

CECIL GRAHAM

M E S S A G E

FROM

THE PRESIDENT OF THE UNITED STATES

RETURNING

WITHOUT APPROVAL THE BILL (H.R. 5902) FOR THE RELIEF OF
CECIL GRAHAM

OCTOBER 7, 1965.—Referred to the Committee on the Judiciary, and ordered to
be printed

To the House of Representatives:

I return herewith, without my approval, H.R. 5902, a bill for the relief of Cecil Graham.

The bill provides that, notwithstanding the statute of limitations, the claim of Mr. Graham for refund of Federal income taxes erroneously paid by him on disability payments received from the Civil Service Commission during the period 1947-55, if filed within 1 year, shall be treated by the Treasury Department as timely filed and be considered and paid in accordance with provisions of applicable law.

Mr. Graham was retired on April 1, 1947, for disability under the Civil Service Retirement Act. In 1948 he was advised by an employee of the Internal Revenue Service that his disability payments were includible in income. He paid income tax, it appears, for the years 1947-55 on these payments. Subsequently he learned that they were not taxable and applied for a refund, but the statute of limitations had run.

The advice given Mr. Graham in 1948 was accurate at that time. It was the *Eppmeier* decision by the seventh circuit in 1952 which held that disability payments were excludable and put taxpayers on notice that they should file claims for refund if they had previously included such payments in income. The Internal Revenue Code adopted in

1954 made it clear that disability payments for 1954 and subsequent years were excludable from income.

It is common knowledge that the tax law frequently changes. In our self-administered tax system, Mr. Graham, like all other taxpayers, had a responsibility for keeping informed.

The Congress has included a statute of limitations in tax laws in order to achieve uniform treatment and finality in tax administration. Any time limitation makes it inevitable that some claimants, often without fault, will fail to file their claims on time. A case such as this clearly demonstrates the wisdom of such a statute—it may be impossible to determine reliably the amount of any overpayment made by this taxpayer because the pertinent tax returns have been destroyed under existing procedures and in reliance upon the statute of limitations.

This bill is also inconsistent with the Technical Amendments Act of 1958, which granted some general relief to taxpayers who had erroneously included disability payments in income. By that statute, Congress granted relief to those who had asserted their rights by filing timely claims for refund, but withheld relief from taxpayers who, like Mr. Graham, had not filed timely.

A number of other bills for relief of individual taxpayers have been introduced in Congress where the taxpayers had failed to file timely claims for refunds and, therefore, were not covered by the 1958 statute. President Eisenhower withheld his approval from two of these bills—H.R. 9765 (85th Cong.) and H.R. 6335 (86th Cong.). No others have been enacted. Thus, approval of this bill would discriminate against other taxpayers similarly situated and set an unfortunate precedent.

Accordingly, I am returning H.R. 5902 without my approval.

LYNDON B. JOHNSON.

THE WHITE HOUSE, October 4, 1965.

H.R. 5902

EIGHTY-NINTH CONGRESS OF THE UNITED STATES OF AMERICA, AT THE FIRST SESSION, BEGUN AND HELD AT THE CITY OF WASHINGTON ON MONDAY, THE FOURTH DAY OF JANUARY, ONE THOUSAND NINE HUNDRED AND SIXTY-FIVE

AN ACT For the relief of Cecil Graham.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the limitations of sections 322(b), 3774, and 3775 of the Internal Revenue Code of 1939, or of section 6511 (b)(2) of the Internal Revenue Code of 1954, relating to the refund of excess income taxes or of any other statute of limitations, the claim of Cecil Graham of Oklahoma City, Oklahoma, filed with the Treasury Department within one year of the date of approval of this Act for the refund of Federal income taxes erroneously paid by him upon payments received from the United States Civil Service Commission, Bureau of Retirement and Insurance, from April 1, 1947, through November 15, 1955, shall be considered to have been timely filed and shall be further considered and paid in accordance with the provisions of otherwise applicable provisions of law.

JOHN W. McCORMACK,
Speaker of the House of Representatives.
HUBERT H. HUMPHREY,
Vice President of the United States and
President of the Senate.

[Endorsement on back of bill:]

I certify that this Act originated in the House of Representatives.

RALPH R. ROBERTS, *Clerk.*