and costs.

94 (4) Notwithstanding any other provision of law, an action  
95 filed in circuit court pursuant to this section must be filed  
96 within 2 years after the date the cause of action accrues.

97 Section 3. Subsections (1) through (4) of section 212.134,  
98 Florida Statutes, are renumbered as subsections (2) through (5),  
99 respectively, present subsections (1) and (2) are amended, and  
100 new subsections (1) and (6) are added to that section, to read:

101 212.134 Information returns relating to payment-card and  
102 third-party network transactions.—

103 (1) For purposes of this section, the term:

104 (a) "Participating payee" has the same meaning as in s.  
105 6050W of the Internal Revenue Code.

106 (b) "Payment settlement entity" has the same meaning as in  
107 s. 6050W of the Internal Revenue Code.

108 (c) "Return" or "information return" means IRS Form 1099-K  
109 required under s. 6050W of the Internal Revenue Code.

110 (d) "Third party network transactions" has the same  
111 meaning as in s. 6050W of the Internal Revenue Code.

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112 (e) "Third party settlement organization" has the same  
113 meaning as in s. 6050W of the Internal Revenue Code.

114 ~~(2)-(1)~~ For each year in which a payment settlement entity,  
115 an electronic payment facilitator, or other third party  
116 contracted with the payment settlement entity to make payments  
117 to settle reportable payment transactions on behalf of the  
118 payment settlement entity must file a return pursuant to s.  
119 6050W of the Internal Revenue Code, for participating payees  
120 with an address in this state, the entity, the facilitator, or  
121 the third party must submit the information in the return to the  
122 department by the 30th day after filing the ~~federal~~ return. The  
123 format of the information returns required must be ~~either~~ a copy  
124 of such information returns, or a copy of how such information  
125 return would have been filed had this section applied at the  
126 federal level ~~or a copy of such information returns related to~~  
127 ~~participating payees with an address in the state.~~ For purposes  
128 of complying with this section, a third party settlement  
129 organization is required to issue a return to the department  
130 only for participating payees with an address in the state whose  
131 aggregate third party network transactions for goods and  
132 services exceed \$600. ~~For purposes of this subsection, the term~~  
133 ~~"payment settlement entity" has the same meaning as provided in~~  
134 ~~s. 6050W of the Internal Revenue Code.~~

135 ~~(3)-(2)~~ All returns ~~reports~~ submitted to the department  
136 under this section must be in an electronic format.

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137       (6) A third party settlement organization participating in  
138 a third-party network transaction involving a participating  
139 payee with an address in the state must create and maintain  
140 records that clearly identify whether a transaction is a  
141 transaction for goods or services, or both, if such information  
142 is available at the time of the third-party network transaction.  
143 The return submitted to the department under subsection (2) for  
144 such entities must be limited to transactions for goods and  
145 services as supported by books and records under this  
146 subsection.

147       Section 4. Subsections (3) and (4) of section 655.045,  
148 Florida Statutes, are renumbered as subsections (4) and (5),  
149 respectively, subsection (2) is amended, and a new subsection  
150 (3) is added to that section, to read:

151       655.045 Examinations, reports, and internal audits;  
152 penalty.—

153       (2)(a) Each state financial institution, subsidiary, or  
154 service corporation shall submit a report, at least four times  
155 each calendar year, as of such dates as the commission or office  
156 determines. The report must include:

157       1. The number of inquiries, requests, summons, subpoenas,  
158 or other requests for information or records received from the  
159 Internal Revenue Service concerning any account holder domiciled  
160 in this state.

161       2. Such other information as the commission by rule

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162 requires for that type of institution.

163 ~~(b)(a)~~ The office shall levy an administrative fine of up  
164 to \$100 per day for each day the report is past due, unless it  
165 is excused for good cause.

166 ~~(c)(b)~~ For an intentional late filing of the report, the  
167 office shall levy an administrative fine of up to \$1,000 per day  
168 for each day the report is past due.

169 (3) By January 30 of each year, the office shall submit a  
170 report that contains the information from the quarterly reports  
171 required under subsection (2) to the commission, the President  
172 of the Senate, and the Speaker of the House of Representatives.

173 Section 5. This act shall take effect July 1, 2023.

174  
175 -----  
176 **T I T L E A M E N D M E N T**

177 Remove everything before the enacting clause and insert:  
178 An act relating to the federal taxation; creating s. 17.45,  
179 F.S.; providing definitions; authorizing the Chief Financial  
180 Officer to reimburse an owner of a small business attorney fees  
181 and costs from the Internal Revenue Service Civil Liability  
182 Trust Fund under certain conditions; requiring the Department of  
183 Financial Services to certify certain information before such  
184 reimbursement; providing that the identity of a small business  
185 is not affected by certain changes; requiring the department to  
186 adopt rules; creating s. 72.042, F.S.; providing for an action



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187 in circuit court for an award of attorney fees and costs, actual  
188 damages, and punitive damages when the Internal Revenue Service  
189 is found to have committed certain violations; requiring an  
190 action brought in circuit court to be filed within a specified  
191 period; amending s. 212.134, F.S.; providing definitions;  
192 providing that a third party settlement organization is required  
193 to issue a return to the Department of Revenue for a  
194 participating payee in this state if certain conditions are met  
195 and subject to certain limitations; requiring third party  
196 settlement organizations to create and maintain certain records;  
197 amending s. 655.045, F.S.; requiring a report submitted by a  
198 financial institution to the Financial Services Commission to  
199 include certain information received from the Internal Revenue  
200 Service; requiring the Office of Financial Regulation to submit  
201 an annual report to the commission and Legislature by a  
202 specified date; providing an effective date.