

1                                   A bill to be entitled  
2           An act relating to the federal taxation; creating s.  
3           17.45, F.S.; providing definitions; authorizing the  
4           Chief Financial Officer to reimburse an owner of a  
5           small business attorney fees and costs from the  
6           Internal Revenue Service Civil Liability Trust Fund  
7           under certain conditions; requiring the Department of  
8           Financial Services to certify certain information  
9           before such reimbursement; providing that the identity  
10          of a small business is not affected by certain  
11          changes; requiring the department to adopt rules;  
12          creating s. 72.042, F.S.; providing for an action in  
13          circuit court for an award of attorney fees and costs,  
14          actual damages, and punitive damages when the Internal  
15          Revenue Service is found to have committed certain  
16          violations; requiring an action brought in circuit  
17          court to be filed within a specified period; amending  
18          s. 212.134, F.S.; making grammatical changes;  
19          providing definitions; providing that certain third  
20          party settlement organizations are required to submit  
21          certain information to the Department of Revenue only  
22          for participating payees in this state if certain  
23          conditions are met and subject to certain limitations;  
24          requiring certain third party settlement organizations  
25          to create and maintain certain records; amending s.

26 | 655.045, F.S.; requiring a report submitted by a  
 27 | financial institution to the Financial Services  
 28 | Commission to include certain information received  
 29 | from the Internal Revenue Service; requiring the  
 30 | Office of Financial Regulation to submit an annual  
 31 | report to the commission and Legislature by a  
 32 | specified date; providing an effective date.  
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34 | Be It Enacted by the Legislature of the State of Florida:  
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36 | Section 1. Section 17.45, Florida Statutes, is created to  
 37 | read:

38 | 17.45 Reimbursement for retaliatory taxation proceedings.—

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

40 | (a) "Domiciled in this state" means authorized to do  
 41 | business in this state and located in this state.

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

46 | (c) "Small business" means any business entity, regardless  
 47 | of corporate structure, that is domiciled in this state, that  
 48 | employs 50 or fewer employees, and that generated an average  
 49 | annual gross revenue of \$4 million or less per year for the  
 50 | preceding 2 years.

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

53 (2) Any owner of a small business against which the  
54 Internal Revenue Service initiates proceedings in the United  
55 States Tax Court may submit an application to the department for  
56 reimbursement of reasonable attorney fees and costs necessarily  
57 incurred in the proceedings, provided that all of the following  
58 criteria have been satisfied:

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

61 (b) The United States Tax Court determines that the  
62 proceedings were retaliatory.

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

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

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

74 (3) If the criteria in subsection (2) are met, the  
75 department shall certify the amount of the reimbursement and the

76 name of the applicant to the Chief Financial Officer, who shall  
77 reimburse the applicant from the trust fund.

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

81 (5) The department shall adopt rules to implement this  
82 section.

83 Section 2. Section 72.042, Florida Statutes, is created to  
84 read:

85 72.042 Tax liabilities arising under federal law;  
86 jurisdiction of circuit courts.-

87 (1) If, in connection with the collection of federal taxes  
88 concerning a taxpayer domiciled in this state, an action is  
89 brought in a federal district court of competent jurisdiction  
90 against any officer or employee of the Internal Revenue Service,  
91 or any independent contractor employed by the Internal Revenue  
92 Service, for a violation of:

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

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

95 (c) Title 26 of the Internal Revenue Code of 1986, as  
96 amended;

97 (d) The First Amendment to the United States Constitution;

98 (e) The Fourth Amendment to the United States  
99 Constitution; or

100 (f) The Fifth Amendment to the United States Constitution,

101  
102 the taxpayer may bring an action in circuit court pursuant to  
103 subsection (2) or subsection (3).

104 (2) In any action brought in a federal district court of  
105 competent jurisdiction pursuant to paragraph (1) (a), paragraph  
106 (1) (b), or paragraph (1) (c), upon a finding by the federal  
107 district court that a violation has occurred, the circuit court  
108 may award:

109 (a) Actual damages sustained by the taxpayer, which, but  
110 for the actions of the Internal Revenue Service, would not have  
111 been sustained.

112 (b) Attorney fees and costs.

113 (3) In any action brought in a federal district court of  
114 competent jurisdiction pursuant to paragraph (1) (d), paragraph  
115 (1) (e), or paragraph (1) (f), upon a finding by the federal  
116 district court that a violation has occurred, the circuit court  
117 may award:

118 (a) Actual damages sustained by the taxpayer, which, but  
119 for the actions of the Internal Revenue Service, would not have  
120 been sustained.

121 (b) Punitive damages, provided that the provisions of s.  
122 768.72 are met.

123 (c) Attorney fees and costs.

124 (4) Notwithstanding any other provision of law, an action  
125 filed in circuit court pursuant to this section must be filed

126 within 2 years after the date the cause of action accrues.

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

131 212.134 Information returns relating to payment-card and  
 132 third party ~~third-party~~ network transactions.—

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

134 (a) "Participating payee" has the same meaning as in s.  
 135 6050W of the Internal Revenue Code.

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

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

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

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

144 (2) ~~(1)~~ For each year in which a payment settlement entity,  
 145 an electronic payment facilitator, or other third party  
 146 contracted with the payment settlement entity to make payments  
 147 to settle reportable payment transactions on behalf of the  
 148 payment settlement entity must file a return pursuant to s.  
 149 6050W of the Internal Revenue Code, for participating payees  
 150 with an address in this state, the entity, the facilitator, or

151 the third party must submit the information in the return to the  
152 department by the 30th day after filing the ~~federal~~ return. The  
153 format of the information returns required must be ~~either~~ a copy  
154 of such information returns or a copy of how such information  
155 return would have been filed had this section applied at the  
156 federal level ~~returns related to participating payees with an~~  
157 ~~address in the state.~~ For purposes of complying with this  
158 section, a third party settlement organization must submit the  
159 information in the return to the department only for  
160 participating payees with an address in this state whose  
161 aggregate third party network transactions for goods and  
162 services exceed \$600 ~~For purposes of this subsection, the term~~  
163 ~~"payment settlement entity" has the same meaning as provided in~~  
164 ~~s. 6050W of the Internal Revenue Code.~~

165 (3)-(2) All returns ~~reports~~ submitted to the department  
166 under this section must be in an electronic format.

167 (6) A third party settlement organization participating in  
168 a third party network transaction involving a participating  
169 payee with an address in this state must create and maintain  
170 records that clearly identify whether a transaction is a  
171 transaction for goods or services, or both, if such information  
172 is available at the time of the third party network transaction.  
173 The information in the return submitted to the department under  
174 subsection (2) for such entities must be limited to transactions  
175 for goods and services as supported by the records under this

176 subsection.

177 Section 4. Subsections (3) and (4) of section 655.045,  
 178 Florida Statutes, are renumbered as subsections (4) and (5),  
 179 respectively, subsection (2) is amended, and a new subsection  
 180 (3) is added to that section, to read:

181 655.045 Examinations, reports, and internal audits;  
 182 penalty.—

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

187 1. The number of inquiries, requests, summons, subpoenas,  
 188 or other requests for information or records received from the  
 189 Internal Revenue Service concerning any account holder domiciled  
 190 in this state.

191 2. Such other information as the commission by rule  
 192 requires for that type of institution.

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

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

199 (3) By January 30 of each year, the office shall submit a  
 200 report that contains the information from the quarterly reports



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201 | required under subsection (2) to the commission, the President  
202 | of the Senate, and the Speaker of the House of Representatives.

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