

17-00499-19

1 A bill to be entitled
2 An act relating to claims against the civil trust
3 fund; providing an effective date.

4
5 Be It Enacted by the Legislature of the State of Florida:

6
7 Section 1. Section ____, Florida Statutes, is created to
8 read:

9 (1) The Internal Revenue Civil Liability Trust Fund is
10 hereby created, to be administered by the Department of
11 Financial Services.

12 (2) Funds shall be credited to the trust fund from
13 legislative appropriations and interest earnings.

14 (3) The trust fund shall be maintained and utilized solely
15 for the purpose of providing reimbursements for reasonable
16 attorney's fees and costs incurred by a small business domiciled
17 in this state as a result of retaliatory proceedings initiated
18 by the Internal Revenue Service in United States Tax Court.

19 (4) Notwithstanding the provisions of s. 216.301 and
20 pursuant to s. 216.351, any balance in the trust fund at the end
21 of any fiscal year shall remain in the trust fund and shall be
22 available for carrying out the purpose of the trust fund.

23 (5) Pursuant to the provisions of s. 19(f)(3), Art. III of
24 the State Constitution, the trust find is not subject to
25 termination under s. 19(f)(2), Art. III of the State
26 Constitution.

27 Section 2. Section ____, Florida Statutes, is created to
28 read:

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

17-00499-19

- 30 a. "Department" means the Department of Financial
31 Services.
- 32 b. "Domiciled in this state" means authorized to do
33 business in this state and located in this state.
- 34 c. "IRS" means the Internal Revenue Service.
- 35 d. "Retaliatory" means a proceeding initiated, at least
36 in part, in retaliation for the taxpayer's political
37 affiliation, ideology, or beliefs, as determined by a court of
38 competent jurisdiction.
- 39 e. "Small business" means a business, regardless of
40 corporate structure, domiciled in this state which employs 25 or
41 fewer people and generated average annual gross revenues of \$1.5
42 million or less per year for the preceding 2 years. For purposes
43 of this part, the identity of a small business is not affected
44 by name changes or changes in personnel.
- 45 f. "Tax court" means the United States Tax Court, which
46 hears and resolves disputes between taxpayers and the Internal
47 Revenue Service.
- 48 (2) Any small business against which the IRS has
49 initiated proceedings in tax court may submit a completed
50 application to the department seeking reimbursement of
51 reasonable attorney's fees incurred necessarily incurred in
52 defending itself in that proceeding provided that:
- 53 a. The small business prevailed in the proceedings before
54 the tax court;
- 55 b. Counsel representing the small business certifies, in
56 writing, that there is a good faith basis to believe that
57 proceedings initiated by the IRS were retaliatory;
- 58 c. The application is accompanied by the attorney's

17-00499-19

59 retainer agreement and fee or billing statements for the entire
60 period of representation in the tax court proceedings;

61 d. Such application is submitted within 90 days of
62 receipt of a final order or other pleading concluding the
63 proceedings in tax court; and

64 e. The small business was not previously awarded
65 attorney's fees related to the proceedings in tax court.

66 (3) The department shall establish the amount to be awarded
67 and shall certify the amount of the award and the name of the
68 claimant to the Chief Financial Officer, who shall pay the award
69 from the fund, subject to the provisions of subsection (2).

70 (4) The department may adopt rules pursuant to ss.
71 120.536(1) and 120.54 to govern the claims process; implement
72 the provisions of this section; and carry out the duties of the
73 department under this section.

74 Section 3. This act shall take effect upon becoming a law.