

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:

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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.